

COMMITTEE REPORT

5/16/75

SENATE

Mr. President:

Date 5/20/75

The Committee on FINANCE has had SB 437
purchase of municipal bonds in cases of suit

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)

(X) recommends it BE REPLACED WITH CS FOR SB 433 AND THAT
CS FOR SB 433 ~~DO PASS~~ *be reported back with Individ. recommendation as amended*

() "and" recommends it BE REFERRED TO THE _____
COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
<u>[Signature]</u>	" "	_____

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>[Signature]</u>
<u>[Signature]</u>	recommends: <u>[Signature]</u>
_____	recommends:
_____	recommends:
_____	recommends:

[Signature] Chairman

Offered: 5/20/75
Referred: Rules

Original sponsor: Willis

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 433

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to purchase of municipal bonds in
7 cases of suit."

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

9 * Section 1. AS 37.10.079(a) is amended to read:

10 (a) Notwithstanding the provisions of any other law, when the
11 commissoner of revenue determines that there are funds in the state
12 treasury above an amount sufficient to meet current demands, he may
13 [UP TO \$18,365,000 OF THEM MAY BE USED TO] invest in general obligation
14 bonds of political subdivisions of the state which meet the standards
15 described in (b) of this section.

16 * Sec. 2. AS 37.10.079(b)(2) is amended to read:

17 (2) the bond counsel nominated by the issuing political
18 subdivision in connection with the original offer for sale of the bonds
19 certifies

20 (A) that a lawsuit has been filed or is threatened which
21 challenges the corporate existence of the issuer or its power to
22 issue the bonds or to levy taxes to pay the bonds or otherwise
23 prevents the statement as to litigation referred to in (1) of this
24 subsection,

25 (B) that as a consequence of the filing of the suit,
26 the bonds cannot be sold or can only be sold at interest rates
27 substantially in excess of the interest rates the municipality
28 would otherwise reasonably expect to pay, and [THE BUYER HAS
29 PROPER CAUSE TO AVOID HIS CONTRACT FOR THE PURCHASE OF THE BONDS.

1 (C) THAT HE KNOWS OF NO EVIDENCE THAT THE FILING OF THE
2 SUIT HAS BEEN ARRANGED OR CONTRIVED DIRECTLY OR INDIRECTLY BY
3 EITHER THE ISSUER OR THE BUYER, AND]

4 (D) that, in his opinion, the municipality is or will be
5 pursuing all available means to establish the validity of the bonds
6 so that the lawsuit will be ultimately determined so as to permit
7 the delivery of the bonds with the statement as to litigation
8 referred to in (1) of this subsection.

9 * Sec. 3. AS 37.10.079(c) is amended to read:

10 (c) The purchase price for the bonds shall be their market value
11 which is the price the commissioner of revenue determines most nearly
12 equals the price the bonds would bear at the time of purchase if the
13 bonds could then be delivered with an unqualified approving opinion of
14 bond counsel as to the legality of the bonds and the other certificates
15 and statements customary in the delivery of bonds of political sub-
16 divisions [THE APPROVING OPINIONS, CERTIFICATES AND STATEMENTS RELATIVE
17 TO NO LITIGATION, PENDING OR THREATENED, AFFECTING THE VALIDITY OF THE
18 BONDS REFERRED TO IN THE ORIGINAL NOTICES OF SALE OF THE BONDS], pro-
19 vided, that this price shall not cause the effective interest rate on
20 any of these bonds to exceed seven and one-half per cent per year.
21 Before the purchase of the bonds by the commissioner of revenue, the
22 political subdivision shall agree (1) to pay to the commissioner of
23 revenue, to the extent any appropriation is made available, any loss
24 incurred by the state on resale of the bonds by the state, or (2) if the
25 commissioner of revenue so determines, (A) to repurchase the bonds from
26 the commissioner of revenue at the same price as the bonds were sold to
27 the state at such time as the political subdivision is able to sell and
28 deliver other [REFUNDING] bonds to provide funds to repurchase the bonds
29 purchased by the state or (B) to exchange the bonds purchased by the

1 commissioner of revenue for bonds thereafter authorized by the political
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May 19, 1975

SENATE BILL 433

Senate Bill 433 amends existing legislation which permits the Commissioner of Revenue to buy Alaska municipal bonds where their marketability is affected by actual or threatened litigation. *Revenue*

Senate Bill 433, if enacted, would permit the Commissioner of Revenue, in his discretion, to buy up to 8.2 million in Greater Anchorage Area Borough bonds approved by the voters on February 11, 1975 plus \$430,000 in Emergency Medical Services bonds approved by the voters on October 1, 1974.

These same bonds were submitted to the voters on October 1, 1974 and were turned down by a large margin, except for the emergency medical service bonds which were approved.

Residents of Girdwood-Alyeska and owners of certain properties in the Muldoon, Sand Lake Lake Otis, Dimond Road and Tudor Road areas considered these sewer bonds critical and raised a great deal of money to advertise the need for sewers and emphasizing that the bonds would be repaid from property

However, to make the bonds marketable, it was necessary to have an election areawide in order to pledge the full faith and credit of the Borough.

All of the bonds proposed to the voters on February 11, 1975 passed by a heavy majority. Much of the credit for the yes vote is attributable to Girdwood-Alyeska

THE BOND ISSUES APPROVED ARE:

1. \$430,000 for two Emergency Medical Service bonds. a) An Emergency Medical Service facility to the Fire Station in Spenard. b) To construct an Emergency Medical Facility near Merrill Field. We have postponed selection of an architect pending word on marketability of bonds. These bonds will be paid areawide. c) Two million for Girwood/Alyeska sewer system. A May 7, 1975 report of the Borough Department of the Environmental Quality indicated that pollution in the stream that flows past the Alyeska Lodge now ranges from 38 to 300 times safe limits. The water looks clear but it is far too polluted to touch. The standard for direct contact recreations, wading or dabbling, is not more than 400 fecal coliform per 100 milliliter. The actual coliform count is 38 to 300 times this maximum. The problem is that the ground is saturated from sewage from septic tanks (and some damaged holding tanks) cannot accept any more sewage. Warning signs are now being posted. It is obvious that no additional construction of housing units can be permitted until sanitary sewers are installed. These bonds

will be repaid by property owners in the Girdwood/Alyeska area.

- 2. \$2,000,000 sewer trunk bonds to sewer areas in Muldoon (NW of Boniface and DeBarr, both sides of Lake Otis between Dowling and Abbot Loop Road, South of Dimond, north of Sand Lake and on both sides of Tudor between Arctic Blvd. and Old Seward Hwy. This is about 2,000 acres, which with a density of 3 housing units to an acre and 3 persons to a unit would house 18,000 persons or, if only 1000 acres are developed as residential, and assuming a higher density (some apartment houses) would yield 5 units to an acre, 3 persons to a unit for 15,000 new housing starts.

Work was scheduled to begin in Muldoon and Lake Otis early this summer (June 1, 1975) but has been delayed. As soon as trunk construction begins housing construction will start. For example, Collin Baxter has 30 acres off 68th near the New Seward Highway. He will start construction of 100 houses the second he knows that sewer trunks will be built.

There were 15,000 new people in Anchorage in 1974. There will be more than 15,000 new people in 1975. Sewering these 2000 acres will go for meeting the demand for new housing. These bonds will be repaid by the property owners in the areas to be sewerred.

- 3. \$2,600,000 in road and street bonds for widening to four lanes.

Spenard Road from McRae to International Airport Road

Old Seward Hwy from 33rd Avenue to Dowling Road

36th Avenue from Spenard to Arctic

Plus a number of collector streets--Wisconsin St., Arlene St., Cranberry 100th, 2nd, Turpin and 10th.

These bonds will be paid by residents of service area 35 (Most of the Anchorage bowl excluding the City of Anchorage and Hillside)

- 4. \$300,000 in bike trail bonds for 14 miles of bike trails along C street, Northern Lights, Dimond Blvd., Northwood Street, Alaska RR right of way and Jewell Lake Rd. This will separate pedestrians and bike traffic from heavily traveled arterials. It will save lives. Construction on all 14 miles would begin this summer if bonds could be sold in time. The attached letter in the Anchorage Times explains the need:

Bike Paths

Dear Editor:

We have just said good-bye to a very dear friend, Paula LeBlanc. She was a beautiful, gentle, loving and talented girl. She died after being struck by a car while riding her bicycle along the Old Seward Highway; her death has touched all of us.

But whatever happened to the Campbell Greenbelt? Where are all the bike paths? Too many people have been

killed or injured riding bicycles on Anchorage's battered and badly maintained roads. We now know, all too late, that we do need the bike paths.

They won't bring Paula back to us, but they may save someone else from another tragedy. We could deeply appreciate any action taken toward the creation of these paths.

Daniel M. Carroll

PAGE THREE

These bonds will be repaid by the residents of Service area 35, the same as the road bonds.

5. \$820,000 fire bonds for two fire stations in the Hillside - O'Malley area of Anchorage. Land is already being acquired for the buildings. These bonds will be repaid by residents of Service area 13 (Most of the Anchorage bowl excluding the City of Anchorage)

Not all of the bonds have to be sold this summer. Much of the 2,600,000 road and street bonds can be deferred because the road contractors probably have more work than they can handle this year. Sale of about one half of the 2,000,000 sewer bonds can be deferred for a time. The Commissioner of Revenue would not buy the bonds unless State money is available and will buy no more bonds at any given time than is necessary to permit construction to start without delays.

The State will not lose money or make money by buying Borough bonds.

We hope to get the State Supreme Court to tell us that our bonds are valid. They have agreed to hear the State's petition for rehearing in the Eagle River-Chugiak case as to the validity of the bonds. Given time periods for filing briefs, etc., the State Supreme Court may indicate whether it will give a final ruling on bonds as early as September 1, 1975. Certain Eagle River-Chugiak residents have filed a brief opposing the State Supreme Court taking up this issue, arguing that the more appropriate procedure is to file a test case on the bonds in the Superior Court and then to appeal the Superior Court's decision to the State Supreme Court. This is the usual procedure. They do not appear to be opposed to the bonds.

If the State Supreme Court buys their argument, we will have to file a lawsuit in Superior Court, try to expedite proceedings and then arrange for an appeal to the State Supreme Court. This would probably take at least 15 months, meaning that we would miss not only this summer's construction season, but also next summer's.

We do expect to establish the validity of the bonds so that they can be ultimately marketed.

Gary Thurlow
Borough Attorney
Greater Anchorage
Area Borough

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* Sec. 2. AS 37.10.079(b)(2) is amended to read:

(2) the bond counsel appointed by the issuing political subdivision in compliance with the order of or for sale of the bonds certifies

(A) that a lawsuit, which is threatened or has been filed, challenges the constitutionality of the law or the power to issue the bonds or to levy taxes for the bonds or otherwise purport to be subject to the liability of the issuer to in (1) of this subsection.

(B) that as a result of the filing of the suit, the law or power to issue the bonds or to levy taxes or otherwise purport to be subject to the liability of the issuer would be rendered inoperative or void. (C) THAT SUCH HAS FROM CAUSE TO INVEST IN THE PURCHASE OF THE BONDS.

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Referred: Community and
Regional Affairs and
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