

HB

94

March 13, 1972

MEMORANDUM

TO: George Hohman, Chairman
Finance Committee

FROM: Mike Miller, Chairman
Local Government Committee

RE: HB 94

At the present time your committee is considering HB 402, dealing with the Alaska Municipal Authority. In reporting out HB 94, it was the House Local Government Committee's intention to provide the Finance Committee with some additional alternatives to consider. It is not the committee's intention to suggest that HB 94 totally represents a "better" approach. We do, however, think elements of HB 94 might well be considered in your discussions and deliberations.

Fouch V,
State Capitol
Juneau, Alaska 99801
March 11, 1971

Mr. Robert E. Sharp
City Manager,
City of Anchorage
P. O. Box 400
Anchorage, Alaska 99501

Dear Bob:

Just a short note to thank you for your letter of March 4th regarding House Bill 94 and others concerned with the establishment of an Alaskan Municipal Bond Authority.

This is certainly desirable legislation and I hope that ways and means can be found to meet the really critical bonding needs of Alaska's municipalities.

Sincerely,

Mike Miller, Representative
District Four, (Juneau)

cc: City Manager, City of Fairbanks



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March 4, 1971

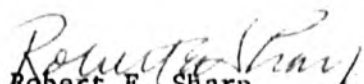
The Honorable Mike Miller
Chairman
House Local Government Committee
Fouch V
Juneau, Alaska 99801

Dear Mr. Miller:

The City Councils of Anchorage and Fairbanks met in a joint session at Anchorage on February 26, 1971. Among the pending legislation discussed was House Bill No. 94 and others concerned with the establishment of an Alaska Municipal Bond Authority. A motion was adopted approving the concept of an Alaska Municipal Bond Authority, including such funding as may be appropriate for the functioning of the Authority.

The purpose of this letter is to convey to you and your committee the action of the two City Councils and to urge you and your committee to develop and recommend for adoption legislation to establish an Alaska Municipal Bond Authority to assure a market at reasonable interest rates for Alaska municipal bonds.

Sincerely yours,


Robert E. Sharp
City Manager

RES:f

cc: Governor Egan
City Manager, City of Fairbanks



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SECTIONAL ANALYSIS

Proposed Alaska Municipal Bond Authority Act.

Preliminary Note

The proposed Act is patterned after a proposal presented to the Alaska Municipal League but incorporates certain additions and other changes. Besides form revision, various substantive additions have been made to the initial proposal. The additions are intended primarily to make the Act of substantial benefit to large as well as small political subdivisions of the state in marketing their bonds and notes (and other debt offerings)*, particularly when market conditions are not favorable.

The substantive additions relate primarily to

- (1) authorizing a \$50,000,000 appropriation to the bond authority for purchase of municipal bonds and notes (the authority is thus not limited to making such purchases with capital derived from issuance of its own bonds and notes only);
- (2) requiring at least one-third of legislative appropriations to the fund to be used for purchase of bonds and notes of political subdivisions with population of 2,500 or less;
- (3) requiring as a condition to state financing that municipal bonds and notes be offered for sale on the open bond market before purchase is undertaken by the authority;
- (4) authorizing purchase of bonds and notes already issued by political subdivisions, as well as purchase of future local issues;
- (5) providing in default situations for authority payment of installments due on municipal bonds and notes sold to purchasers other than the authority, with any payments made to be reimbursed to the authority from state appropriations payable to the political subdivisions on whose behalf payment was made.

Summary of Content by Section

Sec. 44.55.010. PURPOSE.

This section sets out the policy of the state underlying establishment of the Municipal Bond Authority, essentially to assist political subdivisions of the state in marketing bonds and notes at economically favorable rates of interest and thereby to encourage the initiation and completion of capital improvements by the political subdivisions.

Sec. 44.55.020. ALASKA MUNICIPAL BOND AUTHORITY.

This section establishes the authority as a public corporation and instrumentality of the state within the Local Affairs Agency.

* In this analysis the term "bonds and notes" or "bonds or notes", if used with reference to municipal debt offerings, is intended to include bonds, notes and any other evidence of indebtedness which a political subdivision may issue.

it provides for a five-man board of directors for the authority, to consist of the director of the local affairs agency, and one director each appointed by the governor, the president of the state senate, the speaker of the state house of representatives, and the board of directors of the Alaska Municipal League. All appointees excepting the director of the local affairs agency are subject to confirmation as directors by the legislature. Appointment of the initial board is required to be made within 10 days after the Act takes effect. Directors have four-year terms and are eligible for reappointment.

The director of the local affairs agency is designated executive officer of the authority. Selection of a chairman and other officers is by the authority; the chairman and vice chairman must be directors. Also provided for in the section is the filling of vacancies, quorum requirements, and compensation of directors for actual expenses incurred in discharge of their duties.

Provision is made for the appointment of a financial consultant and attorney, who must have their principal place of business within the state, and for the compensation of these officials on an independent contract basis. Retention and compensation of other staff personnel is authorized. Officers, employees or agents of the authority are prohibited from having a direct or indirect financial interest in any contract for services with the authority (other than their contract of employment). Holding office or employment with the state or a political subdivision of the state, or with a private banking or financial business or enterprise, is declared by the section not to be a disqualifying interest per se. The restrictions on financial interest are declared inapplicable to persons providing services on an independent contract basis.

Sec. 44.55.030. POWERS OF AUTHORITY.

This section recites the powers of the authority as a public corporation to implement the policies of sec. 10; a number of the powers are developed further in other provisions of the Act.

Sec. 44.55.040. LIMITATIONS.

This section recites limitations on the powers of the authority as a public corporation.

Sec. 44.55.050. BONDS AND EXPENSES.

This section sets out the authority's principal purpose, to lend money to political subdivisions through authority purchase of bonds and notes of the political subdivision. A specific condition is attached, namely that bonds or notes purchased by the authority from a political subdivision must before purchase be offered by the political subdivision for public or private sale to investors other than the authority. The section also authorizes purchase of municipal bonds and notes already issued. It further provides for authority purchase of its own bonds and notes and declares that authority bonds and notes are not a debt of the state or a pledge of the full faith, credit and taxing power of the state. The section provides that the authority is not authorized to incur indebtedness on behalf of the state or a political subdivision of the state.

Sec. 44.55.060. ISSUANCE OF AUTHORITY BONDS AND NOTES.

This section authorizes issuance of authority bonds or notes in amounts as the authority deems necessary to provide funds for its corporate purposes. Bonds and notes are to be general obligations payable out of the revenues of funds of the authority, except as the authority determines otherwise or agreements of the authority require otherwise. Bonds or notes of the authority are declared to be fully negotiable within the meaning of the Uniform Commercial

Code. The authority may prescribe the form, and the manner of issuing and securing, its bonds and notes. The section requires public sale of authority bonds or notes at a price the authority determines. Bonds are required to be paid not later than 50 years from date of issuance and notes not later than five years from date of issuance. Authority to issue notes payable from the proceeds of bonds or of other notes is also accorded in the section.

Sec. 44.55.072. CONTENTS OF BOND RESOLUTION, TRUST AGREEMENT OF TRUST INSTRUMENT.

This section recites the various covenants with bond and note holders which may be made by the authority in issuing its bonds and notes.

Sec. 44.55.080. PLEDGE OF REVENUES OR OTHER MONEY.

This section prescribes the legal effect of a pledge of revenues by the authority in connection with the issuance of its own bonds and notes.

Secs. 44.55.090. ALASKA MUNICIPAL BOND AUTHORITY RESERVE FUND.

44.55.100. AUTHORITY GENERAL FUND.

44.55.110. ALASKA MUNICIPAL BOND GUARANTEE FUND.

44.55.120. PERMANENT CAPITAL FUND.

These sections establish the funds in the authority for specific purposes. The reserve fund, established in sec. 90, is to insure payment of the principal and interest of outstanding authority bonds and notes. An amount sufficient to meet each succeeding calendar year's payments must be maintained in the fund, otherwise the authority may not issue further bonds and notes. Appropriations by the legislature are authorized to maintain the fund at the necessary amount.

The authority chairman is directed to certify to the governor annually any sum necessary to maintain this amount for guarantee of payment of authority bonds. Money in excess of the reserve may be transferred to another fund or invested.

The general fund of the authority, established in sec. 100, may be utilized for all purposes of the authority, including operating expenses and payment of principal and interest on authority bonds. Subject to contracts between the authority and holders of its bonds and notes, money may be transferred from the general fund to the reserve fund provided for in sec. 90. Money not transferred is to be used for payment of principal and interest on authority bonds and notes, and in addition may be used for purchase of municipal bonds and for all other authority purposes.

The Alaska Municipal Bond Guarantee Fund, provided for in sec. 110, is intended to improve bond marketing prospects for political subdivisions by ensuring payment of installments of bonds and notes on which a political subdivision may default. The authority is directed to make payment if necessary to avoid a default. Repayment of the amount paid by the authority is required from funds appropriated by the state for allocation to the political subdivision. An exception is made in the case of an existing dedicated tax (such as the tobacco tax dedicated for school construction), so to avoid a legal question of possible loss of the dedication through change of purpose to which the tax might be applied. The authority is also authorized to require that covenants of the debt instrument on which payment was made on behalf of the political subdivision be fully implemented to prevent future default situations from arising.

Money in the guarantee fund which exceeds five per cent of the total bonded debt of all political subdivisions outstanding as of the prior calendar year may be transferred by the authority to another fund or account. The section further provides for investment and valuation of investment of fund money, authorizes legislative appropriations to the fund and requires certification by the authority chairman to the governor of whatever amount is necessary to restore the fund to an amount equal to five per cent of the total bonded debt of all political subdivisions outstanding as of the prior calendar year.

The permanent capital fund, established in sec. 120, calls for an initial appropriation of \$50 million to be used for the purchase by bid or negotiation of municipal bonds or notes; the amount would be in addition to proceeds from the sale of authority bonds and notes which the authority may use for such purchases. At least one-third of legislative appropriations to the fund are required to be used for purchase of bonds and notes offered by political subdivisions with a population of 2,500 or less.

Purchases from fund money must be at six per cent interest or at a rate no lower than 25 basis points (i.e. 1/4 of one per cent) below the going market value as shown in the Bond Buyer's Index for 20 Bonds, whichever is the lower rate. The section also provides that the amount required for the guarantee fund under sec. 110 (an amount equal to five per cent of the total bonded debt of all political subdivisions outstanding as of the prior calendar year) may be advanced from the permanent capital fund to the guarantee fund, if that amount has not been appropriated to the guarantee fund by the legislature. Reimbursement to the permanent capital fund from any subsequent legislative appropriations is required.

The section further provides for interest earnings derived from bonds purchased and from the permanent capital fund itself to be used for operating expenses of the authority, costs of debt service on authority bonds, reserve commitments, and increase of capital in the permanent capital fund, in that order.

Sec. 44.55.130. ADDITIONAL FUNDS OR ACCOUNTS.

This section authorizes establishment of additional funds and accounts or reserves.

Sec. 44.55.140. NO LIABILITY ON BONDS OR NOTES.

This section provides that neither members of the authority nor any person executing bonds or notes issued under the chapter shall be liable personally on the bonds or notes by reason of their issuance.

Sec. 44.55.150. PLEDGE OF STATE.

This section makes a pledge to holder of bonds or notes issued under authority of the Act that the state will not alter the powers vested in the authority as to municipal bonds and its own bonds and notes before the bonds and notes are fully paid and any actions or proceedings in connection with them are fully discharged. A pledge is also made with respect to preservation of authority power to meet its expenses.

Sec. 44.55.160. LEGAL INVESTMENTS.

This section declares authority bonds to be legal investments for the state, political subdivisions, agencies of the state, banks, other financial institutions, insurance enterprises, and fiduciaries. The bonds are also declared to be legal security for public deposits. Provision is specifically made for state funds deposited in a bank

to be secured by authority bonds or notes or bonds or notes of a political subdivision. The aggregate value of such bonds or notes deposited as security must equal at least 50 per cent of the funds deposited.

Sec. 44.55.179. TAX EXEMPTION.

This section provides that all property of the authority is exempt from state or local taxes and special assessments. Interest and income on authority bonds and notes, as well as money pledged or available to pay or secure their payment, is declared exempt from taxation, except for transfer, inheritance and estate taxes.

Sec. 44.55.180. EXEMPTION FROM LEVY.

This section exempts authority property from levy and sale by execution and from execution or other judicial process and provides that a judgment against the authority may not be a lien on its property. These provisions are declared not applicable to rights of holders of bonds or notes to enforce a pledge or lien given by the authority on its revenues or other money.

Sec. 44.55.190. FEDERAL INSURANCE OR GUARANTY.

This section provides that the authority may obtain available federal insurance or guaranty on its bonds or on municipal bonds purchased or held by it.

Sec. 44.55.200. ACT TO CONTROL.

This section declares to the Act to control in case of inconsistency or conflict or inconsistency with other laws.

Sec. 44.55.210. ANNUAL REPORT AND AUDIT.

This section requires an annual authority report and audit to be presented to the governor and to the legislature.

Sec. 44.55.220. ANNUAL AUTHORITY BUDGET.

This section provides for the authority to file a preliminary budget with the governor annually and for adoption of the annual budget by the authority. Adoption is to become effective only after the annual budget is filed with the governor and the legislative auditor. The section further provides that if the authority does not adopt a budget by June 1, the preliminary budget filed takes effect if approved by the governor, or otherwise the preceding year's budget takes effect. The authority budget may be amended during the year in which effective, but only if the amended budget is approved by the governor as reasonable and necessary and is filed with the governor and the legislative auditor.

Sec. 44.55.230. TECHNICAL SERVICES BY LOCAL AFFAIRS AGENCY.

This section authorizes the local affairs agency to provide technical services to the authority upon request. Costs are to be met by the authority.

Sec. 44.55.240. SECURITY FOR CONTRACTS.

This section provides for the authority to contract with banks or other financial institutions for the care, custody or safekeeping of municipal bonds or other investments of the authority, payment or collections of principal and interest amounts due the authority, and delivery to it of municipal bonds or other investments purchased or sold by the authority.

Sec. 44.55.250. ESTOPPEL AS TO BONDS OR NOTES.

This section estops legal challenge to authorization, sale, issuance, execution or delivery of authority bonds or notes once they are issued.

Sec. 44.55.260. AUTHORITY FINANCIAL ADVISORY SERVICES.

This section provides for authority to render financial advisory services to a political subdivision in connection with any public or private sale of its bonds, such as advice as to improving its credit rating, methods of offering bonds for sale, and preparation of a sale prospectus. Charges for services are required, and services may not include rendering of accounting, architectural, engineering, legal or other professional services or advice.

Sec. 44.55.270. DEFINITIONS.

Among terms defined in the section are

"municipal bonds", defined as a "bond or note or evidence of indebtedness which a political subdivision is empowered to issue, including but not limited to general obligation and revenue bonds", and

"political subdivision", defined as a "city or organized borough of any class, whether home rule or otherwise, including but not limited to a unified municipality organized under AS 29.85."

Sec. 44.55.280. SHORT TITLE.

The Act is to be cited as the Alaska Municipal Bond Authority Act.