

# COMMITTEE REPORT

## SENATE

5/25/76

5/27/76 Date

Mr. President:

The Committee on WAYS & FINANCE has had CSHB 779  
creating the Alaska Power Authority  
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for \_\_\_\_\_ and that  
CS for \_\_\_\_\_ do pass
- (and) recommends it be referred to the \_\_\_\_\_  
committee
- reports it back without recommendation *with attached amendment*
- AND attaches a report of its intent
- (other) \_\_\_\_\_

### MEMBERS SIGNING THE MAJORITY REPORT:

<u>Bill King</u>	<u>NO REC</u>	_____
_____	_____	_____
<u>Don Branch</u>	<u>NO REC</u>	_____
<u>Raymond</u>	<u>NO REC</u>	_____

### MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

<u>Don Branch</u>	recommends:	<u>NO PASS</u>
<u>Raymond</u>	recommends:	<u>NO PASS</u>
_____	recommends:	_____

Bill King  
Chairman

A M E N D M E N T

Offered in the SENATE

By FINANCE

To: \_\_\_\_\_ SENATE BILL NO. \_\_\_\_\_

SCS 03 HOUSE BILL NO. 773

AMENDMENT: Page 13 Line 27

Add the following new material:

(c) The authority may make loans from the fund, at such interest rates as it determines, to cities, boroughs, village corporations, village councils and nonprofit marketing cooperatives for purposes of constructing, equipping, and the initial filling of fuel storage facilities, and for other energy requirements, including but not limited to electrical utilities, geothermal, solar, hydroelectric, or wind-power energy production, or for natural gas line construction.

Repeal the following subsections accordingly.

AMENDMENT

In the Senate

By: \_\_\_\_\_

Amendment to SCS for CS for HB 779

Page 13, Line 27 add the following new material:

"(e) The authority may make loans from the fund, at such interest rates as it determines, to cities, boroughs, village corporations, village councils and nonprofit marketing cooperatives for purposes of constructing, equipping, and the initial filling of fuel storage facilities, and for other energy requirements, including but not limited to electrical utilities, geothermal, solar, hydroelectric, or wind-power energy production, or for natural gas line construct."

Remember the following <sup>sub.</sup> sections accordingly;

## ALASKA POWER AUTHORITY

HB 779

	Range/ Units	Annual Cost	
<b>Personal Services</b>			
Executive Director	24	42.5	
Civil Engineer I	19	29.5	
Civil Engineer II	20	31.8	
Power Production/Transmission Administrator	20	31.8	
Secretary I	10	15.7	
Clerk-typist	8	13.9	
Clerk-typist	8	13.9	179.1
<b>Travel:</b>		40.0	40.0
<b>Contractual:</b>			
Communications		6.5	
Printing & Advertising		10.0	
Rents & Utilities. 1500 s.f./\$1.50		27.0	
Transportation of things		6.0	
Equipment Rentals		3.5	
Professional Fees & Services			
Other		5.0	58.0
<b>Commodities:</b>		3.0	3.0
<b>Equipment:</b>			
7 desks @ 250		1.8	
7 chairs @ 100		.7	
Conf. Room \$800		.8	
4 calculators @ 300		1.2	
2 typewriters @ 800		1.6	
4 file cabinets @ 250		1.0	
Misc @ \$100/employee		.7	
Dictation 4 @ \$900		3.6	11.4
<b>Total excluding consultant fees &amp; construction</b>			<b>\$291.5</b>

I. If the Alaska Power Authority eventually operates some of the plants it constructs, power management personnel will become necessary only just prior to the plants coming on line, and it is, therefore, unnecessary that they be included in this initial fiscal estimate.

II. Construction personnel can be segregated into three categories: technical; administrative; and financial.

- A. Technical. These individuals, engineers, would be charged with identifying and cataloging projects on the basis of their technical feasibility. Since project planning, design and cost estimation would be farmed out, these individuals would be employed to evaluate consultant reports and translate technical information for other personnel.

Three people would fill the needs of this category.

- 1) Engineer/dam construction experience
- 2) Geologist/dam location and hydrologic experience
- 3) Transmission technology expert.

- B. Administrative personnel would be necessary to coordinate in-house efforts, coordinate state, federal and local activities, and oversee the operations of the Alaska Power Authority. One person with a background in power and energy development would be sufficient here.

- C. In the financial category, the financial analyst would have responsibility for what are called marketing studies and financial feasibility analysis; the former has to do with demand projections, the latter is an activity designed to provide some assurance that a project will be financially viable. Given that the Federal Alaska Power Administration conducts marketing studies, the responsibilities in this area will not be extensive. One individual could perform these functions; a strong economics background would be essential.

So, five people, plus the normal core of secretaries, would in my estimation be sufficient to perform the activities vaguely outlined in the bill.

Obviously, ninety percent of the planning and design work necessary to evaluate a project would be conducted by consultants. This reality may add phenomenally to the actual budget, however, hiring consultants will undoubtedly be less costly than acquiring permanent in-house expertise. In addition, workloads could be significantly minimized if demand projection information and preliminary site identification information were extracted from existing Alaskan Power Administration files. In fact, if APA generates this sort of information the expediency of duplicating their efforts is somewhat questionable.

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Original sponsors: Duncan and Swanson

Offered: 5/25/76  
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-  
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil  
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is  
16 necessary to supply lower cost power to the state's municipal electric,  
17 rural electric, cooperative electric, and private electric utilities,  
18 and regional electric authorities, and thereby to the consumers of the  
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power  
21 costs and long-term economic growth and of establishing, operating and  
22 developing power projects in the state will be accelerated and facili-  
23 tated by the creation of an instrumentality of the state with powers to  
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests  
26 of promoting the general welfare of all the people of the state, and  
27 public purposes, to reduce consumer power costs and otherwise to en-  
28 courage the long-term economic growth of the state, including the  
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties  
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the  
4 Alaska Power Authority. The authority is a public corporation of the  
5 state in the Department of Commerce and Economic Development but with  
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-  
8 sists of the commissioner of commerce and economic development and four  
9 public members appointed by the governor. The appointment of each  
10 director other than the commissioner of commerce and economic develop-  
11 ment is subject to confirmation by the legislature. The directors must  
12 be residents of the state and qualified voters at the time of appoint-  
13 ment and shall comply with the requirements of AS 39.50 (conflict of  
14 interest). The term of office of each director appointed by the gover-  
15 nor is four years except that the directors first appointed shall have  
16 terms of one, two, three, and four years, respectively. A vacancy in a  
17 directorship occurring other than by expiration of term shall be filled  
18 in the same manner as the original appointment but for the unexpired  
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
21 one of the public members as chairman and other officers they determine  
22 desirable. The powers of the authority are vested in the directors, and  
23 three directors of the authority constitute a quorum. Action may be  
24 taken and motions and resolutions adopted by the authority at a meeting  
25 by the affirmative vote of at least three directors. The directors of  
26 the authority serve without compensation, but they shall receive the  
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive  
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-  
2 ployees, the authority may contract for and engage the services of the  
3 bond counsel, consultants, experts, and financial advisors the authority  
4 considers necessary for the purpose of developing information, or con-  
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
8 authority is to promote, develop and advance the general prosperity and  
9 economic welfare of the people of Alaska by providing a means of con-  
10 structing, acquiring, financing and operating hydroelectric and fossil  
11 fuel generating projects.

12 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its  
13 corporate purposes, the authority has the following powers in addition  
14 to its other powers:

- 15 (1) to sue and be sued;
- 16 (2) to have a seal and alter it at pleasure;
- 17 (3) to make and alter bylaws for its organization and inter-  
18 nal management;
- 19 (4) to make rules and regulations governing the exercise of  
20 its corporate powers;
- 21 (5) to acquire, whether by construction, purchase, gift or  
22 lease, and to improve, equip and operate power projects;
- 23 (6) to issue bonds to carry out any of its corporate pur-  
24 poses and powers, including the acquisition or construction of a pro-  
25 ject to be owned or leased, as lessor or lessee, by the authority, or  
26 the acquisition of any interest in it or any right to capacity of it,  
27 the establishment or increase of reserves to secure or to pay the bonds  
28 or interest on them, and the payment of all other costs or expenses of  
29 the authority incident to and necessary or convenient to carry out its

1 corporate purposes and powers;

2 (7) to sell, lease as lessor or lessee, exchange, donate,  
3 convey or encumber in any manner by mortgage or by creation of any other  
4 security interest, real or personal property owned by it, or in which it  
5 has an interest, when, in the judgment of the authority, the action is  
6 in furtherance of its corporate purposes;

7 (8) to accept gifts, grants or loans from, and enter into  
8 contracts or other transactions regarding them, with a federal agency or  
9 an agency or instrumentality of the state, municipality, private organ-  
10 ization or other source;

11 (9) to deposit or invest its funds, subject to agreements  
12 with bondholders;

13 (10) to enter into contracts with the United States or any  
14 person and, subject to the laws of the United States and subject to  
15 concurrence of the legislature, with a foreign country or its agencies,  
16 for the construction, acquisition, operation and maintenance of all or  
17 any part of a power project, either inside or outside the state, and for  
18 the sale or transmission of power from a project or any right to the  
19 capacity of it or for the security of any bonds of the authority issued  
20 or to be issued for the project;

21 (11) to enter into contracts for the purchase, sale, exchange,  
22 transmission, or use of power generated by a project, or any right to  
23 the capacity of it with any person and with the United States, and,  
24 subject to the laws of the United States and subject to the concurrence  
25 of the legislature, with a foreign country or its agencies;

26 (12) to apply to the appropriate agencies of the state, the  
27 United States and to a foreign country and any other proper agency for  
28 the permits, licenses, or approvals as may be necessary, and to con-  
29 struct, maintain and operate power projects in accordance with the

1 licenses or permits, and to obtain, hold and use the licenses and per-  
2 mits in the same manner as any other person or operating unit;

3 (13) to perform feasibility studies with respect to hydro-  
4 electrical and fossil fuel power generating projects;

5 (14) to enter into contracts or agreements with respect to the  
6 exercise of any of its powers, and do all things necessary or convenient  
7 to carry out its corporate purposes and exercise the powers granted in  
8 this chapter;

9 (15) to exercise the power of eminent domain in accordance  
10 with AS 09.55.250 - 09.55.410.

11 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition  
12 to other methods which it may find advantageous, provide that municipal  
13 electric, rural electric, cooperative electric, or private electric  
14 utilities and regional electric authorities or other persons authorized  
15 by law to engage in the distribution of power may secure a reasonable  
16 share of the power generated by a project, or any interest in it, or for  
17 any right to the capacity of it and shall sell the power or cause the  
18 power to be sold at prices representing cost of generation, plus capital  
19 and operating charges, plus a fair cost of transmission, all as deter-  
20 mined by the directors, and subject to conditions which assure the  
21 resale of the power to retail consumers at the lowest possible price. A  
22 contract for the sale, transmission and distribution of power generated  
23 by a project or any right to the capacity of it shall provide

24 (1) for payment of all operating and maintenance expenses  
25 of a project and costs of renewals, replacements and improvements of it;

26 (2) for interest on and amortization charges sufficient to  
27 retire bonds of the authority issued for the project and reserves for  
28 them, plus a debt service coverage factor as may be determined by the  
29 authority to be necessary for the marketability of its bonds;

1 (3) for continuous control and operation of the project by  
2 the authority or its agents;

3 (4) for full and complete disclosure to the authority of all  
4 factors of cost in the transmission and distribution of power, so that  
5 rates to any persons may be fixed initially in the contract and may be  
6 adjusted from time to time on the basis of true cost data;

7 (5) for periodic revisions of the service and rates to per-  
8 sons on the basis of accurate cost data obtained by the accounting  
9 methods and systems approved by the directors and in furtherance and  
10 effectuation of the policy declared in this chapter;

11 (6) for the cancellation and termination of a contract upon  
12 violation of its terms by any person;

13 (7) for security for performance as the authority may con-  
14 sider practicable and advisable, including provisions assuring the  
15 continuance of the distribution and transmission of power generated by a  
16 project, the use of their facilities for these purposes, and the con-  
17 tinuance of an outlet and adequate market for the power generated by the  
18 project;

19 (8) other terms not inconsistent with the provisions and  
20 policy of this chapter as the authority may consider advisable.

21 ARTICLE 3. FINANCIAL PROVISIONS.

22 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
23 borrow money and may issue bonds, including but not limited to bonds on  
24 which the principal and interest are payable (1) exclusively from the  
25 income and receipts or other money derived from the project financed  
26 with the proceeds of the bonds; (2) exclusively from the income and  
27 receipts or other money derived from designated projects whether or not  
28 they are financed in whole or in part with the proceeds of the bonds;  
29 (3) from its income and receipts or other assets generally, or a desig-

1 nated part or parts of them; or (4) from one or more revenue-producing  
2 contracts including a contract providing for the security of the bonds  
3 made by the authority with any person. The authority may issue bonds  
4 to pay, fund or refund the principal of, or interest or redemption  
5 premiums on, bonds issued by it, whether or not the bonds or interest to  
6 be funded or refunded have become due.

7 (b) Bonds shall be authorized by resolution of the authority, and  
8 shall be dated and shall mature as the resolution may provide, except  
9 that no bond may mature more than 50 years from the date of its issue.  
10 Bonds shall bear interest at the rates, be in the denominations, be in  
11 the form, either coupon or registered, carry the registration privi-  
12 leges, be executed in the manner, be payable in the medium of payment,  
13 at the places, and be subject to the terms of redemption which the  
14 resolution or a subsequent resolution may provide.

15 (c) All bonds, regardless of form or character, shall be negotia-  
16 ble instruments for all the purposes of the Uniform Commercial Code.

17 (d) All bonds may be sold at public or private sale in the manner,  
18 for the price or prices, and at the time or times which the authority  
19 may determine.

20 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
21 the discretion of the authority, an issue of bonds may be secured by a  
22 trust indenture or trust agreement between the authority and a corporate  
23 trustee (which may be a trust company, bank, or national banking associ-  
24 ation, with corporate trust powers, located inside or outside the state)  
25 or by a secured loan agreement or other instrument or under a resolution  
26 giving powers to a corporate trustee by means of which the authority may

27 (1) make and enter into any and all the covenants and agree-  
28 ments with the trustee or the holders of the bonds which the authority  
29 may determine to be necessary or desirable, including, without limita-

1 tion, covenants, provisions, limitations and agreements as to

2 (A) the application, investment, deposit, use and dis-  
3 position of the proceeds of bonds of the authority or of money or  
4 other property of the authority or in which it has an interest;

5 (B) the fixing and collection of rentals, charges, fees  
6 or other consideration for, and the other terms to be incorporated  
7 in, contracts with respect to a project;

8 (C) the assignment by the authority of its rights in  
9 contracts with respect to a project or in a mortgage or other  
10 security interest created with respect to a project to a trustee  
11 for the benefit of bondholders;

12 (D) the terms and conditions upon which additional bonds  
13 of the authority may be issued;

14 (E) the vesting in a trustee of rights, powers, duties,  
15 funds or property in trust for the benefit of bondholders, includ-  
16 ing, without limitation, the right to enforce payment, performance,  
17 and all other rights of the authority or of the bondholders, under  
18 a lease, power of contract, contract of sale, mortgage, security  
19 agreement, or trust agreement with respect to a project by mandamus  
20 or other proceeding or by taking possession of by agent or other-  
21 wise and operating a project and collecting rents or other consider-  
22 ation and applying the same in accordance with the trust agreement;

23 (2) pledge, mortgage or assign money, leases, agreements,  
24 property or other rights or assets of the authority either presently in  
25 hand or to be received in the future, or both; and

26 (3) provide for any other matters of like or different  
27 character which in any way affect the security or protection of the  
28 bonds.

29 (b) Notwithstanding any other provisions of this chapter, the

1 trust agreement shall contain a covenant by the authority that it will  
2 at all times maintain rates, fees or charges sufficient to pay, and that  
3 a contract entered into by the authority for the sale, transmission or  
4 distribution of power shall contain rates, fees or charges sufficient to  
5 pay the costs of operation and maintenance of the project, the principal  
6 of and interest on bonds issued under the trust agreement as the same  
7 severally become due and payable, to provide for debt service coverage  
8 as considered necessary by the authority for the marketing of its bonds  
9 and to provide for renewals, replacements and improvements of the  
10 project, and to maintain reserves required by the terms of the trust  
11 agreement.

12 (c) For the purpose of securing any one or more issues of its  
13 bonds, the authority may establish one or more special funds, called  
14 "capital reserve funds", and shall pay into those capital reserve funds  
15 the proceeds of the sale of its bonds and any other money which may be  
16 made available to the authority for the purposes of those funds from any  
17 other source. The funds shall be established only if the authority  
18 determines that the establishment would enhance the marketability of  
19 the bonds. All money held in a capital reserve fund, except as provided  
20 in this section, shall be used as required, solely for (1) the payment  
21 of the principal of, and interest on, bonds or of the sinking fund  
22 payments with respect to those bonds, (2) the purchase or redemption of  
23 bonds, or (3) the payment of a redemption premium required to be paid  
24 when those bonds are redeemed before maturity; however, money in a fund  
25 may not be withdrawn from it at any time in an amount which would reduce  
26 the amount of that fund to less than the capital reserve requirement set  
27 out in (2) of this subsection, except for the purpose of making, with  
28 respect to those bonds, payment, when due, of principal, interest,  
29 redemption premiums and the sinking fund payments for the payment of

1 which other money of the authority is not available. Income or interest  
2 earned by, or increment to, a capital reserve fund, due to the invest-  
3 ment of the fund or any other amounts in it, may be transferred by the  
4 authority to other funds or accounts of the authority to the extent that  
5 the transfer does not reduce the amount of the capital reserve fund  
6 below the capital reserve fund requirement.

7  
8 (d) If the authority decides to issue bonds secured by such a  
9 capital reserve fund, the bonds may not be issued if the amount in the  
10 capital reserve fund is less than such a per cent, not exceeding 10 per  
11 cent of the principal amount of all of those bonds secured by that  
12 capital reserve fund then to be issued and then outstanding in accor-  
13 dance with their terms, as may be established by resolution of the  
14 authority (called the "capital reserve fund requirement"), unless the  
15 authority, at the time of issuance of the obligations, deposits in the  
16 capital reserve fund from the proceeds of the obligations to be issued  
17 or from other sources, an amount which, together with the amount then in  
18 the fund, will not be less than the capital reserve fund requirement.

19 (e) In computing the amount of a capital reserve fund for the  
20 purpose of this section, securities in which all or a portion of the  
21 funds are invested shall be valued by some reasonable method established  
22 by the authority by resolution. Valuation on a particular date shall  
23 include the amount of any interest earned or accrued to that date.

24 (f) The chairman of the authority shall annually, no later than  
25 January 2, make and deliver to the governor and the legislature his  
26 certificate stating the sum, if any, required to restore any capital  
27 reserve fund to the capital reserve fund requirement. The legislature  
28 may appropriate such a sum, and all sums appropriated during the then  
29 current fiscal year by the legislature for such restoration shall be  
deposited by the authority in the proper capital reserve fund. Nothing

1 in this section creates a debt or liability of the state.

2 (g) When the authority has created and established a capital  
3 reserve fund, the commissioner of revenue may lend surplus money in the  
4 general fund to the authority for deposit in a capital reserve fund in  
5 an amount equal to the capital reserve fund requirement. The loans  
6 shall be made on such terms and conditions as may be agreed upon by the  
7 commissioner of revenue and the authority, including without limitation  
8 terms and conditions providing that the loans need not be repaid until  
9 the obligations of the authority secured and to be secured by the  
10 capital reserve fund are no longer outstanding.

11 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the  
12 legislature that a pledge made in respect of bonds shall be valid and  
13 binding from the time the pledge is made; that the money or property so  
14 pledged and thereafter received by the authority shall immediately be  
15 subject to the lien of the pledge without physical delivery or further  
16 act; and that the lien of the pledge shall be valid and binding as  
17 against all parties having claims of any kind in tort, contract or  
18 otherwise against the authority irrespective of whether the parties have  
19 notice. Neither the resolution, trust agreement nor any other instru-  
20 ment by which a pledge is created need be recorded or filed under the  
21 provisions of the Uniform Commercial Code to be valid, binding or effec-  
22 tive against the parties.

23 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
24 of the authority nor a person executing the bonds is liable personally  
25 on the bonds or is subject to personal liability or accountability by  
26 reason of the issuance of the bonds.

27 (b) The bonds issued by the authority do not constitute an in-  
28 debtedness or other liability of the state or of a political subdivision  
29 of the state, except the authority, but shall be payable solely from the

1 income and receipts or other funds or property of the authority. The  
2 authority may not pledge the faith or credit of the state or of a  
3 political subdivision of the state, except the authority, to the payment  
4 of a bond and the issuance of a bond by the authority does not directly  
5 or indirectly or contingently obligate the state or a political sub-  
6 division of the state to apply money from, or levy or pledge any form of  
7 taxation whatever to the payment of the bond.

8 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
9 agrees with the holders of bonds issued under this chapter and with the  
10 federal agency which loans or contributes funds in respect to a project,  
11 that the state will not limit or alter the rights and powers vested in  
12 the authority by this chapter to fulfill the terms of a contract made by  
13 the authority with the holders or federal agency, or in any way impair  
14 the rights and remedies of the holders until the bonds, together with  
15 the interest on them with interest on unpaid installments of interest,  
16 and all costs and expenses in connection with an action or proceeding by  
17 or on behalf of the holders, are fully met and discharged. The author-  
18 ity is authorized to include this pledge and agreement of the state,  
19 insofar as it refers to holders of bonds of the authority, in a contract  
20 with the holders, and insofar as it relates to a federal agency, in a  
21 contract with the federal agency.

22 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
23 public property devoted to an essential public and governmental function  
24 and purpose and is exempt from all taxes of the state or a political  
25 subdivision of the state. All bonds issued under this chapter are  
26 issued by a body corporate and public of this state and for an essential  
27 public and governmental purpose and the bonds and the interest and  
28 income on and from the bonds and all income of the authority are exempt  
29 from taxation except for transfer, inheritance and estate taxes.

1           Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
2 bonds of the authority are securities in which all public officers and  
3 bodies of the state and all municipalities and municipal subdivisions,  
4 all insurance companies and associations and other persons carrying on  
5 any insurance business, all banks, bankers, trust companies, savings  
6 banks, savings associations, including savings and loan associations and  
7 building and loan associations, investment companies and other persons  
8 carrying on a banking business, all administrators, guardians, execu-  
9 tors, trustees and other fiduciaries, and all other persons whatsoever  
10 who are now or may hereafter be authorized to invest in bonds or other  
11 obligations of the state, may properly and legally invest funds in-  
12 cluding capital in their control or belonging to them. Notwithstanding  
13 any other provisions of law, the bonds of the authority are also secur-  
14 ities which may be deposited with and may be received by all public  
15 officers and bodies of this state and all municipalities and municipal  
16 subdivisions for any purpose for which the deposit of bonds or other  
17 obligations of the state is now or may hereafter be authorized.

18           ARTICLE 4. POWER PROJECT REVOLVING FUND.

19           Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a  
20 separate fund the power project revolving fund which shall be adminis-  
21 tered by the authority as a trust fund separate and distinct from any  
22 other money or funds of the authority.

23           (b) The authority may make loans from the fund, at such interest  
24 rate or rates as it determines, to eligible borrowers to pay the costs  
25 of feasibility studies, preconstruction engineering, design and con-  
26 struction of hydroelectric and fossil fuel power projects.

27           (c) Repayment of the loans shall be secured in such manner as the  
28 authority determines is feasible to assure repayment under a loan agree-  
29 ment entered into with the borrower. Under a loan agreement repayment

1 may be deferred until the project with respect to which a loan is made  
2 has achieved earnings from its operations sufficient to pay the loan.

3 (d) As used in this section an "eligible borrower" is a munici-  
4 pality or public utility as defined in AS 42.05.701(2)(A).

5 ARTICLE 5. GENERAL PROVISIONS.

6 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall  
7 submit a statement outlining the general design, demonstration of finan-  
8 cial feasibility, and maximum amount of bonds estimated to be necessary  
9 for each new project to the legislature and the commissioner of commerce  
10 and economic development, together with a statement that the authority  
11 intends to design, acquire and construct the project itself or that it  
12 intends that the project be designed, acquired or constructed by the  
13 United States or another person under agreement with the authority  
14 providing for ownership of all or a portion of the project by the author-  
15 ity or of a right to the capacity of it. If the legislature adopts a  
16 concurrent resolution approving the general design and maximum amount of  
17 bonds, the authority shall, in accordance with the terms of the concu-  
18 rent resolution, (1) proceed to design, acquire and construct the new  
19 project, or (2) agree with the United States or other person for design,  
20 acquisition and construction of the project by the United States, for  
21 payments to the United States or other person for such design, acquisition  
22 and construction, reimbursement by the United States or other person in  
23 certain events, and otherwise on the terms and conditions as may be set  
24 out in such agreement. If the new project is to be designed, acquired  
25 and constructed by the authority, it shall be designed, acquired and  
26 constructed as a public work of the state except that public bidding  
27 shall not be required, if the authority so determines. For the purpose  
28 of this section a new project does not include an addition or modifica-  
29 tion to an existing project if the total cost of the addition or modifi-

1 cation does not exceed \$1,000,000, to any repair or reconstruction of a  
2 project, or to any design, acquisition or construction necessary to  
3 complete a project for which bonds previously authorized by the legisla-  
4 ture have been issued. Any such addition, modification, repair, recon-  
5 struction, design, acquisition or construction may be undertaken by the  
6 authority without any of the approvals necessary for a new project.

7 Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-  
8 cial records audited annually by a certified public accountant. The  
9 legislative auditor may prescribe the form and content of the financial  
10 records of the authority and shall have access to these records at any  
11 time.

12 Sec. 44.62.200. ANNUAL REPORT. Before March 1 of each year, the  
13 authority shall submit to the governor and the legislature a comprehen-  
14 sive report describing operations, income and expenditures for the  
15 preceding 12-month period.

16 Sec. 44.62.210. BUDGET AND APPROPRIATIONS. The authority shall  
17 submit its annual budget to the legislature through the governor as  
18 provided for state agencies by the Executive Budget Act (AS 37.07). It  
19 may expend money directly appropriated by the legislature only as  
20 authorized by the legislature.

21 Sec. 44.62.220. PUBLIC RECORDS; OPEN MEETINGS. The provisions of  
22 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
23 authority. The authority shall publish a proposed agenda of its meet-  
24 ings and afford the public an opportunity to be heard in accordance with  
25 AS 44.62.312.

26 Sec. 44.62.230. DEFINITIONS. In this chapter, unless the context  
27 requires otherwise,

28 (1) "authority" means the Alaska Power Authority established  
29 by this chapter;

1 (2) "bonds" means bonds, notes, or other obligations of the  
2 authority issued under this chapter;

3 (3) "power" includes any and all electrical energy generated,  
4 distributed, bought or sold for purposes of lighting, heating, power and  
5 every other useful purpose;

6 (4) "power project" or "project" means a plant, works, system,  
7 facility, water rights, fuel deposits or sources, and real estate and  
8 personal property of any nature whatsoever, together with all facilities  
9 and appurtenances related to them or necessary for the purposes of them,  
10 used or useful in the generation by means of water or fossil fuel of  
11 electric power and the production, transmission, purchase, sale, exchange  
12 and interchange of electric power, and shall include any interest in  
13 them, whether divided or undivided, or any right to the capacity of  
14 them.

15 (5) "public agency" means any city or other municipal corpora-  
16 tion, political subdivision, governmental unit, or public corporation  
17 created by or under the laws of this state or of another state of the  
18 United States, and any state or the United States, and any person, board  
19 or other body declared by the laws of any state or the United States to  
20 be a department, agency, or instrumentality of them.

21 Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the  
22 Alaska Power Authority Act.  
23  
24  
25  
26  
27  
28  
29

Original sponsor:: Duncan and Swanson

Offered: 5/25/76  
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-  
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil  
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is  
16 necessary to supply lower cost power to the state's municipal electric,  
17 rural electric, cooperative electric, and private electric utilities,  
18 and regional electric authorities, and thereby to the consumers of the  
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power  
21 costs and long-term economic growth and of establishing, operating and  
22 developing power projects in the state will be accelerated and facili-  
23 tated by the creation of an instrumentality of the state with powers to  
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests  
26 of promoting the general welfare of all the people of the state, and  
27 public purposes, to reduce consumer power costs and otherwise to en-  
28 courage the long-term economic growth of the state, including the  
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties  
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the  
4 Alaska Power Authority. The authority is a public corporation of the  
5 state in the Department of Commerce and Economic Development but with  
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-  
8 sists of the commissioner of commerce and economic development and four  
9 public members appointed by the governor. The appointment of each  
10 director other than the commissioner of commerce and economic develop-  
11 ment is subject to confirmation by the legislature. The directors must  
12 be residents of the state and qualified voters at the time of appoint-  
13 ment and shall comply with the requirements of AS 39.50 (conflict of  
14 interest). The term of office of each director appointed by the gover-  
15 nor is four years except that the directors first appointed shall have  
16 terms of one, two, three, and four years, respectively. A vacancy in a  
17 directorship occurring other than by expiration of term shall be filled  
18 in the same manner as the original appointment but for the unexpired  
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
21 one of the public members as chairman and other officers they determine  
22 desirable. The powers of the authority are vested in the directors, and  
23 three directors of the authority constitute a quorum. Action may be  
24 taken and motions and resolutions adopted by the authority at a meeting  
25 by the affirmative vote of at least three directors. The directors of  
26 the authority serve without compensation, but they shall receive the  
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive  
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-  
2 ployees, the authority may contract for and engage the services of the  
3 bond counsel, consultants, experts, and financial advisors the authority  
4 considers necessary for the purpose of developing information, or con-  
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
8 authority is to promote, develop and advance the general prosperity and  
9 economic welfare of the people of Alaska by providing a means of con-  
10 structing, acquiring, financing and operating hydroelectric and fossil  
11 fuel generating projects.

12 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its  
13 corporate purposes, the authority has the following powers in addition  
14 to its other powers:

- 15 (1) to sue and be sued;
- 16 (2) to have a seal and alter it at pleasure;
- 17 (3) to make and alter bylaws for its organization and inter-  
18 nal management;
- 19 (4) to make rules and regulations governing the exercise of  
20 its corporate powers;
- 21 (5) to acquire, whether by construction, purchase, gift or  
22 lease, and to improve, equip and operate power projects;
- 23 (6) to issue bonds to carry out any of its corporate pur-  
24 poses and powers, including the acquisition or construction of a pro-  
25 ject to be owned or leased, as lessor or lessee, by the authority, or  
26 the acquisition of any interest in it or any right to capacity of it,  
27 the establishment or increase of reserves to secure or to pay the bonds  
28 or interest on them, and the payment of all other costs or expenses of  
29 the authority incident to and necessary or convenient to carry out its

1 corporate purposes and powers;

2 (7) to sell, lease as lessor or lessee, exchange, donate,  
3 convey or encumber in any manner by mortgage or by creation of any other  
4 security interest, real or personal property owned by it, or in which it  
5 has an interest, when, in the judgment of the authority, the action is  
6 in furtherance of its corporate purposes;

7 (8) to accept gifts, grants or loans from, and enter into  
8 contracts or other transactions regarding them, with a federal agency or  
9 an agency or instrumentality of the state, municipality, private organ-  
10 ization or other source;

11 (9) to deposit or invest its funds, subject to agreements  
12 with bondholders;

13 (10) to enter into contracts with the United States or any  
14 person and, subject to the laws of the United States and subject to  
15 concurrence of the legislature, with a foreign country or its agencies,  
16 for the construction, acquisition, operation and maintenance of all or  
17 any part of a power project, either inside or outside the state, and for  
18 the sale or transmission of power from a project or any right to the  
19 capacity of it or for the security of any bonds of the authority issued  
20 or to be issued for the project;

21 (11) to enter into contracts for the purchase, sale, exchange,  
22 transmission, or use of power generated by a project, or any right to  
23 the capacity of it with any person and with the United States, and,  
24 subject to the laws of the United States and subject to the concurrence  
25 of the legislature, with a foreign country or its agencies;

26 (12) to apply to the appropriate agencies of the state, the  
27 United States and to a foreign country and any other proper agency for  
28 the permits, licenses, or approvals as may be necessary, and to con-  
29 struct, maintain and operate power projects in accordance with the

1 licenses or permits, and to obtain, hold and use the licenses and per-  
2 mits in the same manner as any other person or operating unit;

3 (13) to perform feasibility studies with respect to hydro-  
4 electrical and fossil fuel power generating projects;

5 (14) to enter into contracts or agreements with respect to the  
6 exercise of any of its powers, and do all things necessary or convenient  
7 to carry out its corporate purposes and exercise the powers granted in  
8 this chapter;

9 (15) to exercise the power of eminent domain in accordance  
10 with AS 09.55.250 - 09.55.410.

11 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition  
12 to other methods which it may find advantageous, provide that municipal  
13 electric, rural electric, cooperative electric, or private electric  
14 utilities and regional electric authorities or other persons authorized  
15 by law to engage in the distribution of power may secure a reasonable  
16 share of the power generated by a project, or any interest in it, or for  
17 any right to the capacity of it and shall sell the power or cause the  
18 power to be sold at prices representing cost of generation, plus capital  
19 and operating charges, plus a fair cost of transmission, all as deter-  
20 mined by the directors, and subject to conditions which assure the  
21 resale of the power to retail consumers at the lowest possible price. A  
22 contract for the sale, transmission and distribution of power generated  
23 by a project or any right to the capacity of it shall provide

24 (1) for payment of all operating and maintenance expenses  
25 of a project and costs of renewals, replacements and improvements of it;

26 (2) for interest on and amortization charges sufficient to  
27 retire bonds of the authority issued for the project and reserves for  
28 them, plus a debt service coverage factor as may be determined by the  
29 authority to be necessary for the marketability of its bonds;

1 (3) for continuous control and operation of the project by  
2 the authority or its agents;

3 (4) for full and complete disclosure to the authority of all  
4 factors of cost in the transmission and distribution of power, so that  
5 rates to any persons may be fixed initially in the contract and may be  
6 adjusted from time to time on the basis of true cost data;

7 (5) for periodic revisions of the service and rates to per-  
8 sons on the basis of accurate cost data obtained by the accounting  
9 methods and systems approved by the directors and in furtherance and  
10 effectuation of the policy declared in this chapter;

11 (6) for the cancellation and termination of a contract upon  
12 violation of its terms by any person;

13 (7) for security for performance as the authority may con-  
14 sider practicable and advisable, including provisions assuring the  
15 continuance of the distribution and transmission of power generated by a  
16 project, the use of their facilities for these purposes, and the con-  
17 tinuance of an outlet and adequate market for the power generated by the  
18 project;

19 (8) other terms not inconsistent with the provisions and  
20 policy of this chapter as the authority may consider advisable.

21 ARTICLE 3. FINANCIAL PROVISIONS.

22 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
23 borrow money and may issue bonds, including but not limited to bonds on  
24 which the principal and interest are payable (1) exclusively from the  
25 income and receipts or other money derived from the project financed  
26 with the proceeds of the bonds; (2) exclusively from the income and  
27 receipts or other money derived from designated projects whether or not  
28 they are financed in whole or in part with the proceeds of the bonds;  
29 (3) from its income and receipts or other assets generally, or a desig-

1 nated part or parts of them; or (4) from one or more revenue-producing  
2 contracts including a contract providing for the security of the bonds  
3 made by the authority with any person. The authority may issue bonds  
4 to pay, fund or refund the principal of, or interest or redemption  
5 premiums on, bonds issued by it, whether or not the bonds or interest to  
6 be funded or refunded have become due.

7 (b) Bonds shall be authorized by resolution of the authority, and  
8 shall be dated and shall mature as the resolution may provide, except  
9 that no bond may mature more than 50 years from the date of its issue.  
10 Bonds shall bear interest at the rates, be in the denominations, be in  
11 the form, either coupon or registered, carry the registration privi-  
12 leges, be executed in the manner, be payable in the medium of payment,  
13 at the places, and be subject to the terms of redemption which the  
14 resolution or a subsequent resolution may provide.

15 (c) All bonds, regardless of form or character, shall be negotia-  
16 ble instruments for all the purposes of the Uniform Commercial Code.

17 (d) All bonds may be sold at public or private sale in the manner,  
18 for the price or prices, and at the time or times which the authority  
19 may determine.

20 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
21 the discretion of the authority, an issue of bonds may be secured by a  
22 trust indenture or trust agreement between the authority and a corporate  
23 trustee (which may be a trust company, bank, or national banking associ-  
24 ation, with corporate trust powers, located inside or outside the state)  
25 or by a secured loan agreement or other instrument or under a resolution  
26 giving powers to a corporate trustee by means of which the authority may

27 (1) make and enter into any and all the covenants and agree-  
28 ments with the trustee or the holders of the bonds which the authority  
29 may determine to be necessary or desirable, including, without limita-

1 tion, covenants, provisions, limitations and agreements as to

2 (A) the application, investment, deposit, use and dis-  
3 position of the proceeds of bonds of the authority or of money or  
4 other property of the authority or in which it has an interest;

5 (B) the fixing and collection of rentals, charges, fees  
6 or other consideration for, and the other terms to be incorporated  
7 in, contracts with respect to a project;

8 (C) the assignment by the authority of its rights in  
9 contracts with respect to a project or in a mortgage or other  
10 security interest created with respect to a project to a trustee  
11 for the benefit of bondholders;

12 (D) the terms and conditions upon which additional bonds  
13 of the authority may be issued;

14 (E) the vesting in a trustee of rights, powers, duties,  
15 funds or property in trust for the benefit of bondholders, includ-  
16 ing, without limitation, the right to enforce payment, performance,  
17 and all other rights of the authority or of the bondholders, under  
18 a lease, power of contract, contract of sale, mortgage, security  
19 agreement, or trust agreement with respect to a project by mandamus  
20 or other proceeding or by taking possession of by agent or other-  
21 wise and operating a project and collecting rents or other consider-  
22 ation and applying the same in accordance with the trust agreement;

23 (2) pledge, mortgage or assign money, leases, agreements,  
24 property or other rights or assets of the authority either presently in  
25 hand or to be received in the future, or both; and

26 (3) provide for any other matters of like or different  
27 character which in any way affect the security or protection of the  
28 bonds.

29 (b) Notwithstanding any other provisions of this chapter, the

1 trust agreement shall contain a covenant by the authority that it will  
2 at all times maintain rates, fees or charges sufficient to pay, and that  
3 a contract entered into by the authority for the sale, transmission or  
4 distribution of power shall contain rates, fees or charges sufficient to  
5 pay the costs of operation and maintenance of the project, the principal  
6 of and interest on bonds issued under the trust agreement as the same  
7 severally become due and payable, to provide for debt service coverage  
8 as considered necessary by the authority for the marketing of its bonds  
9 and to provide for renewals, replacements and improvements of the  
10 project, and to maintain reserves required by the terms of the trust  
11 agreement.

12 (c) For the purpose of securing any one or more issues of its  
13 bonds, the authority may establish one or more special funds, called  
14 "capital reserve funds", and shall pay into those capital reserve funds  
15 the proceeds of the sale of its bonds and any other money which may be  
16 made available to the authority for the purposes of those funds from any  
17 other source. The funds shall be established only if the authority  
18 determines that the establishment would enhance the marketability of  
19 the bonds. All money held in a capital reserve fund, except as provided  
20 in this section, shall be used as required, solely for (1) the payment  
21 of the principal of, and interest on, bonds or of the sinking fund  
22 payments with respect to those bonds, (2) the purchase or redemption of  
23 bonds, or (3) the payment of a redemption premium required to be paid  
24 when those bonds are redeemed before maturity; however, money in a fund  
25 may not be withdrawn from it at any time in an amount which would reduce  
26 the amount of that fund to less than the capital reserve requirement set  
27 out in (2) of this subsection, except for the purpose of making, with  
28 respect to those bonds, payment, when due, of principal, interest,  
29 redemption premiums and the sinking fund payments for the payment of

1 which other money of the authority is not available. Income or interest  
2 earned by, or increment to, a capital reserve fund, due to the invest-  
3 ment of the fund or any other amounts in it, may be transferred by the  
4 authority to other funds or accounts of the authority to the extent that  
5 the transfer does not reduce the amount of the capital reserve fund  
6 below the capital reserve fund requirement.

7 (d) If the authority decides to issue bonds secured by such a  
8 capital reserve fund, the bonds may not be issued if the amount in the  
9 capital reserve fund is less than such a per cent, not exceeding 10 per  
10 cent of the principal amount of all of those bonds secured by that  
11 capital reserve fund then to be issued and then outstanding in accor-  
12 dance with their terms, as may be established by resolution of the  
13 authority (called the "capital reserve fund requirement"), unless the  
14 authority, at the time of issuance of the obligations, deposits in the  
15 capital reserve fund from the proceeds of the obligations to be issued  
16 or from other sources, an amount which, together with the amount then in  
17 the fund, will not be less than the capital reserve fund requirement.

18 (e) In computing the amount of a capital reserve fund for the  
19 purpose of this section, securities in which all or a portion of the  
20 funds are invested shall be valued by some reasonable method established  
21 by the authority by resolution. Valuation on a particular date shall  
22 include the amount of any interest earned or accrued to that date.

23 (f) The chairman of the authority shall annually, no later than  
24 January 2, make and deliver to the governor and the legislature his  
25 certificate stating the sum, if any, required to restore any capital  
26 reserve fund to the capital reserve fund requirement. The legislature  
27 may appropriate such a sum, and all sums appropriated during the then  
28 current fiscal year by the legislature for such restoration shall be  
29 deposited by the authority in the proper capital reserve fund. Nothing

1 in this section creates a debt or liability of the state.

2 (g) When the authority has created and established a capital  
3 reserve fund, the commissioner of revenue may lend surplus money in the  
4 general fund to the authority for deposit in a capital reserve fund in  
5 an amount equal to the capital reserve fund requirement. The loans  
6 shall be made on such terms and conditions as may be agreed upon by the  
7 commissioner of revenue and the authority, including without limitation  
8 terms and conditions providing that the loans need not be repaid until  
9 the obligations of the authority secured and to be secured by the  
10 capital reserve fund are no longer outstanding.

11 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the  
12 legislature that a pledge made in respect of bonds shall be valid and  
13 binding from the time the pledge is made; that the money or property so  
14 pledged and thereafter received by the authority shall immediately be  
15 subject to the lien of the pledge without physical delivery or further  
16 act; and that the lien of the pledge shall be valid and binding as  
17 against all parties having claims of any kind in tort, contract or  
18 otherwise against the authority irrespective of whether the parties have  
19 notice. Neither the resolution, trust agreement nor any other instru-  
20 ment by which a pledge is created need be recorded or filed under the  
21 provisions of the Uniform Commercial Code to be valid, binding or effec-  
22 tive against the parties.

23 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
24 of the authority nor a person executing the bonds is liable personally  
25 on the bonds or is subject to personal liability or accountability by  
26 reason of the issuance of the bonds.

27 (b) The bonds issued by the authority do not constitute an in-  
28 debtedness or other liability of the state or of a political subdivision  
29 of the state, except the authority, but shall be payable solely from the

1 income and receipts or other funds or property of the authority. The  
2 authority may not pledge the faith or credit of the state or of a  
3 political subdivision of the state, except the authority, to the payment  
4 of a bond and the issuance of a bond by the authority does not directly  
5 or indirectly or contingently obligate the state or a political sub-  
6 division of the state to apply money from, or levy or pledge any form of  
7 taxation whatever to the payment of the bond.

8 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
9 agrees with the holders of bonds issued under this chapter and with the  
10 federal agency which loans or contributes funds in respect to a project,  
11 that the state will not limit or alter the rights and powers vested in  
12 the authority by this chapter to fulfill the terms of a contract made by  
13 the authority with the holders or federal agency, or in any way impair  
14 the rights and remedies of the holders until the bonds, together with  
15 the interest on them with interest on unpaid installments of interest,  
16 and all costs and expenses in connection with an action or proceeding by  
17 or on behalf of the holders, are fully met and discharged. The author-  
18 ity is authorized to include this pledge and agreement of the state,  
19 insofar as it refers to holders of bonds of the authority, in a contract  
20 with the holders, and insofar as it relates to a federal agency, in a  
21 contract with the federal agency.

22 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
23 public property devoted to an essential public and governmental function  
24 and purpose and is exempt from all taxes of the state or a political  
25 subdivision of the state. All bonds issued under this chapter are  
26 issued by a body corporate and public of this state and for an essential  
27 public and governmental purpose and the bonds and the interest and  
28 income on and from the bonds and all income of the authority are exempt  
29 from taxation except for transfer, inheritance and estate taxes.

1           Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
2 bonds of the authority are securities in which all public officers and  
3 bodies of the state and all municipalities and municipal subdivisions,  
4 all insurance companies and associations and other persons carrying on  
5 any insurance business, all banks, bankers, trust companies, savings  
6 banks, savings associations, including savings and loan associations and  
7 building and loan associations, investment companies and other persons  
8 carrying on a banking business, all administrators, guardians, execu-  
9 tors, trustees and other fiduciaries, and all other persons whatsoever  
10 who are now or may hereafter be authorized to invest in bonds or other  
11 obligations of the state, may properly and legally invest funds in-  
12 cluding capital in their control or belonging to them. Notwithstanding  
13 any other provisions of law, the bonds of the authority are also secur-  
14 ities which may be deposited with and may be received by all public  
15 officers and bodies of this state and all municipalities and municipal  
16 subdivisions for any purpose for which the deposit of bonds or other  
17 obligations of the state is now or may hereafter be authorized.

18           ARTICLE 4. POWER PROJECT REVOLVING FUND.

19           Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a  
20 separate fund the power project revolving fund which shall be adminis-  
21 tered by the authority as a trust fund separate and distinct from any  
22 other money or funds of the authority.

23           (b) The authority may make loans from the fund, at such interest  
24 rate or rates as it determines, to eligible borrowers to pay the costs  
25 of feasibility studies, preconstruction engineering, design and con-  
26 struction of hydroelectric and fossil fuel power projects.

27           (c) Repayment of the loans shall be secured in such manner as the  
28 authority determines is feasible to assure repayment under a loan agree-  
29 ment entered into with the borrower. Under a loan agreement repayment

1 may be deferred until the project with respect to which a loan is made  
2 has achieved earnings from its operations sufficient to pay the loan.

3 (d) As used in this section an "eligible borrower" is a municipi-  
4 pality or public utility as defined in AS 42.05.701(2)(A).

5 ARTICLE 5. GENERAL PROVISIONS.

6 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall  
7 submit a statement outlining the general design, demonstration of finan-  
8 cial feasibility, and maximum amount of bonds estimated to be necessary  
9 for each new project to the legislature and the commissioner of commerce  
10 and economic development, together with a statement that the authority  
11 intends to design, acquire and construct the project itself or that it  
12 intends that the project be designed, acquired or constructed by the  
13 United States or another person under agreement with the authority  
14 providing for ownership of all or a portion of the project by the author-  
15 ity or of a right to the capacity of it. If the legislature adopts a  
16 concurrent resolution approving the general design and maximum amount of  
17 bonds, the authority shall, in accordance with the terms of the concu-  
18 rent resolution, (1) proceed to design, acquire and construct the new  
19 project, or (2) agree with the United States or other person for design,  
20 acquisition and construction of the project by the United States, for  
21 payments to the United States or other person for such design, acquisition  
22 and construction, reimbursement by the United States or other person in  
23 certain events, and otherwise on the terms and conditions as may be set  
24 out in such agreement. If the new project is to be designed, acquired  
25 and constructed by the authority, it shall be designed, acquired and  
26 constructed as a public work of the state except that public bidding  
27 shall not be required, if the authority so determines. For the purpose  
28 of this section a new project does not include an addition or modifica-  
29 tion to an existing project if the total cost of the addition or modifi-

1 cation does not exceed \$1,000,000, to any repair or reconstruction of a  
2 project, or to any design, acquisition or construction necessary to  
3 complete a project for which bonds previously authorized by the legisla-  
4 ture have been issued. Any such addition, modification, repair, recon-  
5 struction, design, acquisition or construction may be undertaken by the  
6 authority without any of the approvals necessary for a new project.

7 Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-  
8 cial records audited annually by a certified public accountant. The  
9 legislative auditor may prescribe the form and content of the financial  
10 records of the authority and shall have access to these records at any  
11 time.

12 Sec. 44.62.200. ANNUAL REPORT. Before March 1 of each year, the  
13 authority shall submit to the governor and the legislature a comprehen-  
14 sive report describing operations, income and expenditures for the  
15 preceding 12-month period.

16 Sec. 44.62.210. BUDGET AND APPROPRIATIONS. The authority shall  
17 submit its annual budget to the legislature through the governor as  
18 provided for state agencies by the Executive Budget Act (AS 37.07). It  
19 may expend money directly appropriated by the legislature only as  
20 authorized by the legislature.

21 Sec. 44.62.220. PUBLIC RECORDS; OPEN MEETINGS. The provisions of  
22 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
23 authority. The authority shall publish a proposed agenda of its meet-  
24 ings and afford the public an opportunity to be heard in accordance with  
25 AS 44.62.312.

26 Sec. 44.62.230. DEFINITIONS. In this chapter, unless the context  
27 requires otherwise,

28 (1) "authority" means the Alaska Power Authority established  
29 by this chapter;

1 (2) "bonds" means bonds, notes, or other obligations of the  
2 authority issued under this chapter;

3 (3) "power" includes any and all electrical energy generated,  
4 distributed, bought or sold for purposes of lighting, heating, power and  
5 every other useful purpose;

6 (4) "power project" or "project" means a plant, works, system  
7 facility, water rights, fuel deposits or sources, and real estate and  
8 personal property of any nature whatsoever, together with all facilities  
9 and appurtenances related to them or necessary for the purposes of them,  
10 used or useful in the generation by means of water or fossil fuel of  
11 electric power and the production, transmission, purchase, sale, exchange  
12 and interchange of electric power, and shall include any interest in  
13 them, whether divided or undivided, or any right to the capacity of  
14 them.

15 (5) "public agency" means any city or other municipal corpora-  
16 tion, political subdivision, governmental unit, or public corporation  
17 created by or under the laws of this state or of another state of the  
18 United States, and any state or the United States, and any person, board  
19 or other body declared by the laws of any state or the United States to  
20 be a department, agency, or instrumentality of them.

21 Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the  
22 Alaska Power Authority Act.  
23  
24  
25  
26  
27  
28  
29

Original sponsors: Duncan and Swanson

Offered: 4/6/76  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-  
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil  
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is  
16 necessary to supply lower cost power to the state's municipal electric,  
17 rural electric, cooperative electric, and private electric utilities,  
18 and regional electric authorities, and thereby to the consumers of the  
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power  
21 costs and long-term economic growth and of establishing, operating and  
22 developing power projects in the state will be accelerated and facili-  
23 tated by the creation of an instrumentality of the state with powers to  
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests  
26 of promoting the general welfare of all the people of the state, and  
27 public purposes, to reduce consumer power costs and otherwise to en-  
28 courage the long-term economic growth of the state, including the  
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties  
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the  
4 Alaska Power Authority. The authority is a public corporation of the  
5 state in the Department of Commerce and Economic Development but with  
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-  
8 sists of the commissioner of commerce and economic development and four  
9 public members appointed by the governor. The appointment of each  
10 director other than the commissioner of commerce and economic develop-  
11 ment is subject to confirmation by the legislature. The directors must  
12 be residents of the state and qualified voters at the time of appoint-  
13 ment and shall comply with the requirements of AS 39.50 (conflict of  
14 interest). The term of office of each director appointed by the gover-  
15 nor is four years except that the directors first appointed shall have  
16 terms of one, two, three, and four years, respectively. A vacancy in a  
17 directorship occurring other than by expiration of term shall be filled  
18 in the same manner as the original appointment but for the unexpired  
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
21 one of the public members as chairman and other officers they determine  
22 desirable. The powers of the authority are vested in the directors, and  
23 three directors of the authority constitute a quorum. Action may be  
24 taken and motions and resolutions adopted by the authority at a meeting  
25 by the affirmative vote of at least three directors. The directors of  
26 the authority serve without compensation, but they shall receive the  
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive  
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-  
2 ployees, the authority may contract for and engage the services of the  
3 bond counsel, consultants, experts, and financial advisors the authority  
4 considers necessary for the purpose of developing information, or con-  
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
8 authority is to promote, develop and advance the general prosperity and  
9 economic welfare of the people of Alaska by providing a means of finan-  
10 cing and operating hydroelectric and fossil fuel generating projects.

11 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its  
12 corporate purposes, the authority has the following powers in addition  
13 to its other powers:

- 14 (1) to sue and be sued;
- 15 (2) to have a seal and alter it at pleasure;
- 16 (3) to make and alter bylaws for its organization and inter-  
17 nal management;
- 18 (4) to make rules and regulations governing the exercise of  
19 its corporate powers;
- 20 (5) to acquire, whether by construction, purchase, gift or  
21 lease, and to improve, equip and operate power projects;
- 22 (6) to issue bonds to pay the cost of acquiring by construc-  
23 tion, or improving and equipping, a power project and to secure payment  
24 of the bonds as provided in this chapter;
- 25 (7) to sell, exchange, donate, convey or encumber in any  
26 manner by mortgage or by creation of any other security interest, real  
27 or personal property owned by it, or in which it has an interest, when,  
28 in the judgment of the authority, the action is in furtherance of its  
29 corporate purposes;

1 (8) to accept gifts, grants or loans from, and enter into  
2 contracts or other transactions regarding them, with a federal agency or  
3 an agency or instrumentality of the state, municipality, private organ-  
4 ization or other source;

5 (9) to deposit or invest its funds, subject to agreements  
6 with bondholders;

7 (10) to enter into contracts with the United States or any of  
8 its agencies or with any political subdivision of this state, and sub-  
9 ject to the laws of the United States and subject to concurrence of the  
10 legislature, with a foreign country or its agencies, for the construc-  
11 tion, acquisition, operation and maintenance of all or any part of a  
12 power project, either inside or outside the state, and for the marketing  
13 of the power produced from it;

14 (11) to enter into contracts for the purchase, sale, exchange,  
15 transmission, or use of power or falling water with any person, firm or  
16 corporation, and with the United States or any of its agencies, with any  
17 political subdivision of this state, and subject to the laws of the  
18 United States and subject to the concurrence of the legislature, with a  
19 foreign country or its agencies;

20 (12) to apply to the appropriate agencies of the state, the  
21 United States and to a foreign country and any other proper agency for  
22 the permits, licenses, or approvals as may be necessary, and to con-  
23 struct, maintain and operate power projects in accordance with the  
24 licenses or permits, and to obtain, hold and use the licenses and per-  
25 mits in the same manner as any other person or operating unit;

26 (13) to perform feasibility studies with respect to hydro-  
27 electrical and fossil fuel power generating projects;

28 (14) to enter into contracts or agreements with respect to the  
29 exercise of any of its powers, and do all things necessary or convenient

1 to carry out its corporate purposes and exercise the powers granted in  
2 this chapter;

3 (15) to exercise the power of eminent domain in accordance  
4 with AS 09.55.250 - 09.55.410.

5 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition  
6 to other methods which it may find advantageous, provide that municipal  
7 electric, rural electric, cooperative electric, or private electric  
8 utilities and regional electric authorities authorized by law to engage  
9 in the distribution of electric power may secure a reasonable share of  
10 the power generated by a project, and shall sell the power or cause the  
11 power to be sold at prices representing cost of generation, plus capital  
12 and operating charges, plus a fair cost of transmission, all as deter-  
13 mined by the directors, and subject to conditions which assure the  
14 resale of the power to domestic and rural consumers at the lowest  
15 possible price. A contract for the sale, transmission and distribution  
16 of power generated by a project shall provide

17 (1) for continuous control and operation of the project by  
18 the authority;

19 (2) for full and complete disclosure to the authority of all  
20 factors of cost in the transmission and distribution of power, so that  
21 rates to consumers may be fixed initially in the contract and may be  
22 adjusted from time to time on the basis of true cost data;

23 (3) for periodic revisions of the service and rates to con-  
24 sumers on the basis of accurate cost data obtained by the accounting  
25 methods and systems approved by the directors and in furtherance and  
26 effectuation of the policy declared in this paragraph;

27 (4) for the cancellation and termination of a contract upon  
28 violation of its terms by the power distributor or company, or its  
29 subsidiary or associate;

1 (5) for such security for performance as the authority may  
2 consider practicable and advisable, including provisions assuring the  
3 continuance of service by the power distributors or companies, the use  
4 of their facilities for the service, and the continuance of an outlet  
5 and adequate market for the power generated by the project;

6 (6) other terms not inconsistent with the provisions and  
7 policy of this chapter as the authority may consider advisable.

8 ARTICLE 3. FINANCIAL PROVISIONS.

9 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
10 borrow money and may issue bonds, including but not limited to bonds on  
11 which the principal and interest are payable (1) exclusively from the  
12 income and receipts or other money derived from the project financed  
13 with the proceeds of the bonds; (2) exclusively from the income and  
14 receipts or other money derived from designated projects whether or not  
15 they are financed in whole or in part with the proceeds of the bonds; or  
16 (3) from its income and receipts or other assets generally, or a desig-  
17 nated part or parts of them. The authority may issue bonds to pay, fund  
18 or refund the principal of, or interest or redemption premiums on, bonds  
19 issued by it, whether or not the bonds or interest to be funded or  
20 refunded have become due.

21 (b) Bonds shall be authorized by resolution of the authority, and  
22 shall be dated and shall mature as the resolution may provide, except  
23 that no bond may mature more than 50 years from the date of its issue.  
24 Bonds shall bear interest at the rates, be in the denominations, be in  
25 the form, either coupon or registered, carry the registration privi-  
26 leges, be executed in the manner, be payable in the medium of payment,  
27 at the places, and be subject to the terms of redemption which the  
28 resolution or a subsequent resolution may provide.

29 (c) All bonds, regardless of form or character, shall be negotia-

1 ble instruments for all the purposes of the Uniform Commercial Code.

2 (d) All bonds may be sold at public or private sale in the manner,  
3 for the price or prices, and at the time or times which the authority  
4 may determine.

5 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
6 the discretion of the authority, an issue of bonds may be secured by a  
7 trust indenture or trust agreement between the authority and a corporate  
8 trustee (which may be a trust company, bank, or national banking associ-  
9 ation, with corporate trust powers, located inside or outside the state)  
10 or by a secured loan agreement or other instrument or under a resolution  
11 giving powers to a corporate trustee by means of which the authority may

12 (1) make and enter into any and all the covenants and agree-  
13 ments with the trustee or the holders of the bonds which the authority  
14 may determine to be necessary or desirable, including, without limita-  
15 tion, covenants, provisions, limitations and agreements as to

16 (A) the application, investment, deposit, use and dis-  
17 position of the proceeds of bonds of the authority or of money or  
18 other property of the authority or in which it has an interest;

19 (B) the fixing and collection of rentals, fees or other  
20 consideration for, and the other terms to be incorporated in,  
21 contracts with respect to a project;

22 (C) the assignment by the authority of its rights in  
23 contracts with respect to a project or in a mortgage or other  
24 security interest created with respect to a project to a trustee  
25 for the benefit of bondholders;

26 (D) the terms and conditions upon which additional bonds  
27 of the authority may be issued;

28 (E) the vesting in a trustee of rights, powers, duties,  
29 funds or property in trust for the benefit of bondholders, includ-

1 ing, without limitation, the right to enforce payment, performance,  
2 and all other rights of the authority or of the bondholders, under  
3 a lease, contract of sale, mortgage, security agreement, or trust  
4 agreement with respect to a project by mandamus or other proceeding  
5 or by taking possession of by agent or otherwise and operating a  
6 project and collecting rents or other consideration and applying  
7 the same in accordance with the trust agreement;

8 (2) pledge, mortgage or assign money, leases, agreements,  
9 property or other assets of the authority either presently in hand or to  
10 be received in the future, or both; and

11 (3) provide for any other matters of like or different  
12 character which in any way affect the security or protection of the  
13 bonds.

14 (b) Notwithstanding any other provisions of this chapter, the  
15 trust agreement shall contain a covenant by the authority that it will  
16 at all times maintain rates, fees or charges sufficient to pay, and that  
17 a contract entered into by the authority for the sale, transmission or  
18 distribution of power shall contain rates, fees or charges sufficient to  
19 pay the costs of operation and maintenance of the project, the principal  
20 of and interest on bonds issued under the trust agreement as the same  
21 severally become due and payable, and to maintain reserves required by  
22 the terms of the trust agreement.

23 (c) For the purpose of securing any one or more issues of its  
24 bonds, the authority may establish one or more special funds, called  
25 "capital reserve funds", and shall pay into those capital reserve funds  
26 the proceeds of the sale of its bonds and any other money which may be  
27 made available to the authority for the purposes of those funds from  
28 any other source. All money held in a capital reserve fund, except as  
29 provided in this section, shall be used as required, solely for (1) the

1 payment of the principal of, and interest on, bonds or of the sinking  
2 fund payments with respect to those bonds, (2) the purchase or redemp-  
3 tion of bonds, or (3) the payment of a redemption premium required to be  
4 paid when those bonds are redeemed before maturity; however, money in a  
5 fund may not be withdrawn from it at any time in an amount which would  
6 reduce the amount of that fund to less than the capital reserve require-  
7 ment set out in (2) of this subsection, except for the purpose of making,  
8 with respect to those bonds, payment, when due, of principal, interest,  
9 redemption premiums and the sinking fund payments for the payment of  
10 which other money of the corporation is not available. Income or inter-  
11 est earned by, or increment to, a capital reserve fund, due to the  
12 investment of the fund or any other amounts in it, may be transferred by  
13 the authority to other funds or accounts of the authority to the extent  
14 that the transfer does not reduce the amount of the capital reserve fund  
15 below the capital reserve fund requirement.

16 (d) If the authority decides to issue bonds secured by such a  
17 capital reserve fund, the bonds may not be issued if the amount in the  
18 capital reserve fund is less than such a per cent, not exceeding 10 per  
19 cent of the principal amount of all of those bonds secured by that  
20 capital reserve fund then to be issued and then outstanding in accor-  
21 dance with their terms, as may be established by resolution of the  
22 authority (called the "capital reserve fund requirement"), unless the  
23 authority, at the time of issuance of the obligations, deposits in the  
24 capital reserve fund from the proceeds of the obligations to be issued  
25 or from other sources, an amount which, together with the amount then in  
26 the fund, will not be less than the capital reserve fund requirement.

27 (e) In computing the amount of a capital reserve fund for the  
28 purpose of this section, securities in which all or a portion of the  
29 funds are invested shall be valued by some reasonable method established

1 by the authority by resolution. Valuation on a particular date shall  
2 include the amount of any interest earned or accrued to that date.

3 (f) The chairman of the authority shall annually, no later than  
4 January 2, make and deliver to the governor and the legislature his  
5 certificate stating the sum, if any, required to restore any capital  
6 reserve fund to the capital reserve fund requirement. The legislature  
7 may appropriate such a sum, and all sums appropriated during the then  
8 current fiscal year by the legislature for such restoration shall be  
9 deposited by the authority in the proper capital reserve fund. Nothing  
10 in this section creates a debt or liability of the state.

11 (g) When the authority has created and established a capital  
12 reserve fund, the commissioner of revenue may lend surplus money in the  
13 general fund to the authority for deposit in a capital reserve fund in  
14 an amount equal to the capital reserve fund requirement. The loans  
15 shall be made on such terms and conditions as may be agreed upon by the  
16 commissioner of revenue and the authority, including without limitation  
17 terms and conditions providing that the loans need not be repaid until  
18 the obligations of the authority secured and to be secured by the  
19 capital reserve fund are no longer outstanding.

20 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the  
21 legislature that a pledge made in respect of bonds shall be valid and  
22 binding from the time the pledge is made; that the money or property so  
23 pledged and thereafter received by the authority shall immediately be  
24 subject to the lien of the pledge without physical delivery or further  
25 act; and that the lien of the pledge shall be valid and binding as  
26 against all parties having claims of any kind in tort, contract or  
27 otherwise against the authority irrespective of whether the parties have  
28 notice. Neither the resolution, trust agreement nor any other instru-  
29 ment by which a pledge is created need be recorded or filed under the

1 provisions of the Uniform Commercial Code to be valid, binding or effec-  
2 tive against the parties.

3 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
4 of the authority nor a person executing the bonds is liable personally  
5 on the bonds or is subject to personal liability or accountability by  
6 reason of the issuance of the bonds.

7 (b) The bonds issued by the authority do not constitute an in-  
8 debtedness or other liability of the state or of a political subdivision  
9 of the state, except the authority, but shall be payable solely from the  
10 income and receipts or other funds or property of the authority. The  
11 au'hority may not pledge the faith or credit of the state or of a  
12 political subdivision of the state, except the authority, to the payment  
13 of a bond and the issuance of a bond by the authority does not directly  
14 or indirectly or contingently obligate the state or a political sub-  
15 division of the state to apply money from, or levy or pledge any form of  
16 taxation whatever to the payment of the bond.

17 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
18 agrees with the holders of bonds issued under this chapter and with the  
19 federal agency which loans or contributes funds in respect to a project,  
20 that the state will not limit or alter the rights and powers vested in  
21 the authority by this chapter to fulfill the terms of a contract made by  
22 the authority with the holders or federal agency, or in any way impair  
23 the rights and remedies of the holders until the bonds, together with  
24 the interest on them with interest on unpaid installments of interest,  
25 and all costs and expenses in connection with an action or proceeding by  
26 or on behalf of the holders, are fully met and discharged. The author-  
27 ity is authorized to include this pledge and agreement of the state,  
28 insofar as it refers to holders of bonds of the authority, in a contract  
29 with the holders, and insofar as it relates to a federal agency, in a

1 contract with the federal agency.

2 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
3 public property devoted to an essential public and governmental function  
4 and purpose and is exempt from all taxes of the state or a political  
5 subdivision of the state. All bonds or notes issued under this chapter  
6 are issued by a body corporate and public of this state and for an  
7 essential public and governmental purpose and the bonds and notes, and  
8 the interest and income on and from the bonds and notes, and all income  
9 of the authority are exempt from taxation except for transfer, inheri-  
10 tance and estate taxes.

11 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
12 bonds of the authority are securities in which all public officers and  
13 bodies of the state and all municipalities and municipal subdivisions,  
14 all insurance companies and associations and other persons carrying on  
15 any insurance business, all banks, bankers, trust companies, savings  
16 banks, savings associations, including savings and loan associations and  
17 building and loan associations, investment companies and other persons  
18 carrying on a banking business, all administrators, guardians, execu-  
19 tors, trustees and other fiduciaries, and all other persons whatsoever  
20 who are now or may hereafter be authorized to invest in bonds or other  
21 obligations of the state, may properly and legally invest funds in-  
22 cluding capital in their control or belonging to them. Notwithstanding  
23 any other provisions of law, the bonds of the authority are also secur-  
24 ities which may be deposited with and may be received by all public  
25 officers and bodies of this state and all municipalities and municipal  
26 subdivisions for any purpose for which the deposit of bonds or other  
27 obligations of the state is now or may hereafter be authorized.

28 ARTICLE 4. POWER PROJECT REVOLVING FUND.

29 Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a

1 separate fund the power project revolving fund which shall be adminis-  
2 tered by the authority as a trust fund separate and distinct from any  
3 other money or funds of the authority.

4 (b) The authority may make loans from the fund, at such interest  
5 rate or rates as it determines, to eligible borrowers to pay the costs  
6 of feasibility studies, preconstruction engineering, design and con-  
7 struction of hydroelectric and fossil fuel power projects.

8 (c) Repayment of the loans shall be secured in such manner as the  
9 authority determines is feasible to assure repayment under a loan agree-  
10 ment entered into with the borrower. Under a loan agreement repayment  
11 may be deferred until the project with respect to which a loan is made  
12 has achieved earnings from its operations sufficient to pay the loan.

13 (d) As used in this section an "eligible borrower" is a municipi-  
14 pality or public utility as defined in AS 42.05.701(2)(A).

15 ARTICLE 5. GENERAL PROVISIONS.

16 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall  
17 submit a statement outlining the general design, demonstration of finan-  
18 cial feasibility, and maximum amount of bonds estimated to be necessary  
19 for each new project to the legislature and the commissioner of commerce  
20 and economic development together with a statement that the authority  
21 intends to design, acquire and construct the project itself or that it  
22 intends that the project be designed, acquired or constructed by the  
23 United States under agreement with the authority providing for ownership  
24 of the project by the authority on completion. If the legislature  
25 adopts a concurrent resolution approving the general design and maximum  
26 amount of bonds, the authority shall, in accordance with the terms of  
27 the concurrent resolution, (1) proceed to design, acquire and construct  
28 the new project, or (2) agree with the United States for design, acqui-  
29 sition and construction of the project by the United States, for pay-

1       ments to the United States for such design, acquisition and construc-  
2       tion, reimbursement by the United States in certain events, and other-  
3       wise on the terms and conditions as may be set out in such agreement.  
4       If the new project is to be designed, acquired and constructed by the  
5       authority, it shall be designed, acquired and constructed as a public  
6       work of the state except that public bidding shall not be required, if  
7       the authority so determines. For the purpose of this section a new  
8       project does not include an addition or modification to an existing  
9       project if the total cost of the addition or modification does not  
10      exceed \$1,000,000 or to any repair of a project. An addition or mo'i-  
11      fication or repair may be undertaken by the authority without any of the  
12      approvals necessary for a new project.

13           Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-  
14      cial records audited annually by a certified public accountant. The  
15      legislative auditor may prescribe the form and content of the financial  
16      records of the authority and shall have access to these records at any  
17      time.

18           Sec. 44.62.200. ANNUAL REPORT. Before March 1 of each year, the  
19      authority shall submit to the governor and the legislature a comprehen-  
20      sive report describing operations, income and expenditures for the  
21      preceding 12-month period.

22           Sec. 44.62.210. BUDGET AND APPROPRIATIONS. The authority shall  
23      submit its annual budget to the legislature through the governor as  
24      provided for state agencies by the Executive Budget Act (AS 37.07). It  
25      may expend money directly appropriated by the legislature only as  
26      authorized by the legislature.

27           Sec. 44.62.220. PUBLIC RECORDS; OPEN MEETINGS. The provisions of  
28      AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
29      authority. The authority shall publish a proposed agenda of its meet-

1           ings and afford the public an opportunity to be heard in accordance with  
2 AS 44.62.312.

3           Sec. 44.62.230. DEFINITIONS. In this chapter, unless the context  
4 requires otherwise,

5                   (1) "authority" means the Alaska Power Authority established  
6 by this chapter;

7                   (2) "bonds" means bonds, notes, or other obligations of the  
8 authority issued under this chapter;

9                   (3) "power" includes any and all electrical energy generated,  
10 distributed, bought or sold for purposes of lighting, heating, power and  
11 every other useful purpose;

12                   (4) "power project" or "project" includes any and all real or  
13 personal property or any interest in it including, with no limitation,  
14 dams, powerhouses, and transmission lines owned, used or operated, or  
15 useful for operation, in the generation by means of water or fossil fuel  
16 power, and the transmission of electrical power and also including  
17 channels, locks, canals, and other navigational, reclamation, flood  
18 control and fisheries facilities and environmental protective measures  
19 as may be necessary or desirable in connection with it.

20           Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the  
21 Alaska Power Authority Act.

Original sponsors: Duncan and Swanson

Offered: 4/6/76  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-  
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil  
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is  
16 necessary to supply lower cost power to the state's municipal electric,  
17 rural electric, cooperative electric, and private electric utilities,  
18 and regional electric authorities, and thereby to the consumers of the  
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power  
21 costs and long-term economic growth and of establishing, operating and  
22 developing power projects in the state will be accelerated and facili-  
23 tated by the creation of an instrumentality of the state with powers to  
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests  
26 of promoting the general welfare of all the people of the state, and  
27 public purposes, to reduce consumer power costs and otherwise to en-  
28 courage the long-term economic growth of the state, including the  
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties  
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the  
4 Alaska Power Authority. The authority is a public corporation of the  
5 state in the Department of Commerce and Economic Development but with  
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-  
8 sists of the commissioner of commerce and economic development and four  
9 public members appointed by the governor. The appointment of each  
10 director other than the commissioner of commerce and economic develop-  
11 ment is subject to confirmation by the legislature. The directors must  
12 be residents of the state and qualified voters at the time of appoint-  
13 ment and shall comply with the requirements of AS 39.50 (conflict of  
14 interest). The term of office of each director appointed by the gover-  
15 nor is four years except that the directors first appointed shall have  
16 terms of one, two, three, and four years, respectively. A vacancy in a  
17 directorship occurring other than by expiration of term shall be filled  
18 in the same manner as the original appointment but for the unexpired  
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
21 one of the public members as chairman and other officers they determine  
22 desirable. The powers of the authority are vested in the directors, and  
23 three directors of the authority constitute a quorum. Action may be  
24 taken and motions and resolutions adopted by the authority at a meeting  
25 by the affirmative vote of at least three directors. The directors of  
26 the authority serve without compensation, but they shall receive the  
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive  
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-  
2 ployees, the authority may contract for and engage the services of the  
3 bond counsel, consultants, experts, and financial advisors the authority  
4 considers necessary for the purpose of developing information, or con-  
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
8 authority is to promote, develop and advance the general prosperity and  
9 economic welfare of the people of Alaska by providing a means of finan-  
10 cing and operating hydroelectric and fossil fuel generating projects.

11 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its  
12 corporate purposes, the authority has the following powers in addition  
13 to its other powers:

- 14 (1) to sue and be sued;
- 15 (2) to have a seal and alter it at pleasure;
- 16 (3) to make and alter bylaws for its organization and inter-  
17 nal management;
- 18 (4) to make rules and regulations governing the exercise of  
19 its corporate powers;
- 20 (5) to acquire, whether by construction, purchase, gift or  
21 lease, and to improve, equip and operate power projects;
- 22 (6) to issue bonds to pay the cost of acquiring by construc-  
23 tion, or improving and equipping, a power project and to secure payment  
24 of the bonds as provided in this chapter;
- 25 (7) to sell, exchange, donate, convey or encumber in any  
26 manner by mortgage or by creation of any other security interest, real  
27 or personal property owned by it, or in which it has an interest, when,  
28 in the judgment of the authority, the action is in furtherance of its  
29 corporate purposes;

1 (8) to accept gifts, grants or loans from, and enter into  
2 contracts or other transactions regarding them, with a federal agency or  
3 an agency or instrumentality of the state, municipality, private organ-  
4 ization or other source;

5 (9) to deposit or invest its funds, subject to agreements  
6 with bondholders;

7 (10) to enter into contracts with the United States or any of  
8 its agencies or with any political subdivision of this state, and sub-  
9 ject to the laws of the United States and subject to concurrence of the  
10 legislature, with a foreign country or its agencies, for the construc-  
11 tion, acquisition, operation and maintenance of all or any part of a  
12 power project, either inside or outside the state, and for the marketing  
13 of the power produced from it;

14 (11) to enter into contracts for the purchase, sale, exchange,  
15 transmission, or use of power or falling water with any person, firm or  
16 corporation, and with the United States or any of its agencies, with any  
17 political subdivision of this state, and subject to the laws of the  
18 United States and subject to the concurrence of the legislature, with a  
19 foreign country or its agencies;

20 (12) to apply to the appropriate agencies of the state, the  
21 United States and to a foreign country and any other proper agency for  
22 the permits, licenses, or approvals as may be necessary, and to con-  
23 struct, maintain and operate power projects in accordance with the  
24 licenses or permits, and to obtain, hold and use the licenses and per-  
25 mits in the same manner as any other person or operating unit;

26 (13) to perform feasibility studies with respect to hydro-  
27 electrical and fossil fuel power generating projects;

28 (14) to enter into contracts or agreements with respect to the  
29 exercise of any of its powers, and do all things necessary or convenient

1 to carry out its corporate purposes and exercise the powers granted in  
2 this chapter;

3 (15) to exercise the power of eminent domain in accordance  
4 with AS 09.55.250 - 09.55.410.

5 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition  
6 to other methods which it may find advantageous, provide that municipal  
7 electric, rural electric, cooperative electric, or private electric  
8 utilities and regional electric authorities authorized by law to engage  
9 in the distribution of electric power may secure a reasonable share of  
10 the power generated by a project, and shall sell the power or cause the  
11 power to be sold at prices representing cost of generation, plus capital  
12 and operating charges, plus a fair cost of transmission, all as deter-  
13 mined by the directors, and subject to conditions which assure the  
14 resale of the power to domestic and rural consumers at the lowest  
15 possible price. A contract for the sale, transmission and distribution  
16 of power generated by a project shall provide

17 (1) for continuous control and operation of the project by  
18 the authority;

19 (2) for full and complete disclosure to the authority of all  
20 factors of cost in the transmission and distribution of power, so that  
21 rates to consumers may be fixed initially in the contract and may be  
22 adjusted from time to time on the basis of true cost data;

23 (3) for periodic revisions of the service and rates to con-  
24 sumers on the basis of accurate cost data obtained by the accounting  
25 methods and systems approved by the directors and in furtherance and  
26 effectuation of the policy declared in this paragraph;

27 (4) for the cancellation and termination of a contract upon  
28 violation of its terms by the power distributor or company, or its  
29 subsidiary or associate;

1 (5) for such security for performance as the authority may  
2 consider practicable and advisable, including provisions assuring the  
3 continuance of service by the power distributors or companies, the use  
4 of their facilities for the service, and the continuance of an outlet  
5 and adequate market for the power generated by the project;

6 (6) other terms not inconsistent with the provisions and  
7 policy of this chapter as the authority may consider advisable.

8 ARTICLE 3. FINANCIAL PROVISIONS.

9 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
10 borrow money and may issue bonds, including but not limited to bonds on  
11 which the principal and interest are payable (1) exclusively from the  
12 income and receipts or other money derived from the project financed  
13 with the proceeds of the bonds; (2) exclusively from the income and  
14 receipts or other money derived from designated projects whether or not  
15 they are financed in whole or in part with the proceeds of the bonds; or  
16 (3) from its income and receipts or other assets generally, or a desig-  
17 nated part or parts of them. The authority may issue bonds to pay, fund  
18 or refund the principal of, or interest or redemption premiums on, bonds  
19 issued by it, whether or not the bonds or interest to be funded or  
20 refunded have become due.

21 (b) Bonds shall be authorized by resolution of the authority, and  
22 shall be dated and shall mature as the resolution may provide, except  
23 that no bond may mature more than 50 years from the date of its issue.  
24 Bonds shall bear interest at the rates, be in the denominations, be in  
25 the form, whether coupon or registered, carry the registration privi-  
26 leges, be executed in the manner, be payable in the medium of payment,  
27 at the places, and be subject to the terms of redemption which the  
28 resolution or a subsequent resolution may provide.

29 (c) All bonds, regardless of form or character, shall be negotia-

1 ble instruments for all the purposes of the Uniform Commercial Code.

2 (d) All bonds may be sold at public or private sale in the manner,  
3 for the price or prices, and at the time or times which the authority  
4 may determine.

5 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
6 the discretion of the authority, an issue of bonds may be secured by a  
7 trust indenture or trust agreement between the authority and a corporate  
8 trustee (which may be a trust company, bank, or national banking associ-  
9 ation, with corporate trust powers, located inside or outside the state)  
10 or by a secured loan agreement or other instrument or under a resolution  
11 giving powers to a corporate trustee by means of which the authority may

12 (1) make and enter into any and all the covenants and agree-  
13 ments with the trustee or the holders of the bonds which the authority  
14 may determine to be necessary or desirable, including, without limita-  
15 tion, covenants, provisions, limitations and agreements as to

16 (A) the application, investment, deposit, use and dis-  
17 position of the proceeds of bonds of the authority or of money or  
18 other property of the authority or in which it has an interest;

19 (B) the fixing and collection of rentals, fees or other  
20 consideration for, and the other terms to be incorporated in,  
21 contracts with respect to a project;

22 (C) the assignment by the authority of its rights in  
23 contracts with respect to a project or in a mortgage or other  
24 security interest created with respect to a project to a trustee  
25 for the benefit of bondholders;

26 (D) the terms and conditions upon which additional bonds  
27 of the authority may be issued;

28 (E) the vesting in a trustee of rights, powers, duties,  
29 funds or property in trust for the benefit of bondholders, includ-

1 ing, without limitation, the right to enforce payment, performance,  
2 and all other rights of the authority or of the bondholders, under  
3 a lease, contract of sale, mortgage, security agreement, or trust  
4 agreement with respect to a project by mandamus or other proceeding  
5 or by taking possession of by agent or otherwise and operating a  
6 project and collecting rents or other consideration and applying  
7 the same in accordance with the trust agreement;

8 (2) pledge, mortgage or assign money, leases, agreements,  
9 property or other assets of the authority either presently in hand or to  
10 be received in the future, or both; and

11 (3) provide for any other matters of like or different  
12 character which in any way affect the security or protection of the  
13 bonds.

14 (b) Notwithstanding any other provisions of this chapter, the  
15 trust agreement shall contain a covenant by the authority that it will  
16 at all times maintain rates, fees or charges sufficient to pay, and that  
17 a contract entered into by the authority for the sale, transmission or  
18 distribution of power shall contain rates, fees or charges sufficient to  
19 pay the costs of operation and maintenance of the project, the principal  
20 of and interest on bonds issued under the trust agreement as the same  
21 severally become due and payable, and to maintain reserves required by  
22 the terms of the trust agreement.

23 (c) For the purpose of securing any one or more issues of its  
24 bonds, the authority may establish one or more special funds, called  
25 "capital reserve funds", and shall pay into those capital reserve funds  
26 the proceeds of the sale of its bonds and any other money which may be  
27 made available to the authority for the purposes of those funds from  
28 any other source. All money held in a capital reserve fund, except as  
29 provided in this section, shall be used as required, solely for (1) the

1 payment of the principal of, and interest on, bonds or of the sinking  
2 fund payments with respect to those bonds, (2) the purchase or redemp-  
3 tion of bonds, or (3) the payment of redemption premium required to be  
4 paid when those bonds are redeemed before maturity; however, money in a  
5 fund may not be withdrawn from it at any time in an amount which would  
6 reduce the amount of that fund to less than the capital reserve require-  
7 ment set out in (2) of this subsection, except for the purpose of making,  
8 with respect to those bonds, payment, when due, of principal, interest,  
9 redemption premiums and the sinking fund payments for the payment of  
10 which other money of the corporation is not available. Income or inter-  
11 est earned by, or increment to, a capital reserve fund, due to the  
12 investment of the fund or any other amounts in it, may be transferred by  
13 the authority to other funds or accounts of the authority to the extent  
14 that the transfer does not reduce the amount of the capital reserve fund  
15 below the capital reserve fund requirement.

16 (d) If the authority decides to issue bonds secured by such a  
17 capital reserve fund, the bonds may not be issued if the amount in the  
18 capital reserve fund is less than such a per cent, not exceeding 10 per  
19 cent of the principal amount of all of those bonds secured by that  
20 capital reserve fund then to be issued and then outstanding in accor-  
21 dance with their terms, as may be established by resolution of the  
22 authority (called the "capital reserve fund requirement"), unless the  
23 authority, at the time of issuance of the obligations, deposits in the  
24 capital reserve fund from the proceeds of the obligations to be issued  
25 or from other sources, an amount which, together with the amount then in  
26 the fund, will not be less than the capital reserve fund requirement.

27 (e) In computing the amount of a capital reserve fund for the  
28 purpose of this section, securities in which all or a portion of the  
29 funds are invested shall be valued by some reasonable method established

1 by the authority by resolution. Valuation on a particular date shall  
2 include the amount of any interest earned or accrued to that date.

3 (f) The chairman of the authority shall annually, no later than  
4 January 2, make and deliver to the governor and the legislature his  
5 certificate stating the sum, if any, required to restore any capital  
6 reserve fund to the capital reserve fund requirement. The legislature  
7 may appropriate such a sum, and all sums appropriated during the then  
8 current fiscal year by the legislature for such restoration shall be  
9 deposited by the authority in the proper capital reserve fund. Nothing  
10 in this section creates a debt or liability of the state.

11 (g) When the authority has created and established a capital  
12 reserve fund, the commissioner of revenue may lend surplus money in the  
13 general fund to the authority for deposit in a capital reserve fund in  
14 an amount equal to the capital reserve fund requirement. The loans  
15 shall be made on such terms and conditions as may be agreed upon by the  
16 commissioner of revenue and the authority, including without limitation  
17 terms and conditions providing that the loans need not be repaid until  
18 the obligations of the authority secured and to be secured by the  
19 capital reserve fund are no longer outstanding.

20 Sec. 44,62.120. VALIDITY OF PLEDGE. It is the intention of the  
21 legislature that a pledge made in respect of bonds shall be valid and  
22 binding from the time the pledge is made; that the money or property so  
23 pledged and thereafter received by the authority shall immediately be  
24 subject to the lien of the pledge without physical delivery or further  
25 act; and that the lien of the pledge shall be valid and binding as  
26 against all parties having claims of any kind in tort, contract or  
27 otherwise against the authority irrespective of whether the parties have  
28 notice. Neither the resolution, trust agreement nor any other instru-  
29 ment by which a pledge is created need be recorded or filed under the

1 provisions of the Uniform Commercial Code to be valid, binding or effective  
2 against the parties.

3 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
4 of the authority nor a person executing the bonds is liable personally  
5 on the bonds or is subject to personal liability or accountability by  
6 reason of the issuance of the bonds.

7 (b) The bonds issued by the authority do not constitute an in-  
8 debtedness or other liability of the state or of a political subdivision  
9 of the state, except the authority, but shall be payable solely from the  
10 income and receipts or other funds or property of the authority. The  
11 authority may not pledge the faith or credit of the state or of a  
12 political subdivision of the state, except the authority, to the payment  
13 of a bond and the issuance of a bond by the authority does not directly  
14 or indirectly or contingently obligate the state or a political sub-  
15 division of the state to apply money from, or levy or pledge any form of  
16 taxation whatever to the payment of the bond.

17 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
18 agrees with the holders of bonds issued under this chapter and with the  
19 federal agency which loans or contributes funds in respect to a project,  
20 that the state will not limit or alter the rights and powers vested in  
21 the authority by this chapter to fulfill the terms of a contract made by  
22 the authority with the holders or federal agency, or in any way impair  
23 the rights and remedies of the holders until the bonds, together with  
24 the interest on them with interest on unpaid installments of interest,  
25 and all costs and expenses in connection with an action or proceeding by  
26 or on behalf of the holders, are fully met and discharged. The author-  
27 ity is authorized to include this pledge and agreement of the state,  
28 insofar as it refers to holders of bonds of the authority, in a contract  
29 with the holders, and insofar as it relates to a federal agency, in a

1 contract with the federal agency.

2 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
3 public property devoted to an essential public and governmental function  
4 and purpose and is exempt from all taxes of the state or a political  
5 subdivision of the state. All bonds or notes issued under this chapter  
6 are issued by a body corporate and public of this state and for an  
7 essential public and governmental purpose and the bonds and notes, and  
8 the interest and income on and from the bonds and notes, and all income  
9 of the authority are exempt from taxation except for transfer, inheri-  
10 tance and estate taxes.

11 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
12 bonds of the authority are securities in which all public officers and  
13 bodies of the state and all municipalities and municipal subdivisions,  
14 all insurance companies and associations and other persons carrying on  
15 any insurance business, all banks, bankers, trust companies, savings  
16 banks, savings associations, including savings and loan associations and  
17 building and loan associations, investment companies and other persons  
18 carrying on a banking business, all administrators, guardians, execu-  
19 tors, trustees and other fiduciaries, and all other persons whatsoever  
20 who are now or may hereafter be authorized to invest in bonds or other  
21 obligations of the state, may properly and legally invest funds in-  
22 cluding capital in their control or belonging to them. Notwithstanding  
23 any other provisions of law, the bonds of the authority are also secur-  
24 ities which may be deposited with and may be received by all public  
25 officers and bodies of this state and all municipalities and municipal  
26 subdivisions for any purpose for which the deposit of bonds or other  
27 obligations of the state is now or may hereafter be authorized.

28 ARTICLE 4. POWER PROJECT REVOLVING FUND.

29 Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a

1 separate fund the power project revolving fund which shall be adminis-  
2 tered by the authority as a trust fund separate and distinct from any  
3 other money or funds of the authority.

4 (b) The authority may make loans from the fund, at such interest  
5 rate or rates as it determines, to eligible borrowers to pay the costs  
6 of feasibility studies, preconstruction engineering, design and con-  
7 struction of hydroelectric and fossil fuel power projects.

8 (c) Repayment of the loans shall be secured in such manner as the  
9 authority determines is feasible to assure repayment under a loan agree-  
10 ment entered into with the borrower. Under a loan agreement repayment  
11 may be deferred until the project with respect to which a loan is made  
12 has achieved earnings from its operations sufficient to pay the loan.

13 (d) As used in this section an "eligible borrower" is a munici-  
14 pality or public utility as defined in AS 42.05.701(2)(A).

15 ARTICLE 5. GENERAL PROVISIONS.

16 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall  
17 submit a statement outlining the general design, demonstration of finan-  
18 cial feasibility, and maximum amount of bonds estimated to be necessary  
19 for each new project to the legislature and the commissioner of commerce  
20 and economic development together with a statement that the authority  
21 intends to design, acquire and construct the project itself or that it  
22 intends that the project be designed, acquired or constructed by the  
23 United States under agreement with the authority providing for ownership  
24 of the project by the authority on completion. If the legislature  
25 adopts a concurrent resolution approving the general design and maximum  
26 amount of bonds, the authority shall, in accordance with the terms of  
27 the concurrent resolution, (1) proceed to design, acquire and construct  
28 the new project, or (2) agree with the United States for design, acqui-  
29 sition and construction of the project by the United States, for pay-

1 ments to the United States for such design, acquisition and construc-  
2 tion, reimbursement by the United States in certain events, and other-  
3 wise on the terms and conditions as may be set out in such agreement.  
4 If the new project is to be designed, acquired and constructed by the  
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Introduced: 2/17/76  
Referred: State Affairs and  
Finance

1 IN THE HOUSE

BY DUNCAN AND SWANSON

2 HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-  
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric sites in  
14 the state;

15 (2) the establishment of hydroelectric projects at these  
16 sites is necessary to supply lower cost power to the state's municipal  
17 electric, rural electric, cooperative electric, and private electric  
18 utilities, and regional electric authorities, and thereby to the con-  
19 sumers of the state, as well as to supply existing or future industrial  
20 needs;

21 (3) the achievement of the goals of lower consumer power  
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23 and developing hydroelectric projects in the state will be accelerated  
24 and facilitated by the creation of an instrumentality of the state with  
25 powers to incur debt for constructing, and with powers to operate,  
26 hydroelectric projects.

27 (b) It is declared to be the policy of the state, in the interests  
28 of promoting the general welfare of all the people of the state, and  
29 public purposes, to reduce consumer power costs and otherwise to

1 encourage the long-term economic growth of the state, including the  
2 development of its natural resources, through the establishment of  
3 hydroelectric projects by creating the public corporation with powers,  
4 duties and functions as provided in this chapter.

5 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the  
6 Alaska Power Authority. The authority is a public corporation of the  
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8 separate and independent legal existence.

9 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-  
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11           Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
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- 20           (3) to make and alter bylaws for its organization and  
21 internal management;
- 22           (4) to make rules and regulations governing the exercise of  
23 its corporate powers;
- 24           (5) to acquire, whether by construction, purchase, gift or  
25 lease, and to improve, equip and operate hydroelectric projects;
- 26           (6) to issue bonds to pay the cost of acquiring by construc-  
27 tion, or improving and equipping, a hydroelectric project and to secure  
28 payments of the bonds as provided in this chapter;
- 29           (7) to sell, exchange, donate, convey or encumber in any

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2 or personal property owned by it, or in which it has an interest, when,  
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5 (8) to accept gifts, grants or loans from, and enter into  
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8 organization or other source;

9 (9) to deposit or invest its funds, subject to agreements  
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24 (12) to apply to the appropriate agencies of the state, the  
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29 permits in the same manner as any other person or operating unit;

1 (13) to enter into contracts or agreements with respect to the  
2 exercise of any of its powers, and do all things necessary or convenient  
3 to carry out its corporate purposes and exercise the powers granted in  
4 this chapter;

5 (14) to exercise the power of eminent domain in accordance  
6 with AS 09.55.250 - 09.55.460.

7 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addi-  
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9 municipal electric, rural electric, cooperative electric, or private  
10 electric utilities and regional electric authorities authorized by law  
11 to engage in the distribution of electric power may secure a reasonable  
12 share of the power generated by a project, and shall sell the power or  
13 cause the power to be sold at prices representing cost of generation,  
14 plus capital and operating charges, plus a fair cost of transmission,  
15 all as determined by the directors, and subject to conditions which  
16 assure the resale of the power to domestic and rural consumers at the  
17 lowest possible price. A contract for the sale, transmission and  
18 distribution of power generated by a project shall provide

19 (1) for continuous control and operation of the project by  
20 the authority;

21 (2) for full and complete disclosure to the authority of  
22 all factors of cost in the transmission and distribution of power, so  
23 that rates to consumers may be fixed initially in the contract and may  
24 be adjusted from time to time on the basis of true cost data;

25 (3) for periodic revisions of the service and rates to con-  
26 sumers on the basis of accurate cost data obtained by the accounting  
27 methods and systems approved by the directors and in furtherance and  
28 effectuation of the policy declared in this paragraph;

29 (4) for the cancellation and termination of a contract upon

1 violation of its terms by the power distributor or company, or its  
2 subsidiary or associate;

3 (5) for such security for performance as the authority may  
4 consider practicable and advisable, including provisions assuring the  
5 continuance of service by the power distributors or companies, the use  
6 of their facilities for the service, and the continuance of an outlet  
7 and adequate market for the power generated by the project;

8 (6) other terms not inconsistent with the provisions and  
9 policy of this chapter as the authority may consider advisable.

10 ARTICLE 3. FINANCIAL PROVISIONS.

11 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
12 borrow money and may issue bonds, including but not limited to bonds  
13 on which the principal and interest are payable (1) exclusively from  
14 the income and receipts or other money derived from the project finan-  
15 ced with the proceeds of the bonds; (2) exclusively from the income  
16 and receipts or other money derived from designated projects whether  
17 or not they are financed in whole or in part with the proceeds of the  
18 bonds; or (3) from its income and receipts or other assets generally,  
19 or a designated part or parts of them. The authority may issue bonds  
20 to pay, fund or refund the principal of, or interest or redemption  
21 premiums on, bonds issued by it, whether or not the bonds or interest  
22 to be funded or refunded have become due.

23 (b) Bonds shall be authorized by resolution of the authority,  
24 and shall be dated and shall mature as the resolution may provide,  
25 except that no bond may mature more than 50 years from the date of its  
26 issue. Bonds shall bear interest at the rates, be in the denominations,  
27 be in the form, either coupon or registered, carry the registration  
28 privileges, be executed in the manner, be payable in the medium of  
29 payment, at the places, and be subject to the terms of redemption

1 which the resolution or a subsequent resolution may provide.

2 (c) All bonds, regardless of form or character, shall be negotia-  
3 ble instruments for all the purposes of the Uniform Commercial Code.

4 (d) All bonds may be sold at public or private sale in the  
5 manner, for the price or prices, and at the time or times which the  
6 authority may determine.

7 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
8 the discretion of the authority, an issue of bonds may be secured by a  
9 trust indenture or trust agreement between the authority and a cor-  
10 porate trustee (which may be a trust company, bank, or national banking  
11 association, with corporate trust powers, located inside or outside  
12 the state) or by a secured loan agreement or other instrument or under  
13 a resolution giving powers to a corporate trustee by means of which  
14 the authority may

15 (1) make and enter into any and all the covenants and  
16 agreements with the trustee or the holders of the bonds which the  
17 authority may determine to be necessary or desirable, including,  
18 without limitation, covenants, provisions, limitations and agreements  
19 as to

20 (A) the application, investment, deposit, use and dis-  
21 position of the proceeds of bonds of the authority or of money or  
22 other property of the authority or in which it has an interest;

23 (B) the fixing and collection of rentals, fees or  
24 other consideration for, and the other terms to be incorporated  
25 in, contracts with respect to a project;

26 (C) the assignment by the authority of its rights in  
27 contracts with respect to a project or in a mortgage or other  
28 security interest created with respect to a project to a trustee  
29 for the benefit of bondholders;

1 (D) the terms and conditions upon which additional  
2 bonds of the authority may be issued;

3 (E) the vesting in a trustee of rights, powers, duties,  
4 funds or property in trust for the benefit of bondholders, includ-  
5 ing, without limitation, the right to enforce payment, performance,  
6 and all other rights of the authority or of the bondholders,  
7 under a lease, contract of sale, mortgage, security agreement, or  
8 trust agreement with respect to a project by mandamus or other  
9 proceeding or by taking possession of by agent or otherwise and  
10 operating a project and collecting rents or other consideration  
11 and applying the same in accordance with the trust agreement;

12 (2) pledge, mortgage or assign money, leases, agreements,  
13 property or other assets of the authority either presently in hand or  
14 to be received in the future, or both; and

15 (3) provide for any other matters of like or different  
16 character which in any way affect the security or protection of the  
17 bonds.

18 (b) Notwithstanding any other provisions of this chapter, the  
19 trust agreement shall contain a covenant by the authority that it will  
20 at all times maintain rates, fees or charges sufficient to pay, and  
21 that a contract entered into by the authority for the sale, trans-  
22 mission or distribution of power shall contain rates, fees or charges  
23 sufficient to pay the costs of operation and maintenance of the project,  
24 the principal of and interest on bonds issued under the trust agreement  
25 as the same severally become due and payable, and to maintain reserves  
26 required by the terms of the trust agreement.

27 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the  
28 legislature that a pledge made in respect of bonds shall be valid and  
29 binding from the time the pledge is made; that the money or property

1 so pledged and thereafter received by the authority shall immediately  
2 be subject to the lien of the pledge without physical delivery or further  
3 act; and that the lien of the pledge shall be valid and binding as against  
4 all parties having claims of any kind in tort, contract or otherwise  
5 against the authority irrespective of whether the parties have notice.  
6 Neither the resolution, trust agreement nor any other instrument by  
7 which a pledge is created need be recorded or filed under the provisions  
8 of the Uniform Commercial Code to be valid, binding or effective  
9 against the parties.

10 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
11 of the authority nor a person executing the bonds is liable personally  
12 on the bonds or is subject to personal liability or accountability by  
13 reason of the issuance of the bonds.

14 (b) The bonds issued by the authority do not constitute an  
15 indebtedness or other liability of the state or of a political subdi-  
16 vision of the state, except the authority, but shall be payable solely  
17 from the income and receipts or other funds or property of the authority.  
18 The authority may not pledge the faith or credit of the state or of a  
19 political subdivision of the state, except the authority, to the  
20 payment of a bond and the issuance of a bond by the authority does not  
21 directly or indirectly or contingently obligate the state or a political  
22 subdivision of the state to apply money from, or levy or pledge any  
23 form of taxation whatever to the payment of the bond.

24 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
25 agrees with the holders of bonds issued under this chapter and with  
26 the federal agency which loans or contributes funds in respect to a  
27 project, that the state will not limit or alter the rights and powers  
28 vested in the authority by this chapter to fulfill the terms of a  
29 contract made by the authority with the holders or federal agency, or

1 in any way impair the rights and remedies of the holders until the  
2 bonds, together with the interest on them with interest on unpaid  
3 installments of interest, and all costs and expenses in connection  
4 with an action or proceeding by or on behalf of the holders, are fully  
5 met and discharged. The authority is authorized to include this  
6 pledge and agreement of the state, insofar as it refers to holders of  
7 bonds of the authority, in a contract with the holders, and insofar as  
8 it relates to a federal agency, in a contract with the federal agency.

9 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
10 public property devoted to an essential public and governmental function  
11 and purpose and is exempt from all taxes of the state or a political  
12 subdivision of the state. All bonds or notes issued under this chapter  
13 are issued by a body corporate and public of this state and for an essen-  
14 tial public and governmental purpose and the bonds and notes, and the  
15 interest and income on and from the bonds and notes, and all income of  
16 the authority are exempt from taxation except for transfer, inheritance  
17 and estate taxes.

18 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
19 bonds of the authority are securities in which all public officers and  
20 bodies of the state and all municipalities and municipal subdivisions,  
21 all insurance companies and associations and other persons carrying on  
22 any insurance business, all banks, bankers, trust companies, savings  
23 banks, savings associations, including savings and loan associations  
24 and building and loan associations, investment companies and other  
25 persons carrying on a banking business, all administrators, guardians,  
26 executors, trustees and other fiduciaries, and all other persons what-  
27 soever who are now or may hereafter be authorized to invest in bonds  
28 or other obligations of the state, may properly and legally invest  
29 funds including capital in their control or belonging to them. Not-

1 withstanding any other provisions of law, the bonds of the authority are  
2 also securities which may be deposited with and may be received by all  
3 public officers and bodies of this state and all municipalities and  
4 municipal subdivisions for any purpose for which the deposit of bonds  
5 or other obligations of the state is now or may hereafter be authorized.

6 ARTICLE 4. GENERAL PROVISIONS.

7 Sec. 44.62.170. CONSTRUCTION OF PROJECTS. (a) The authority  
8 shall submit the general design, demonstration of financial feasi-  
9 bility, and maximum amount of bonds estimated to be necessary for each  
10 new project to the commissioner of commerce and economic development  
11 for approval. If the commissioner approves, he shall submit the general  
12 design, demonstration of financial feasibility, and maximum amount of  
13 bonds estimated to be necessary to the legislature with a request for  
14 approval by concurrent resolution. If the legislature adopts a con-  
15 current resolution approving the design and maximum amount of bonds,  
16 the commissioner shall proceed to design, acquire and construct the new  
17 project on behalf of the authority in accordance with the agreement  
18 with the authority hereinafter referred to. The new project shall be  
19 designed, acquired and constructed by the authority as a public work  
20 of the state except that public bidding shall not be required, if the  
21 authority so determines. For the purpose of this section a new project  
22 does not include an addition or modification to an existing project  
23 if the total cost of the addition or modification does not exceed  
24 \$1,000,000 or to any repair of a project. Such an addition or modifica-  
25 tion or repair may be undertaken by the authority without any of the  
26 approvals necessary for a new project.

27 (b) The authority may exercise all rights to acquire and condemn  
28 property for a project including, without limitation, acquisition by  
29 declaration of taking.

1           Sec. 44.62.180. ANNUAL AUDIT. The authority shall have its  
2 financial records audited annually by a certified public accountant.  
3 The legislative auditor may prescribe the form and content of the  
4 financial records of the authority and shall have access to these  
5 records at any time.

6           Sec. 44.62.190. ANNUAL REPORT. Before March 1 of each year, the  
7 authority shall submit to the governor and the legislature a comprehen-  
8 sive report, in a form prescribed by the governor, describing opera-  
9 tions, income and expenditures for the preceding 12-month period.

10          Sec. 44.62.200. BUDGET AND APPROPRIATIONS. The authority shall  
11 submit its annual budget to the legislature through the governor as  
12 provided for state agencies by the Executive Budget Act (AS 37.07). It  
13 may expend money only as authorized in the budget approved by the legis-  
14 lature.

15          Sec. 44.62.210. PUBLIC RECORDS; OPEN MEETINGS. The provisions  
16 of AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
17 authority. The authority shall publish a proposed agenda of its  
18 meetings and afford the public an opportunity to be heard in complying  
19 with AS 44.62.312.

20          Sec. 44.62.220. DEFINITIONS. In this chapter, unless the context  
21 requires otherwise,

22           (1) "authority" means the Alaska Power Authority established  
23 by this chapter;

24           (2) "bonds" means bonds, notes, or other obligations of the  
25 authority issued under this chapter;

26           (3) "power" includes any and all electrical energy generated,  
27 distributed, bought or sold for purposes of lighting, heating, power  
28 and every other useful purpose;

29           (4) "hydroelectric project" or "project" includes any and

1 all real or personal property or any interest in it including, without  
2 limitation, dams, powerhouses, and transmission lines owned, used or  
3 operated, or useful for operation, in the generation by means of water  
4 power, and the transmission of electrical power and also including  
5 channels, locks, canals, and other navigational, reclamation, flood  
6 control and fisheries facilities and environmental protective devices  
7 as may be necessary or desirable in connection with it.

8           Sec. 44.62.230. SHORT TITLE. This chapter may be cited as the  
9 Alaska Power Authority Act.

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9 municipal electric, rural electric, cooperative electric, or private  
10 electric utilities and regional electric authorities authorized by law  
11 to engage in the distribution of electric power may secure a reasonable  
12 share of the power generated by a project, and shall sell the power or  
13 cause the power to be sold at prices representing cost of generation,  
14 plus capital and operating charges, plus a fair cost of transmission,  
15 all as determined by the directors, and subject to conditions which  
16 assure the resale of the power to domestic and rural consumers at the  
17 lowest possible price. A contract for the sale, transmission and  
18 distribution of power generated by a project shall provide

19 (1) for continuous control and operation of the project by  
20 the authority;

21 (2) for full and complete disclosure to the authority of  
22 all factors of cost in the transmission and distribution of power, so  
23 that rates to consumers may be fixed initially in the contract and may  
24 be adjusted from time to time on the basis of true cost data;

25 (3) for periodic revisions of the service and rates to con-  
26 sumers on the basis of accurate cost data obtained by the accounting  
27 methods and systems approved by the directors and in furtherance and  
28 effectuation of the policy declared in this paragraph;

29 (4) for the cancellation and termination of a contract upon

1 violation of its terms by the power distributor or company, or its  
2 subsidiary or associate;

3 (5) for such security for performance as the authority may  
4 consider practicable and advisable, including provisions assuring the  
5 continuance of service by the power distributors or companies, the use  
6 of their facilities for the service, and the continuance of an outlet  
7 and adequate market for the power generated by the project;

8 (6) other terms not inconsistent with the provisions and  
9 policy of this chapter as the authority may consider advisable.

10 ARTICLE 3. FINANCIAL PROVISIONS.

11 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may  
12 borrow money and may issue bonds, including but not limited to bonds  
13 on which the principal and interest are payable (1) exclusively from  
14 the income and receipts or other money derived from the project finan-  
15 ced with the proceeds of the bonds; (2) exclusively from the income  
16 and receipts or other money derived from designated projects whether  
17 or not they are financed in whole or in part with the proceeds of the  
18 bonds; or (3) from its income and receipts or other assets generally,  
19 or a designated part or parts of them. The authority may issue bonds  
20 to pay, fund or refund the principal of, or interest or redemption  
21 premiums on, bonds issued by it, whether or not the bonds or interest  
22 to be funded or refunded have become due.

23 (b) Bonds shall be authorized by resolution of the authority,  
24 and shall be dated and shall mature as the resolution may provide,  
25 except that no bond may mature more than 50 years from the date of its  
26 issue. Bonds shall bear interest at the rates, be in the denominations,  
27 be in the form, either coupon or registered, carry the registration  
28 privileges, be executed in the manner, be payable in the medium of  
29 payment, at the places, and be subject to the terms of redemption

1 which the resolution or a subsequent resolution may provide.

2 (c) All bonds, regardless of form or character, shall be negotia-  
3 ble instruments for all the purposes of the Uniform Commercial Code.

4 (d) All bonds may be sold at public or private sale in the  
5 manner, for the price or prices, and at the time or times which the  
6 authority may determine.

7 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In  
8 the discretion of the authority, an issue of bonds may be secured by a  
9 trust indenture or trust agreement between the authority and a cor-  
10 porate trustee (which may be a trust company, bank, or national banking  
11 association, with corporate trust powers, located inside or outside  
12 the state) or by a secured loan agreement or other instrument or under  
13 a resolution giving powers to a corporate trustee by means of which  
14 the authority may

15 (1) make and enter into any and all the covenants and  
16 agreements with the trustee or the holders of the bonds which the  
17 authority may determine to be necessary or desirable, including,  
18 without limitation, covenants, provisions, limitations and agreements  
19 as to

20 (A) the application, investment, deposit, use and dis-  
21 position of the proceeds of bonds of the authority or of money or  
22 other property of the authority or in which it has an interest;

23 (B) the fixing and collection of rentals, fees or  
24 other consideration for, and the other terms to be incorporated  
25 in, contracts with respect to a project;

26 (C) the assignment by the authority of its rights in  
27 contracts with respect to a project or in a mortgage or other  
28 security interest created with respect to a project to a trustee  
29 for the benefit of bondholders;

1 (D) the terms and conditions upon which additional  
2 bonds of the authority may be issued;

3 (E) the vesting in a trustee of rights, powers, duties,  
4 funds or property in trust for the benefit of bondholders, includ-  
5 ing, without limitation, the right to enforce payment, performance,  
6 and all other rights of the authority or of the bondholders,  
7 under a lease, contract of sale, mortgage, security agreement, or  
8 trust agreement with respect to a project by mandamus or other  
9 proceeding or by taking possession of by agent or otherwise and  
10 operating a project and collecting rents or other consideration  
11 and applying the same in accordance with the trust agreement;

12 (2) pledge, mortgage or assign money, leases, agreements,  
13 property or other assets of the authority either presently in hand or  
14 to be received in the future, or both; and

15 (3) provide for any other matters of like or different  
16 character which in any way affect the security or protection of the  
17 bonds.

18 (b) Notwithstanding any other provisions of this chapter, the  
19 trust agreement shall contain a covenant by the authority that it will  
20 at all times maintain rates, fees or charges sufficient to pay, and  
21 that a contract entered into by the authority for the sale, trans-  
22 mission or distribution of power shall contain rates, fees or charges  
23 sufficient to pay the costs of operation and maintenance of the project,  
24 the principal of and interest on bonds issued under the trust agreement  
25 as the same severally become due and payable, and to maintain reserves  
26 required by the terms of the trust agreement.

27 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the  
28 legislature that a pledge made in respect of bonds shall be valid and  
29 binding from the time the pledge is made; that the money or property

1 so pledged and thereafter received by the authority shall immediately  
2 be subject to the lien of the pledge without physical delivery or further  
3 act; and that the lien of the pledge shall be valid and binding as against  
4 all parties having claims of any kind in tort, contract or otherwise  
5 against the authority irrespective of whether the parties have notice.  
6 Neither the resolution, trust agreement nor any other instrument by  
7 which a pledge is created need be recorded or filed under the provisions  
8 of the Uniform Commercial Code to be valid, binding or effective  
9 against the parties.

10 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members  
11 of the authority nor a person executing the bonds is liable personally  
12 on the bonds or is subject to personal liability or accountability by  
13 reason of the issuance of the bonds.

14 (b) The bonds issued by the authority do not constitute an  
15 indebtedness or other liability of the state or of a political subdivi-  
16 sion of the state, except the authority, but shall be payable solely  
17 from the income and receipts or other funds or property of the authority.  
18 The authority may not pledge the faith or credit of the state or of a  
19 political subdivision of the state, except the authority, to the  
20 payment of a bond and the issuance of a bond by the authority does not  
21 directly or indirectly or contingently obligate the state or a political  
22 subdivision of the state to apply money from, or levy or pledge any  
23 form of taxation whatever to the payment of the bond.

24 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and  
25 agrees with the holders of bonds issued under this chapter and with  
26 the federal agency which loans or contributes funds in respect to a  
27 project, that the state will not limit or alter the rights and powers  
28 vested in the authority by this chapter to fulfill the terms of a  
29 contract made by the authority with the holders or federal agency, or

1 in any way impair the rights and remedies of the holders until the  
2 bonds, together with the interest on them with interest on unpaid  
3 installments of interest, and all costs and expenses in connection  
4 with an action or proceeding by or on behalf of the holders, are fully  
5 met and discharged. The authority is authorized to include this  
6 pledge and agreement of the state, insofar as it refers to holders of  
7 bonds of the authority, in a contract with the holders, and insofar as  
8 it relates to a federal agency, in a contract with the federal agency.

9 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is  
10 public property devoted to an essential public and governmental function  
11 and purpose and is exempt from all taxes of the state or a political  
12 subdivision of the state. All bonds or notes issued under this chapter  
13 are issued by a body corporate and public of this state and for an essen-  
14 tial public and governmental purpose and the bonds and notes, and the  
15 interest and income on and from the bonds and notes, and all income of  
16 the authority are exempt from taxation except for transfer, inheritance  
17 and estate taxes.

18 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
19 bonds of the authority are securities in which all public officers and  
20 bodies of the state and all municipalities and municipal subdivisions,  
21 all insurance companies and associations and other persons carrying on  
22 any insurance business, all banks, bankers, trust companies, savings  
23 banks, savings associations, including savings and loan associations  
24 and building and loan associations, investment companies and other  
25 persons carrying on a banking business, all administrators, guardians,  
26 executors, trustees and other fiduciaries, and all other persons what-  
27 soever who are now or may hereafter be authorized to invest in bonds  
28 or other obligations of the state, may properly and legally invest  
29 funds including capital in their control or belonging to them. Not-

1 withstanding any other provisions of law, the bonds of the authority are  
2 also securities which may be deposited with and may be received by all  
3 public officers and bodies of this state and all municipalities and  
4 municipal subdivisions for any purpose for which the deposit of bonds  
5 or other obligations of the state is now or may hereafter be authorized.

6 ARTICLE 4. GENERAL PROVISIONS.

7 Sec. 44.62.170. CONSTRUCTION OF PROJECTS. (a) The authority  
8 shall submit the general design, demonstration of financial feasi-  
9 bility, and maximum amount of bonds estimated to be necessary for each  
10 new project to the commissioner of commerce and economic development  
11 for approval. If the commissioner approves, he shall submit the general  
12 design, demonstration of financial feasibility, and maximum amount of  
13 bonds estimated to be necessary to the legislature with a request for  
14 approval by concurrent resolution. If the legislature adopts a con-  
15 current resolution approving the design and maximum amount of bonds,  
16 the commissioner shall proceed to design, acquire and construct the new  
17 project on behalf of the authority in accordance with the agreement  
18 with the authority hereinafter referred to. The new project shall be  
19 designed, acquired and constructed by the authority as a public work  
20 of the state except that public bidding shall not be required, if the  
21 authority so determines. For the purpose of this section a new project  
22 does not include an addition or modification to an existing project  
23 if the total cost of the addition or modification does not exceed  
24 \$1,000,000 or to any repair of a project. Such an addition or modifica-  
25 tion or repair may be undertaken by the authority without any of the  
26 approvals necessary for a new project.

27 (b) The authority may exercise all rights to acquire and condemn  
28 property for a project including, without limitation, acquisition by  
29 declaration of taking.

1           Sec. 44.62.180. ANNUAL AUDIT. The authority shall have its  
2 financial records audited annually by a certified public accountant.  
3 The legislative auditor may prescribe the form and content of the  
4 financial records of the authority and shall have access to these  
5 records at any time.

6           Sec. 44.62.190. ANNUAL REPORT. Before March 1 of each year, the  
7 authority shall submit to the governor and the legislature a comprehen-  
8 sive report, in a form prescribed by the governor, describing opera-  
9 tions, income and expenditures for the preceding 12-month period.

10          Sec. 44.62.200. BUDGET AND APPROPRIATIONS. The authority shall  
11 submit its annual budget to the legislature through the governor as  
12 provided for state agencies by the Executive Budget Act (AS 37.07). It  
13 may expend money only as authorized in the budget approved by the legis-  
14 lature.

15          Sec. 44.62.210. PUBLIC RECORDS; OPEN MEETINGS. The provisions  
16 of AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the  
17 authority. The authority shall publish a proposed agenda of its  
18 meetings and afford the public an opportunity to be heard in complying  
19 with AS 44.62.312.

20          Sec. 44.62.220. DEFINITIONS. In this chapter, unless the context  
21 requires otherwise,

22           (1) "authority" means the Alaska Power Authority established  
23 by this chapter;

24           (2) "bonds" means bonds, notes, or other obligations of the  
25 authority issued under this chapter;

26           (3) "power" includes any and all electrical energy generated,  
27 distributed, bought or sold for purposes of lighting, heating, power  
28 and every other useful purpose;

29           (4) "hydroelectric project" or "project" includes any and

1 all real or personal property or any interest in it including, without  
2 limitation, dams, powerhouses, and transmission lines owned, used or  
3 operated, or useful for operation, in the generation by means of water  
4 power, and the transmission of electrical power and also including  
5 channels, locks, canals, and other navigational, reclamation, flood  
6 control and fisheries facilities and environmental protective devices  
7 as may be necessary or desirable in connection with it.

8           Sec. 44.62.230. SHORT TITLE. This chapter may be cited as the  
9 Alaska Power Authority Act.