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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 168

BILL NAME: Relating to the A.P.A.

SPONSOR(S): Rules (Governor)

RELATED BILLS PENDING:

DATE INTRODUCED: 3-9-83

REFERRALS: Resources
State Affairs
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

notify Nancy Ford when scheduled

SB 168 RELATING TO THE ALASKA POWER AUTHORITY.
ORIGINAL SPONSOR: RULES/GOVERNOR.

We passed this bill out of Resources with a Committee Substitute (see attached sectional analysis).

Finance Committee also did a C.S. that made the following change:

The Resources CS repealed AS 44.83.398(b)(2), the "blackmail clause", which says that if \$5 billion is not deposited in the APA fund by July 1986, power projects would have to have rates set for them under the greater of 2 formulas. This could result in the doubling of electric rates if Susitna is not forthcoming.

Instead of repealing this clause, the Finance CS amends it to \$3.5 billion by 1990.

Rules Committee also did a C.S. that made the following change:

On page 1, line 16, delete "present". This would require that to take action a majority of the members concur, rather than a majority of the members present.

*pass
16-3
yea*

Both Finance and Rules Committees did a Letter of Intent (attached).

Generally, the bill makes numerous clarifying and "house-keeping" changes in the statutes governing operations and specifically bonding matters of the APA. In addition, would make it permissive rather than mandatory that the authority issue bonds for the energy program, ensure that a feasibility study of a proposed project include an independent cost estimate, and require APA to enter into power sales contracts for energy transmission as well as production.

Passed out of Resources Committee 4/23/83 - all DO PASS.

STATE OF ALASKA
FINAL STATEMENT OF FISCAL IMPACT

Bill No: _____ Date on Bill: _____
 Title: "An Act relating to the Alaska Power Authority; and providing for
 Sponsor: Rules Committee by request of the Governor
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86
Capital						
Operating						
Total			0	0	0	

b. Revenues:

Revenue						
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

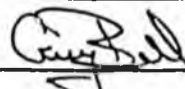
4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Eric Gould, Executive Director Phone: 277-7641

Division: Alaska Power Authority Date: _____

Approved by Commissioner: Richard A. Lyon Date: _____

Department: Commerce and Economic Development

Reviewed by OMB:  Date: 3/3/82

Phone: 465-3568

5. Distribution:

- Original to Legislative Finance
- Copy to Department
- Copy to Sponsor
- Copy to Requestor

2/8/83

"LETTER OF INTENT
CSSB 168 (FIN)

The Legislature, in enacting legislation establishing the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost.

The Legislature requests the Power Authority to fully explore and study the desirability and implications of allowing the Alaska Power Authority to sell a power project to a qualified utility and report its findings and recommendations to the Second Session of the Thirteenth Legislature. The study should address both short-term and long-term impacts of the proposal on the individual projects, as well as on the overall Energy Program for Alaska.

deleted in Rules
To facilitate consummation of the power sale agreements and to preclude new project service area energy rates from exceeding the existing energy rates in the early years of the new project(s), the Legislature requests the Power Authority to study the problem expeditiously and recommend solutions to the Second Session of the Thirteenth Legislature. The solutions proposed should consider the use of state equalization grants or loans.

deleted in Rules
The Legislature also requests the Power Authority to examine the impact of the current restriction which prohibits utilities that purchase power from a Power Authority project to set lower rates for industrial consumers than the rates charged residential consumers.

It is the further intent of the Legislature that the Power Authority consider extending its short term debt which is currently outstanding until the Legislature has had an opportunity to address all of these issues next year.

Offered: 4/27/83
Referred: State Affairs

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 168 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 44.83.040 is amended to read:
10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors
11 shall elect one of their number as chairman and may elect other offi-
12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors present. The directors of the authori-
17 ty serve without compensation, but they shall receive the same travel
18 pay and per diem as provided by law for board members.
19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:
20 (b) The board may meet and transact business by an electronic
21 medium if
22 (1) public notice of the time and locations where the meet-
23 ing will be held by an electronic medium has been given in the same
24 manner as if the meeting were held in a single location;
25 (2) participants and members of the public in attendance
26 can hear and have the same right to participate in the meeting as if
27 the meeting were conducted in person; and
28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of
5 the authority relating to a lease or contract to be entered into by
6 the authority under this chapter if the director is a party to the
7 lease or contract or has a direct ownership or equity interest in a
8 firm, partnership, corporation, or association that is a party to the
9 contract or lease. When abstaining from voting, the director must
10 disclose the reason for the abstention. A director who is a member of
11 an electric cooperative that is organized under or subject to the
12 Electric and Telephone Cooperative Act (AS 10.25) may vote on a reso-
13 lution relating to a contract or lease to which that cooperative is a
14 party. The director shall disclose the cooperative membership at the
15 time of voting. A resolution of the authority that is approved by a
16 majority of the directors present who are not barred from voting under
17 this subsection is a valid action of the authority for all purposes.

18 * Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
21 issue its bonds for the acquisition or construction of power projects
22 to be acquired or constructed under the energy program for Alaska.
23 The [ON WHICH THE] principal of and interest on the bonds are payable
24 from money derived from the sale of wholesale power from power proj-
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-
26 ment fund or from a source referred to in AS 44.83.100 as the author-
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest
3 the authority will pay on its bonds is not more than alternative costs
4 of securing money from other sources, except for the general fund, to
5 pay for the acquisition or construction of the power project.

6 * Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the
8 trust indenture, trust agreement, secured loan agreement, or other
9 instrument or the resolution constituting a contract with bondholders
10 shall contain a covenant by the authority that it will at all times
11 maintain rates, fees or charges sufficient to pay, and that a contract
12 entered into by the authority for the sale, transmission or distribu-
13 tion of power shall contain rates, fees or charges sufficient to pay
14 the costs of operation and maintenance of the project, the principal
15 of and interest on bonds issued under the trust agreement as the same
16 severally become due and payable, to provide for debt service coverage
17 as considered necessary by the authority for the marketing of its
18 bonds and to provide for renewals, replacements and improvements of
19 the project, and to maintain reserves required by the terms of the
20 trust agreement. This subsection does not require a covenant that
21 varies from a covenant entered into in accordance with the provisions
22 of AS 44.83.380 - 44.83.425.

23 * Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
25 legislature that a pledge made in respect of bonds is considered
26 perfected and is [SHALL BE] valid and binding from the time the pledge
27 is made; that the money or property so pledged and thereafter received
28 by the authority shall immediately be subject to the lien of the
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having
2 claims of any kind in tort, contract or otherwise against the authori-
3 ty irrespective of whether the parties have notice. Neither the
4 resolution, trust agreement nor any other instrument by which a pledge
5 is created need be recorded or filed under the provisions of the
6 Uniform Commercial Code to be perfected or to be valid, binding or
7 effective against the parties.

8 * Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of
10 finance, including a cost estimate from an independent source, for a
11 proposed new project to the legislature. When the report of the divi-
12 sion of budget and management examining the feasibility study and plan
13 of finance is completed as required by AS 44.83.183, it shall be sub-
14 mitted to the legislature.

15 * Sec. 7. AS 44.83.195(a) is amended to read:

16 (a) When a project is operated by the authority, the authority
17 shall enter into one or more contracts for the sale of electrical
18 power, energy, transmission capacity, or service from the project.
19 Unless the contract is entered into under AS 44.83.380 - 44.83.425, a
20 [A] contract entered into under this section shall meet all require-
21 ments of AS 44.83.090.

22 * Sec. 8. AS 44.83.361(a)(2) is amended to read:

23 (2) principal [AND INTEREST] payments on loans made under
24 this section.

25 * Sec. 9. AS 44.83.361(c) is amended to read:

26 (c) A loan from the rural electrification revolving loan fund
27 shall bear an annual rate of interest of two percent of the unpaid
28 balance of the loan. Interest received on a loan made under this sec-
29 tion must be transferred monthly to the commissioner of revenue for

1 deposit in the general fund.

2 * Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

3 (B) payments on the unpaid balance of the principal of
4 the loan for each new consumer served by the electric service
5 extended with the loan proceeds [DURING THE PRECEDING YEAR FOR
6 WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the
7 principal of the loan shall be made at a rate equal to the dif-
8 ference between the actual cost of making the service connection
9 to the consumers and the minimum investment per consumer required
10 of the utility before a loan is made under (b) of this section.

11 * Sec. 11. AS 44.83.361 is amended by adding new subsections to read:

12 (f) In this section,

13 (1) "consumer" means a person, as defined in AS 01.10.-
14 060(7), or a governmental agency, if the person or governmental agency
15 requests and offers to pay for electrical service to a facility or
16 part of a facility; the authority shall consider a person who, or a
17 governmental agency that, offers to pay for electrical service to
18 several facilities to be a separate consumer for each facility, if
19 each facility is physically separate from another facility, other than
20 through electric service lines, and if the person or governmental
21 agency requests and offers to pay for electrical service to each
22 facility;

23 (2) "facility" means a structure capable of receiving and
24 using electrical energy; and

25 (3) "governmental agency" includes, with respect to the
26 state or federal government or a municipal government, a legislative
27 body, board of regents, administrative body, board, commission, com-
28 mittee, subcommittee, authority, council, agency, public corporation,
29 school board, department, division, bureau, or other subordinate unit,

1 whether advisory or otherwise, of the state, federal, or municipal
2 government.

3 * Sec. 12. AS 44.83.384(b)(1) is amended to read:

4 (1) is economically feasible [MEETS THE REVENUE REQUIRE-
5 MENTS OF AS 44.83.394]; and

6 * Sec. 13. AS 44.83.384(c) is amended to read:

7 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -
8 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the
9 authority to provide money for the cost of a power project that is or
10 was either constructed or [AND] owned by the United States government
11 if the requirements of this subsection are met. The provisions of
12 AS 44.83.177 - 44.83.187 do not apply to a power project financed
13 under this subsection. The authority may use money in the fund for
14 the cost of a power project under this subsection if

15 (1) the legislature enacts a law approving the project;

16 (2) the division of budget and management in the Office of
17 the Governor reviews a feasibility study and a plan of finance for the
18 project and determines that the feasibility study complies with the
19 requirements for a feasibility study submitted under AS 44.83.181(b)
20 and that the plan of finance complies with the requirements for a plan
21 of finance submitted under AS 44.83.181(c); and

22 (3) the project meets the other requirements of this chap-
23 ter.

24 * Sec. 14. AS 44.83.386 is amended to read:

25 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue
26 shall invest the money in the fund in accordance with AS 37.10.070 and
27 37.10.075. The Department of Revenue shall provide money in the fund
28 to the authority only after costs have been [A COST FOR A PROJECT IS]
29 incurred or amounts in the fund have been otherwise obligated under

1 contracts for the acquisition and construction of a project. Amounts
2 that have been obligated, but for which costs have not yet been incur-
3 red, may be segregated by the Department of Revenue or transferred to
4 the authority only with the prior approval or agreement of the commis-
5 sioner of revenue. Interest received on money that is segregated or
6 transferred under this section must be deposited in the general fund.

7 * Sec. 15. AS 44.83.396(a) is amended to read:

8 (a) A power project that is acquired or constructed as part of
9 the energy program for Alaska is owned, [BY THE STATE] and shall be
10 administered, by the authority.

11 * Sec. 16. AS 44.83.396(c) is amended to read:

12 (c) The authority shall enter into a contract or lease under
13 reasonable terms and conditions to permit the applicant utility to
14 operate the power project when the applicant utility is the only
15 wholesale power customer to be served directly by the power project
16 unless the authority determines a utility making application for a
17 contract or lease to operate a power project is not a qualified util-
18 ity or is not capable of operating that power project efficiently and
19 in a manner that is consistent with national standards for the indus-
20 try and with agreements with bondholders.

21 * Sec. 17. AS 44.83.396(e) is amended to read:

22 (e) When the authority permits a power project to be operated by
23 a qualified utility under a contract or lease, the authority shall

24 (1) review and approve the annual budget for the operation
25 and maintenance of the power project; and

26 (2) assure that the project is being operated efficiently
27 and in a manner that is consistent with national standards for the
28 industry and agreements with bondholders.

29 * Sec. 18. AS 44.83.398(c) is amended to read:

deleted in Finance C.S.

1 (c) The authority shall transmit all the money that it receives
2 under (a) of this section to the commissioner of revenue for deposit
3 in the state general fund except for money it has pledged or otherwise
4 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-
5 HOLDERS].

6 * Sec. 19. AS 44.83.398(e) is repealed and reenacted to read:

7 (e) After determining the wholesale power rate for a power proj-
8 ect under the provisions of this section, the authority may adjust the
9 rate or change the rate provisions to insure that the revenue derived
10 from that power project and the aggregate revenues of the authority
11 will be adequate to comply with rate cove..ants and other agreements
12 contained in any trust indenture or trust agreement entered into by
13 the authority for the security of the holders of bonds issued to
14 finance the power project.

15 * Sec. 20. AS 44.83.398(g) is amended to read:

→this section is not deleted in Finance C.S.

16 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
17 section, a power project's proportionate share of debt service on
18 state loans and bonds for all power projects in the energy program for
19 Alaska is equal to the state's investment in the power project divided
20 by the state's investment in all power projects in the energy program
21 for Alaska and multiplied by the debt service on state loans and bonds
22 for all power projects in the energy program for Alaska. In this
23 subsection

24 (1) "state's investment in the power project" includes all
25 state money invested in a power project, including loans, grants, and
26 proceeds from bonds, less the principal repayments on the project's
27 proportionate share of debt service on state loans and bonds;

28 (2) "state's investment in all power projects in the energy
29 program for Alaska" includes all state money invested in the power

1 projects, other than interties, in the energy program for Alaska,
2 including loans, grants, and proceeds from bonds, less the principal
3 repayments on bonds and state loans issued for the power projects.

4 * Sec. 21. AS 44.83.398(h) is amended to read:

5 (h) Notwithstanding (g) of this section, in the 1983 state fis-
6 cal year the proportionate share of debt service under (b) of this
7 section, expressed as a rate, for a power project for which a con-
8 struction contract has been awarded before the effective date of this
9 Act may not exceed the average debt service component of the wholesale
10 power rate for all power projects in the energy program for Alaska.
11 The limit imposed by this subsection shall be increased in the 1984
12 state fiscal year to four percent above the average debt service com-
13 ponent of the wholesale power rate for all power projects in the
14 energy program for Alaska and by an additional four percent above that
15 average in each succeeding state fiscal year. If application of this
16 subsection results in the production of insufficient revenue to pay
17 the total debt service for all projects in the energy program for
18 Alaska, a project that does not have its share of debt service limited
19 under this subsection shall be subject to a rate in addition to the
20 rate established under (b) of this section. The additional rate is
21 the rate that the authority estimates is necessary to produce revenue
22 that is sufficient to pay the difference between the total debt ser-
23 vice for all projects in the energy program for Alaska and the revenue
24 actually produced to pay that debt service, multiplied by a fraction
25 whose numerator is the total cost of the project and whose denominator
26 is the total cost of all of the projects that are subject to the
27 additional rate. In this subsection, "projects in the energy program
28 for Alaska" does not include an intertie that is authorized as a
29 separate project as described in (f) of this section.

1 * Sec. 22. AS 44.83.425(2) is amended to read:

2 (2) "debt service" means the amounts covenanted with re-
3 spect to, or pledged to pay, bonds under a trust agreement securing
4 [CASH FLOW NECESSARY TO SECURE] bonds;

5 * Sec. 23. AS 44.83.196, 44.83.195(b), 44.83.382(b)(2), 44.83.394 and
6 44.83.398(b)(2) are repealed.

7 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

Rules CS made only 1 change:
p.1, line 16, delete [present].

Offered: 5/26/83
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 168 (Finance) / Rules

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and
7 providing for an effective date."

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

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12 cers they determine desirable. The powers of the authority are vested
13 in the directors, and four directors of the authority constitute a
14 quorum. Action may be taken and motions and resolutions adopted by
15 the authority at a meeting by the affirmative vote of a majority of
16 the [AT LEAST THREE] directors [present]. The directors of the authori-
17 ty serve without compensation, but they shall receive the same travel
18 pay and per diem as provided by law for board members.

19 * Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

20 (b) The board may meet and transact business by an electronic
21 medium if

22 (1) public notice of the time and locations where the meet-
23 ing will be held by an electronic medium has been given in the same
24 manner as if the meeting were held in a single location;

25 (2) participants and members of the public in attendance
26 can hear and have the same right to participate in the meeting as if
27 the meeting were conducted in person; and

28 (3) copies of pertinent reference materials, statutes, reg-
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of
5 the authority relating to a lease or contract to be entered into by
6 the authority under this chapter if the director is a party to the
7 lease or contract or has a direct ownership or equity interest in a
8 firm, partnership, corporation, or association that is a party to the
9 contract or lease. When abstaining from voting, the director must
10 disclose the reason for the abstention. A director who is a member of
11 an electric cooperative that is organized under or subject to the
12 Electric and Telephone Cooperative Act (AS 10.25) may vote on a reso-
13 lution relating to a contract or lease to which that cooperative is a
14 party. The director shall disclose the cooperative membership at the
15 time of voting. A resolution of the authority that is approved by a
16 majority of the directors present who are not barred from voting under
17 this subsection is a valid action of the authority for all purposes.

18 * Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]
21 issue its bonds for the acquisition or construction of power projects
22 to be acquired or constructed under the energy program for Alaska.
23 The [ON WHICH THE] principal of and interest on the bonds are payable
24 from money derived from the sale of wholesale power from power proj-
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-
26 ment fund or from a source referred to in AS 44.83.100 as the author-
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest
3 the authority will pay on its bonds is not more than alternative costs
4 of securing money from other sources, except for the general fund, to
5 pay for the acquisition or construction of the power project.

6 * Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the
8 trust indenture, trust agreement, secured loan agreement, or other
9 instrument or the resolution constituting a contract with bondholders
10 shall contain a covenant by the authority that it will at all times
11 maintain rates, fees or charges sufficient to pay, and that a contract
12 entered into by the authority for the sale, transmission or distribu-
13 tion of power shall contain rates, fees or charges sufficient to pay
14 the costs of operation and maintenance of the project, the principal
15 of and interest on bonds issued under the trust agreement as the same
16 severally become due and payable, to provide for debt service coverage
17 as considered necessary by the authority for the marketing of its
18 bonds and to provide for renewals, replacements and improvements of
19 the project, and to maintain reserves required by the terms of the
20 trust agreement. This subsection does not require a covenant that
21 varies from a covenant entered into in accordance with the provisions
22 of AS 44.83.380 - 44.83.435.

23 * Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the
25 legislature that a pledge made in respect of bonds is considered
26 perfected and is [SHALL BE] valid and binding from the time the pledge
27 is made; that the money or property so pledged and thereafter received
28 by the authority shall immediately be subject to the lien of the
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having
2 claims of any kind in tort, contract or otherwise against the authori-
3 ty irrespective of whether the parties have notice. Neither the
4 resolution, trust agreement nor any other instrument by which a pledge
5 is created need be recorded or filed under the provisions of the
6 Uniform Commercial Code to be perfected or to be valid, binding or
7 effective against the parties.

8 * Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of
10 finance, including a cost estimate from an independent source, for a
11 proposed new project to the legislature. When the report of the divi-
12 sion of budget and management examining the feasibility study and plan
13 of finance is completed as required by AS 44.83.182, it shall be sub-
14 mitted to the legislature.

15 * Sec. 7. AS 44.83.195(a) is amended to read:

16 (a) When a project is operated by the authority, the authority
17 shall enter into one or more contracts for the sale of electrical
18 power, energy, transmission capacity, or service from the project.
19 Unless the contract is entered into under AS 44.83.380 - 44.83.425, a
20 [A] contract entered into under this section shall meet all require-
21 ments of AS 44.83.090.

22 * Sec. 8. AS 44.83.361(a)(2) is amended to read:

23 (2) principal [AND INTEREST] payments on loans made under
24 this section.

25 * Sec. 9. AS 44.83.361(c) is amended to read:

26 (c) A loan from the rural electrification revolving loan fund
27 shall bear an annual rate of interest of two percent of the unpaid
28 balance of the loan. Interest received on a loan made under this sec-
29 tion must be transferred monthly to the commissioner of revenue for

1 deposit in the general fund.

2 * Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

3 (B) payments on the unpaid balance of the principal of
4 the loan for each new consumer served by the electric service
5 extended with the loan proceeds [DURING THE PRECEDING YEAR FOR
6 WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the
7 principal of the loan shall be made at a rate equal to the dif-
8 ference between the actual cost of making the service connection
9 to the consumers and the minimum investment per consumer required
10 of the utility before a loan is made under (b) of this section.

11 * Sec. 11. AS 44.83.361 is amended by adding a new subsection to read:

12 (f) In this section,

13 (1) "consumer" means a person, as defined in AS 01.10.-
14 060(7), or a governmental agency, if the person or governmental agency
15 requests and offers to pay for electrical service to a facility or
16 part of a facility; the authority shall consider a person who, or a
17 governmental agency that, offers to pay for electrical service to
18 several facilities to be a separate consumer for each facility, if
19 each facility is physically separate from another facility, other than
20 through electric service lines, and if the person or governmental
21 agency requests and offers to pay for electrical service to each
22 facility;

23 (2) "facility" means a structure capable of receiving and
24 using electrical energy; and

25 (3) "governmental agency" includes, with respect to the
26 state or federal government or a municipal government, a legislative
27 body, board of regents, administrative body, board, commission, com-
28 mittee, subcommittee, authority, council, agency, public corporation,
29 school board, department, division, bureau, or other subordinate unit,

1 whether advisory or otherwise, of the state, federal, or municipal
2 government.

3 * Sec. 12. AS 44.83.384(b)(1) is amended to read:

4 (1) is economically feasible [MEETS THE REVENUE REQUIRE-
5 MENTS OF AS 44.83.394]; and

6 * Sec. 13. AS 44.83.384(c) is amended to read:

7 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -
8 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the
9 authority to provide money for the cost of a power project that is or
10 was either constructed or [AND] owned by the United States government
11 if the requirements of this subsection are met. The provisions of
12 AS 44.83.177 - 44.83.177 do not apply to a power project financed
13 under this subsection. The authority may use money in the fund for
14 the cost of a power project under this subsection if

15 (1) the legislature enacts a law approving the project;

16 (2) the division of budget and management in the Office of
17 the Governor reviews a feasibility study and a plan of finance for the
18 project and determines that the feasibility study complies with the
19 requirements for a feasibility study submitted under AS 44.83.181(b)
20 and that the plan of finance complies with the requirements for a plan
21 of finance submitted under AS 44.83.181(c); and

22 (3) the project meets the other requirements of this chap-
23 ter.

24 * Sec. 14. AS 44.83.386 is amended to read:

25 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue
26 shall invest the money in the fund in accordance with AS 37.10.070 and
27 37.10.075. The Department of Revenue shall provide money in the fund
28 to the authority only after costs have been [A COST FOR A PROJECT IS]
29 incurred or amounts in the fund have been otherwise obligated under

1 contracts for the acquisition and construction of a project. Amounts
2 that have been obligated, but for which costs have not yet been incur-
3 red, may be segregated by the Department of Revenue or transferred to
4 the authority only with the prior approval or agreement of the commis-
5 sioner of revenue. Interest received on money that is segregated or
6 transferred under this section must be deposited in the general fund.

7 * Sec. 15. AS 44.83.396(a) is amended to read:

8 (a) A power project that is acquired or constructed as part of
9 the energy program for Alaska is owned, [BY THE STATE] and shall be
10 administered, by the authority.

11 * Sec. 16. AS 44.83.396(c) is amended to read:

12 (c) The authority shall enter into a contract or lease under
13 reasonable terms and conditions to permit the applicant utility to
14 operate the power project when the applicant utility is the only
15 wholesale power customer to be served directly by the power project
16 unless the authority determines a utility making application for a
17 contract or lease to operate a power project is not a qualified util-
18 ity or is not capable of operating that power project efficiently and
19 in a manner that is consistent with national standards for the indus-
20 try and with agreements with bondholders.

21 * Sec. 17. AS 44.83.396(e) is amended to read:

22 (e) When the authority permits a power project to be operated by
23 a qualified utility under a contract or lease, the authority shall

24 (1) review and approve the annual budget for the operation
25 and maintenance of the power project; and

26 (2) assure that the project is being operated efficiently
27 and in a manner that is consistent with national standards for the
28 industry and agreements with bondholders.

29 * Sec. 18. AS 44.83.398(b)(2) is amended to read:

1 (2) If, by July 1, 1990 [1986], the legislature has not
2 appropriated at least \$3,500,000,000 [\$5,000,000,000] to the fund, in
3 addition to appropriations to the fund of interest earned on money in
4 the fund, the authority shall, beginning on that date, establish and
5 maintain a separate wholesale power rate applicable to each power
6 project that is acquired or constructed under the energy program for
7 Alaska. The wholesale power rate shall be computed by the authority
8 annually, or more frequently as may be necessary, and shall be the
9 greater of

10 (A) 10 percent of the amount the authority has in-
11 vested in the power project, including loans and grants made by
12 the state; or

13 (B) the rate that the authority estimates is necessary
14 to produce revenue sufficient to pay

15 (i) operation, maintenance, and equipment re-
16 placement costs of the power project;

17 (ii) the power project's proportionate share of
18 debt service on state loans and bonds for all power projects
19 in the energy program for Alaska, determined in accordance
20 with (g) of this section; and

21 (iii) safety inspections and investigations of the
22 power project by the authority.

23 * Sec. 19. AS 44.83.398(c) is amended to read:

24 (c) The authority shall transmit all the money that it receives
25 under (a) of this section to the commissioner of revenue for deposit
26 in the state general fund except for money it has pledged or otherwise
27 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-
28 HOLDERS].

29 * Sec. 20. AS 44.83.398(e) is repealed and reenacted to read:

1 (e) After determining the wholesale power rate for a power proj-
2 ect under the provisions of this section, the authority may adjust the
3 rate or change the rate provisions to insure that the revenue derived
4 from that power project and the aggregate revenues of the authority
5 will be adequate to comply with rate covenants and other agreements
6 contained in any trust indenture or trust agreement entered into by
7 the authority for the security of the holders of bonds issued to
8 finance the power project.

9 * Sec. 21. AS 44.83.398(h) is amended to read:

10 (h) Notwithstanding (g) of this section, in the 1983 state fis-
11 cal year the proportionate share of debt service under (b) of this
12 section, expressed as a rate, for a power project for which a con-
13 struction contract has been awarded before the effective date of this
14 Act may not exceed the average debt service component of the wholesale
15 power rate for all power projects in the energy program for Alaska.
16 The limit imposed by this subsection shall be increased in the 1984
17 state fiscal year to four percent above the average debt service com-
18 ponent of the wholesale power rate for all power projects in the
19 energy program for Alaska and by an additional four percent above that
20 average in each succeeding state fiscal year. If application of this
21 subsection results in the production of insufficient revenue to pay
22 the total debt service for all projects in the energy program for
23 Alaska, a project that does not have its share of debt service limited
24 under this subsection shall be subject to a rate in addition to the
25 rate established under (b) of this section. The additional rate is
26 the rate that the authority estimates is necessary to produce revenue
27 that is sufficient to pay the difference between the total debt ser-
28 vice for all projects in the energy program for Alaska and the revenue
29 actually produced to pay that debt service, multiplied by a fraction

1 whose numerator is the total cost of the project and whose denominator
2 is the total cost of all of the projects that are subject to the
3 additional rate. In this subsection, "projects in the energy program
4 for Alaska" does not include an intertie that is authorized as a
5 separate project as described in (f) of this section.

6 * Sec. 22. AS 44.83.425(2) is amended to read:

7 (2) "debt service" means the amounts covenanted with re-
8 spect to, or pledged to pay, bonds under a trust agreement securing
9 [CASH FLOW NECESSARY TO SECURE] bonds;

10 * Sec. 23. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), and 44.83.394
11 are repealed.

12 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: Senate Resources Committee Members
FROM: Senate Resources Committee Staff
RE: Hearing, 4/15/83
DATE: April 14, 1983

The following bills will be before the Committee Friday, April 14.

SB 11 MAKING SPECIAL APPROPRIATIONS TO THE ALASKA POWER AUTHORITY.

Please note that a draft Committee Substitute has been prepared for this bill, which would appropriate funds for specific projects. We are expecting testimony on these projects from the APA at our hearing.

SB 168 RELATING TO THE ALASKA POWER AUTHORITY.

Attached are the Governor's transmittal letter and an analysis prepared by the Senate Advisory Council. SB 168 would permit meetings of the APA by electronic media, make it permissive rather than mandatory that the authority issue bonds for the energy program, ensure that a feasibility study of a proposed project include an independent cost estimate, require APA to enter into power sales contracts for energy transmission as well production, and repeal the "Susitna blackmail clause" (the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986).

SJR 3 PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF ALASKA RELATING TO AGRICULTURAL RIGHTS IN STATE LANDS.

The amendment proposes when State lands which are classified as agricultural and are disposed of either by sale or long term

Committee Memo
April 14, 1983

lease, only agricultural rights to the lands can be conveyed. The amendment is designed to place in the Constitution the requirements of existing law to ensure that agricultural lands are never converted to other uses.

The hearing is scheduled for Friday, April 14th at 3:00 p.m. in the Beltz Room.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 15, 1983

SUBJECT: Alaska Power Authority
(SB 168)

TO: Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee

FROM: *LHA* Linn H. Asper
Legislative Counsel

I have prepared statutory language for SB 168 that would allow a director of the authority to vote on a lease or contract with an electric cooperative even though the director is a member of that cooperative:

On page 2, line 13: After "purposes." add a new sentence to read:

"Notwithstanding the other provisions of this subsection, a director who is a member of an electric cooperative may vote on a resolution of the authority relating to a lease or contract with that cooperative."

LHB:ljb
15/001

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

April 20, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: SB 168, Relating to the Alaska Power Administration

On Friday, April 22, the Committee will again take up consideration of this bill. This bill makes numerous clarifying and "house-keeping" changes in the statutes governing operations and specifically bonding matters of the APA. At the hearing on the bill on April 15, several amendments were offered. It was requested that the amendments be submitted to APA for comment. The APA and other concerned parties have subsequently agreed to the attached three amendments numbered Amendments 1-3. Amendment number 2 was changed from its original form to retain the existing language contained in SB 168 and strike another redundant clause.

Senator Fischer has also submitted the attached Amendment No. 4. This amendment is currently being reviewed by the APA and the Division of Legal Services. The amendment would require that prior to any project construction, the APA would have to have completed power sale contracts.

In addition, Senator Eliason may propose an amendment to include the general provisions of HB 4 barring blanket insurance programs by the state on projects such as hydroelectric construction projects. Attached is a copy of HB 4.

STATE OF ALASKA

Bill Sheffield, Governor

APR 21 1983

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3600

April 21, 1983

The Honorable Betty Fahrenkamp
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 168, relating to the
Alaska Power Authority
A.G. No. 377-023-83

Dear Senator Fahrenkamp:

The governor's office has relayed a request for our comments regarding the amendments to SB 168 which were proposed at the hearing of the Senate Resources Committee on April 15, 1983. I discussed the proposed amendments with the APA's staff, bond counsel and underwriters, and found no opposition to the proposed amendments. Our comments regarding each specific amendment follow:

(1) This amendment to page 1, section (d), lines 4-13, would allow a director to vote on a contract or lease between the power authority and an electric co-operative of which the director is a member, and would require the director to disclose this membership at the time of voting. We agree that this amendment would ensure that the APA Board is able to act on contracts and leases regardless of the membership of directors in any electric co-operative.

(2) This amendment to page 4, section 6, lines 4-10 would omit an amendment to AS 44.83.185(a), which would have required that the APA submit to the legislature an independent cost estimate for a proposed new project along with its feasibility report and plan of finance for that project. The APA could still obtain an independent cost estimate at that stage but would not be required to do so. Requiring an early, independent cost estimate would give the legislature more information with which to evaluate a project before approving it. However, we do not view this requirement as essential to facilitating the

rating quality or marketability of bonds issued for a project which has been approved.

(3) As we understand it, this proposal is to repeal AS 44.83.394 and make conforming amendments to AS 44.83.384(b)(1) and (c). The reference to "deleting" AS 44.83.394 is confusing. If section 14 is simply deleted from SB 168, AS 44.83.394 will remain unchanged. Section 22 of the bill, page 9, line 19 could be amended to repeal AS 44.83.394. There is a typographical error in the proposed amendment; in reference to page 5, line 29 of the bill, the change should be from AS 44.83.394 to AS 44.83.396. There is no section AS 44.83.395. We agree that the provisions of AS 44.83.384(b)(1) and 44.83.394 are presently redundant, and that the proposed repeal of AS 44.83.394 and amendment to AS 44.83.384(b)(1) would solve this redundancy.

I will be present at your hearing of this bill on Friday, April 22, 1983, and will testify if there are any questions.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Laura L. Davis
Assistant Attorney General

LLD:jf

cc: Ray Benish
Director of Finance
Alaska Power Authority

Dick Lyon
Commissioner
Department of Commerce & Economic
Development

Emil Notti
Legislative Assistant
Office of the Governor

April 15, 1983

Proposed Amendments , SB 168 (APA)

1) On page 2, section (d), lines 4-13, make the following changes:

"(d) A director of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the director is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association that is a party to the contract or lease. When abstaining from voting, the director must disclose the reason for the abstention. A director who is a member of an electric cooperative which is organized under or subject to the Electric and Telephone Cooperative Act (AS 10.25.010--10.25.650) as provided in that act may vote on a resolution regarding a contract or lease to which the cooperative is a party and shall disclose that membership at the time of voting. A resolution of the authority that is approved by a majority of the directors present who are not barred from voting under this subsection is a valid action of the authority for all purposes."

Rationale

The intent of the amendment is to exempt directors who are customers of electric coops, and therefore by definition part owners, from the conflict of interest prohibition on voting. It is conceivable that a majority of the Board might be coop customers, such as of Chugach Electric Coop in Anchorage, at make Board action on a project such as the Anchorage-Fairbanks Intertie problematic.

2) On page 4, delete section 6, lines 4-10. That section reads as follows:

Sec. 6. AS 44.83.185(a) is amended to read:

(a) The authority shall submit a feasibility study and plan of finance, including a cost estimate from an independent source, for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

Rationale

Section 44.83.186 requires an independent cost estimate after the legislature approves a project and allows only a 7.5% increase in costs without having to revise the feasibility study and resubmit the study and the independent estimate to the legislature for reapproval. The APA is currently obtaining independent cost estimates in advance and verifies estimates in-house to avoid coming back to the legislature. The amendment is felt to be redundant and would require unnecessary costs, especially in the case of smaller projects.

3) Page 7, line 1, Sec. 14. "AS 44.83.394 is deleted."

Page 5, before line 28, add the following new section and renumber accordingly:

Sec. 12. AS 44.83.384(b)(1) is amended to read:

"(b) Money in the fund may be used under (a) of this section only for a project that

(1) [meets the revenue requirements of AS 44.83.394] is economically feasible; and "

Rationale

The effect of the Administration's amendment in the bill to 44.83.394 would be to make the project expenditures dependent on an authority's finding that the project is economically feasible. Section 44.83.394(b) addresses the same allowed uses of money in the fund and makes the sections redundant. This amendment would preserve the intent to ensure economical feasibility while eliminating the redundancy.

On page 5, line 29, change "AS 44.83.394--" to "AS 44.83.395--"

This is a conforming amendment to the above change.

ALASKA POWER AUTHORITY

334 WEST 5th AVENUE - ANCHORAGE, ALASKA 99501

Phone: (907) 277-7641
(907) 276-0001

TELECOPIED 4/21/83

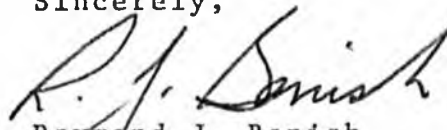
April 21, 1983

Senator Bettye Fahrenkamp
Alaska State Legislature
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Pursuant to your request, enclosed is a statement regarding the proposed changes to AS 44.83. The statement includes an alternative section that may be employed for reasons stated.

Sincerely,


Raymond J. Benish
Director of Finance

RJB:kjs

Encl.

cc: Laura Davis, Department of Law
Alaska Power Authority Board
of Directors

The following new section has been proposed for AS 44.83 (Alaska Power Authority's statutes):

AS 44.83.395. POWER SALES CONTRACT REQUIREMENTS. The Alaska Power Authority may not begin construction or site preparation of a power project until power sales agreements have been completed that contractually obligate participating utilities to purchase wholesale power at the rates required under 44.83.398.

This provision would limit the flexibility and bargaining position the Authority may have in obtaining the very power sales agreements (or their equivalents) sought by the author of this proposed legislation. Although obtaining full contractual commitments prior to major construction of a project is generally the preferred course, there may be times when some construction including site clearing may be desirable in order to take advantage of short construction seasons and the like. Furthermore, there may be instances where a prospective purchaser of power may hold out and refuse to sign or "complete" a power sales agreement despite the fact that other prospective purchasers already have. Other problems with the proposed legislation relate to the very intent of a "completed" power sales agreement. Does a "completed" power sales agreement preclude amendments and revisions in order to, for example, make the agreement more palatable to the underwriting community? Consequently, it is suggested that the legislative intent underlying the proposed new section may be met

by providing that clear memoranda of understanding or letters of intent (commitments which are something less than a "complete" power sales agreement) would afford the Authority sufficient flexibility to go forward with construction. The following version of the proposed new section is therefore offered:

AS 44.83.395. REQUIREMENTS FOR THE SALE OF POWER. The Authority may not begin construction of a power project until the Authority obtains binding assurances, in the form of letters of intent, memoranda of understanding or contracts for the sale of power, from prospective purchasers of power from the power project that the amounts required under AS 44.83.398 will be paid to the Authority.



Official Business

Alaska State Legislature

Senate

Office of the President

APR 25 1983

Pouch V
State Capitol
Juneau, Alaska 99811

April 11, 1983

TO: Senate Resources Committee
Senator Bettye Fahrenkamp, Chair

FROM: Senator Jay Kerttula
Senate President

SUBJECT: SB 168

When the Resources Committee considers SB 168, the Governor's bill that would restructure the Alaska Power Authority, you may wish to refer to the attached memo by Kurt Dzinich of the Senate Advisory Council. He has provided some valuable suggestions as to how the APA may better serve the energy needs of the State.

Thank you for considering this report.

Attachment

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907)465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Kerttula
President
Alaska State Senate

FROM: Kurt S. Dzinich *KSD*
Senior Advisor
Senate Advisory Council

DATE: April 1, 1983

RE: Alaska Power Authority

In response to our recent discussion, I am providing you with some thoughts on how to improve the workings and the effectiveness of the Alaska Power Authority in carrying out its legislatively mandated obligations. While the Authority has done an admirable job under sometimes trying circumstances, it is clear that there is room for significant improvement.

My observations of the Authorities' activities since January of 1982 have convinced me that the area needing the most immediate attention is the board of directors. Currently, the board consists of 7 directors, three of which are commissioners of principal executive departments, three are public directors, and one is specifically designated by statute as the director of Budget and Management. The directors elect one of their members as chairman.

The greatest weakness of the current setup is that the commissioners are much too busy running their own departments and fending off alligators to be able to devote sufficient time to APA matters to do justice to the Energy Program for Alaska. For example, the director of the Budget and Management division (proposed to become Office of Management and Budget) who has a pivotal role to play by statutes, has not managed to attend neither one of the two crucial board meetings under the new administration. This is especially disturbing since at these meetings the new board members were to be acquainted with the operations of the Authority and set the tone for the future.

The second major weakness of the present Board is the fact that the chairman is only a part-time job. This makes it necessary for the executive director to spend a significant portion of his time traveling and testifying at various meetings and hearings. Since the executive director is also responsible for directing a staff of almost fifty, as well as millions of dollars worth of contracts, it would be better for the Energy Program if he was able to devote more time to these key and essential tasks.

The third significant weakness of the present set-up is that as the State revenues decline and the competition for the funds increases by the various departments, it is conceivable that the directors, who are also commissioners, would be faced with a conflict of interest in deciding which projects or programs to recommend for approval.

The fourth area of concern is that the Legislature has no input into the Board or the Authority except at budget time. The Energy Program for Alaska is much too important to be handled on that infrequent basis.

I believe that the best way to eliminate the problems noted above is to restructure the Board as follows:

1. Appoint a full-time chairman, to be selected by the Governor and approved by the Legislature.
2. Appoint 5 part-time board directors who are not commissioners or directors of major organizational elements such as OMB. Three of the directors to be appointed by the Governor and two by the legislative leadership. The directors should have a sound business or engineering background in the area of energy generation, utility operations, etc.
3. Discontinue the statutory requirement designating OMB as the reviewing agency of reconnaissance and feasibility studies and the finance plans. The plan of finance should be reviewed by an agency such as Department of Revenue with expertise in financing and bonding which could also assess the overall impact of a new project on the State's financial posture. The studies on the other hand should be reviewed by an organizational element dealing with energy issues. For example, I believe that the Division of Energy and Power Development would be a much more appropriate agency than OMB due to staff expertise in similar functional areas.

I have also considered making APA a line agency. While there would be some advantages to such a move, I am convinced that they would be outweighed by the disadvantages. The major advantage of the the Authority is its ability to secure financing through the bond market. This is

absolutely essential given the reality of our decreasing state revenues. If for no other reason than that, the agency should remain as an Authority.

During the past few weeks I have become aware of a memorandum - copy attached - which proposes to realign the way in which the APA Board handles its duties. There are two major areas of concern that I believe will be detrimental to the Energy Program for Alaska.

By going to a subcommittee format it will become much more difficult for the public and other interested parties to follow the activities of the Board. In addition, the subcommittee staff - such as it may be - will in fact become the dominant force in the preparation of decision documents for the Board. Given the past inclinations of some of these staffers, we can anticipate more studies, less vision, and short-term solutions.

The second area of concern is that if the memorandum recommendations are adopted, there will be a needless increase in the bureaucracy. For example, the Board would be hiring "independent" advisors not involved with APA. This seems redundant and totally wasteful of state funds given that the Authority - which works for the Board - already has a staff charged with accomplishing all tasks necessary to allow board members to make intelligent decisions. Of course, the board members must take the time to become familiar with the issues and data being presented there - probably prior to the meetings.

I am also attaching a memo from Commissioner Wunnicke dealing with the formation of an Interagency Susitna Review group. While I have and continue to support coordination between various agencies, some of the things being said in the memo are of concern. The allegation that the agencies have not been involved in the Susitna project has to be considered with amazement and in fact can not be justified. For example, the Susitna Steering Committee was formed in 1980 to informally monitor the progress and provide advice on resolving problems. It consisted of both federal and state agency representatives. In fact it did serve a constructive purpose and only became defunct in 1982 when some members objected to not having authority to impose their views.

The APA hired a full-time expert in the environmental and natural sciences in early 1982 for the main purpose of coordinating with the federal and state agencies.

While APA did in fact provide copies of the final FERC license application to key state agencies, it remains as the applicant and therefore responsible for the content. Once FERC deems the application as being acceptable for processing, it provides copies to federal, state and local agencies for comment in their respective areas of expertise. It would be therefore redundant to have the Interagency group try to accomplish the same task(s).

4/1/83

While I am opposed to the Interagency Review group as proposed, a similar advisory group could serve a useful purpose if it confined itself to recommending to the APA Board resolutions of major interagency conflicts such as length of fish studies or fish mitigation measures. By the same token, once the decision is made, individual agencies should not continue with delaying tactics but support the overall goal and solutions.

I am totally opposed to any member of such a group as proposed to be able to request funds from APA. Coordination and review is an inherent function of any such organization and should be handled by routine internal budgeting process.

I hope my comments are of some help in deciding if and how you want to proceed. I believe the Energy Program in Alaska is one of our larger and more important programs that should not be allowed to detract from its legislatively mandated goals. I would be happy to discuss further details at your convenience.

KSD;lal
Attachments

RECEIVED

MAR 15 1983

ALASKA POWER AUTHORITY

Susitna Interagency Review Group

Date of Meeting: 3/17/83

Time of Meeting: 2:00 p.m.

Meeting Location: DNR Conference Room (#18)
555 Cordova St., Anchorage, Ak. 99510

RECEIVED

MAR 1 1983

ALASKA P.A.

AGENDA

Purpose of Meeting: To discuss a proposal to establish more effective ways for state agencies to facilitate the SuHydro project planning and permitting.

- I. Introduction and background. Jim Barnett, Deputy Commissioner, DNR.
- II. Summary of state agency comments to Draft F.E.R.C. application for SuHydro project. State agency representatives.
- III. Discussion of Commissioner Wunnicke's 3/9/83 memo proposing interagency review group.
- IV. Decisions and followup.

MEMORANDUM
10 Governor Sheffield's Cabinet

DATE: March 9, 1983

FILE NO: 4843.1

TELEPHONE NO. 465-2400

FROM ^{NLS} Esther C. Wunnicke
Commissioner
Department of Natural Resources

SUBJECT: Formation of Interagency
Review Group for Susitna
Dams Licensing

The need for more State involvement in planning for hydroelectric projects has recently been emphasized by the Alaska Power Authority Board, by the Federal Energy Regulatory Commission, and in testimony before the Senate State Affairs Committee. The Tye Lake project also points to this need.

To date, although FERC directed the Alaska Power Authority "to consult with the appropriate resource agencies in preparing its (Susitna) application," the agencies have not been directly involved in the planning or review of resource-related environmental programs for Susitna, and they have not seen the final license application (which describes these programs) submitted to FERC by the APA.

The State's interests would be served by the immediate formation of an interagency group to review and provide input for the FERC license application. The group's charge would be to ensure the appropriate participation of the State in the licensing process, and to provide the Governor with coherent policy background on the project. All affected state agencies should be represented, and the group should be divided into economic (finance, revenue) and environmental (land, water, habitat, socio-economic) subgroups.

The FERC licensing process for the Susitna project is just beginning. The State needs to develop a mechanism of providing coherent analysis of the proposal. Thus, I invite your representative to meet with other agency representatives on this topic next week in Anchorage. I have asked Jim Barnett, Deputy Commissioner of this Department in Anchorage, to chair the meeting on Thursday, March 17 at 2:00 p.m. in the DNR Conference Room 18 at 555 Cordova Street. Please call Jim's office (276-2653) to confirm. A draft agenda for the meeting is attached, and a packet of proposed draft materials should be available in Anchorage by Monday, March 14.

Thank you for your attention.

cc: Lennie Boston
Governor's Office

DRAFT AGENDA

Following is the proposed outline for discussion of the interagency group's responsibilities and organization:

I. Department involvement.

Each interested Department will have a single designated representative to the group. However, other agency staff will be involved in the task forces working on projects.

II. Organization.

Two subgroups will be formed for the study of environmental and economic issues. Task forces will report to the subgroups on specific assignments.

III. Charge.

The interagency group will respond for the State to requests for supplements to the FERC license, through APA. It will also review and report on other issues that it finds significant.

IV. Reporting.

The group will report to the Board of the Power Authority and to the Commissioners of the affected Departments.

V. Funding.

No additional funding will be provided for the group's operations, as the function is coordination, rather than new research. However, agencies unable to meet necessary costs are directed to request funding from APA project budgets.

MEMORANDUM

APA Board

TO: ~~COMMISSIONER DANIEL A. CASEY~~
FROM: SPECIAL ASSISTANTS
DATE: 3/10/83
SUBJECT: APA BOARD POLICY AND PROCEDURES

At a series of meetings this week the staff to the Cabinet members of the APA Board* considered the question of how the Board can gain greater policy and procedural control over APA activity. Our preliminary recommendations are set forth below. They are organized according to functional lines following loosely the format of an APA staff document entitled "Administrative Policy Issues" (attached). We recommend the creation of several Board Subcommittees to facilitate managing the large and complex volume of work.

Policy and Procedural Areas

- I. Finance and Project Selection
- II. Project Management/Contracts
- III. Audit
- IV. Legislation
- V. Routine Business

I. FINANCE AND PROJECT SELECTION

Staff recommends that the Board establish a Finance Subcommittee to handle the following financial issues, with the Commissioner of Revenue or his designee as an ex-officio member.

a. Project Selection Process -- Financial considerations both for state funds and debt are determined by the requirements of specific projects. A critical APA activity therefore is project selection, as good projects are less likely to encounter financial problems. The Finance Subcommittee should review current procedures and establish Board policy on analytic methods for project selection. Issues include criteria for prioritizing research, Board review and approval of RFP's, overall project review process, treatment of return on equity, treatment of non-hydro alternatives and existing utility facilities, project sizing, critical assumptions, and modeling capabilities. Professional services contracts for recon and feasibility studies are integral to the selection process.

*Tom Singer, DOT; George Matz, OMB; Ned Farquhar, DNR; Ed Eboch, Commerce.

b. Long Range Financial Plan -- The Board should establish financial policies pursuant to the statutorily mandated adoption of an APA Long Range Financial Plan and project specific financial plans. Financial planning should be integrated with the long range budget preparation and approval process. Issues include fiscal impact, power pricing policies, project debt/equity ratios, borrowing policies, expenditure policies, legislative funding of debt reserve funds, use of the state's moral obligation, and power marketing (see especially "Marketing of Project Power Under the Energy Program for Alaska", 12/28/82 memo from Hyles Yerkes to Eric Yould in the Power Rates Appendix of the Board packet for the 3/14/83 meeting.)

c. Interim Financing -- The Board should review current interim financing policy and practices. Issues include incremental funding and project phasing, reliance on legislative intent for future appropriations, securing debt with APA general assets, and refinancing the \$200 million outstanding Notes.

d. Return on State Equity -- State general fund contributions to power projects are presently treated as grants but could provide revenue to the Treasury in the future. The new Board should establish policy on returns to equity. Issues include target amount and timing of returns, and incorporation of equity returns in project analysis (the APA's proposed legislation would repeal the current ambiguous requirement).

e. Power Sales Contracts -- Areas where the Board retains discretion, given legal requirements of lenders and APA statutes, needs clarification. Issues include timing requirements for these contracts, budget and revenue implications where additional subsidies are required, e.g. if the cost of hydro is to be made competitive with diesel, and conformance with plans of finance.

f. Wholesale Power Rates -- See (d) above. Statutory provisions should be described in plain language.

g. Loans and Grants -- The Board should establish consistent criteria and procedures, interest rate policy, guidelines for Board involvement in loan approvals, and regular reporting on this highly fragmented activity.

h. Financial Reporting -- Pursuant to the 12/82 "Report to Management" audit recommendations, financial reporting needs to be improved and consolidated to provide centralized information on the multitude of APA funding sources, uses, and accounts.

II. PROJECT MANAGEMENT/CONTRACTS

APA contracting activity can be divided into the following areas:

- Construction and Procurement Contracts
- Professional Services Contracts
- Project Operation and Maintenance Contracts
- Procurement of Materials and Services Required for Normal Project Operation and Maintenance
(Power Sales Contracts are covered under Finance above)

Staff recommends creation of a Project Management Subcommittee to focus on policy and procedure for awarding and tracking contract activity. Issues include selection criteria, guidelines for Board involvement, handling of ATN's and contract amendments, format and content of staff presentations on contracts, periodic status reporting, and budget implications (especially future commitments, and decisions which require additions to APA staff).

III. AUDIT

Staff recommends that the Board immediately provide for an Assumption Audit (possibly in conjunction with the Legislative Budget and Audit Committee) to thoroughly review APA activities. An Assumption Audit would effectively familiarize the new Board with the APA and provide a thorough beginning for future efforts.

Staff further recommends that the Board establish an Audit Subcommittee to manage this effort and future independent Board audits. The Board should also review progress made to date on implementing the recommendations of the Price Waterhouse 12/82 "Report to Management."

IV. LEGISLATION

a. Statutory Matters and Regulations -- The Board should establish procedures for providing policy input to proposed changes to the APA statutes. The Board should consider retaining independent legal advice (including bond counsel). Periodic reporting on the status of bills during the legislative session may be desired.

b. Liaison with the Legislature -- The Board should establish policies governing APA staff communication with the legislature, especially representation at legislative hearings and requests for information or other items.

V. ROUTINE BUSINESS

a. Board/Staff Liaison -- The Board has before it recommendations contained in a 3/1/83 memorandum from Commissioner Wunnicke. In addition, the Board may wish to adopt additional procedures. Periodic brief Project Summaries would help to place Board decisions in their full context. These could include:

-- Analytics Summary: project description, recon and feasibility results, finance plan summary, update results.

-- Approval Milestone Chart: recon and feasibility study approval, Board/Governor approval, legislative approval, borrowing authorizations (legislative and Board), FERC liscence, power sales contracts, other liscences and permits.

-- Funding Summary: total project cost, state monies received (loans and grants), legislative intent, anticipated future budget requests, borrowed monies, anticipated future borrowing, significant covenants and agreements.

-- Cost Performance Progress Curves: status to date and forecasts for major activities like engineering, design, procurement, and construction.

-- Anticipated Problems: problem statement, implications, recommendations.

b. Budget Preparation and Approval Process -- The Board should establish procedures for providing input to current and future APA budgets. Financial plans should also be considered here. Presentation of agenda items at Board meetings should include budget implications.

c. Financial Advisor, Underwriter, and Consulting Engineer Selection -- The Board should consider obtaining independent advisors not financially involved in APA development activity.

d. Project Construction Decisions -- The Board should consider procedures for staff presentation of "Final Project Reports" and for Board approval, policy on project phasing, and consideration of financial implications of these decisions.

e. Project Licensing and Design Decisions -- The Board should consider policies and procedures for Board involvement in licensing and design activities.

f. Ownership of Projects -- The Board should establish policy on APA ownership of projects and the Energy Program for Alaska. The current system appears to offer disincentives for communities with "good" projects to join the system.

g. Power Cost Assistance Program -- The Board should re-evaluate the policies behind this program. Periodic financial reporting and consideration of long term budget implications should be required.

h. Annual Report -- The Board should review the content and format, consider changes, and require formal Board adoption.

i. Public Relations -- The Board should examine current APA public relations activity and consider policies and procedures to provide Board control. These activities influence public expectations and opinion.

j. Litigation Status -- The Board may wish to receive periodic status reports on pending lawsuits involving the APA and their implications.

k. Board Liability -- The Board may wish to receive a briefing by the Dept. of Law on the extent of their legal liability in APA activity.

The Chemical Bank v. Washington Public Power Supply System case decided by the Washington Supreme Court on June 15, 1983 in which the court holds invalid power sales agreements supporting \$2.5 billion in public bonds will have a profoundly negative effect on public power financing. The court in the WPPSS case specifically said that the municipalities and the PUDs lacked statutory authority to enter into contracts with WPPSS which required the utilities to make payments regardless whether a project was completed and regardless of reduction or curtailment of project output. As well, the court stated that stepup provisions, i.e., provisions requiring payments on behalf of defaulting parties, were not authorized under Washington law.

In light of this decision, bond counsel deems it necessary that the authority of Alaska Power Authority to enter into power sales agreements with stepup and take-or-pay provisions must be absolutely clear. Bond counsel feel that such contracts are currently authorized by the statute; however, in order to make bonds secured by such contracts marketable, in light of the WPPSS case, it is felt necessary to further specify the contracting authority. It should be emphasized that this amendment does not authorize the APA to transfer to utilities the risk of non-completion of a project, as was attempted by WPPSS.

Add the following

AS 44.83.092. Authority for Municipalities and Utilities to Enter into Power Sales Contracts. The Authority and any municipality or public or private entity operating an electric utility may enter into a contract providing for or relating to the sale of electric power by the Authority to the municipality or such entity. The contract may provide, among other things,

(1) that the amounts payable under the contract are operating expenses of the utility and are valid and binding obligations of the municipality or other entity payable from the gross revenues of the utility;

(2) for one or more appropriations of the amounts payable under the contract;

(3) for the municipality or other entity to assume the obligations of another contracting party in the event of a default by that party;

(4) that after completion of a project the municipality or other entity is obligated to make payments notwithstanding a suspension or reduction in the amount of the power supplied by the project; or

(5) that payments under the contract are not subject to reduction by offset or otherwise.



ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301
ANCHORAGE, ALASKA 99503 • (907) 276-3235

MEMORANDUM

June 24, 1983

TO: Pat Pourchot
Senate Resources Committee

FROM: David Hutchens
Executive Director

SUBJECT: Section 21, SB 168

AS 44.83.398 (a) and (d) require utilities who purchase wholesale power from one of the Power Authority projects to agree with the APA to do two things in dealing with their industrial customers:

- (1) give preference in selling retail power to all classes of consumers except industrial consumers, and
- (2) charge industrial consumers a rate equal to or greater than the retail rate for residential consumers.

These provisions were enacted as a part of SB 25 in 1961. At that time it was assumed that APA power projects would be largely financed by state appropriations, and the resulting power rates would be extremely low. These provisions were intended to prevent the state from subsidizing big industrial power users (like aluminum reduction plants) through their power rates.

The situation has changed now, and revenue bond financing has once again become the major component of new investments in APA projects. Instead of giving industry too good of a deal, the problem now is keeping utility rates competitive with the cost for industrial consumers to generate all their own power. There is a

DEMOCRACY IN ACTION

very serious need for the utilities to be able to buy power from APA projects which is presently surplus, and sell it to their industrial customers at attractive rates on an interruptible basis. Without modification, the present law makes that virtually impossible. Unless this kind of change is made, the APA will find it extremely difficult to market the available energy from its projects, and the utilities will lose (or not achieve) economies of scale.

Section 21 of SB 158 recognizes the fact that it costs less per KWH to serve one big customer than it does to serve 500 little ones. An unregulated utility buying power from APA would be authorized to sell electricity to its industrial customers at less than the residential retail rate only if the utility can demonstrate to the APA that this increased sales volume (or increased utilization of the APA project) will result in lower rates for the residential consumers than they otherwise would have experienced.

Determining the appropriate allocation of costs among the various classes of consumers is the very essence of rate design regulation by the Public Utilities Commission. In order to let the expertise of the APUC govern in these matters and in order to avoid two separate (and probably conflicting) rate setting procedures, Section 21 provides that for regulated utilities, the APUC will determine the retail rates for all classes of consumers including industrial consumers. In proposing the amendment which eventually produced Section 21, it was my intent that the APUC would establish the rate design on a cost of service basis in its usual way without any additional rate hearings being prompted by the passage of this bill.

It needs to be noted that Section 21 amends only the existing provision on rates. The existing requirements would remain in effect that preference in providing service must be given to all classes of consumer except industrial consumers.

*intent of original
is not to use power prices as
a loss leader to attract industry
keep conservative language
This is a balancing bill -
& such changes require
thought & practical
comment.*

* Sec. 20. AS 44.83.398(c) is amended to read:

(c) The authority shall transmit all the money that it receives under (a) of this section to the commissioner of revenue for deposit in the state general fund except for money it has pledged or otherwise covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-HOLDERS].

*res sets greater savings
w/o amendment*

*wholesale
rate is mandated
to be fixed by
project.*

*STUDY + report
is due on rate structures
AND NO DISCUSSION IN COMMENT
yet received on impacts -
plus effects on*

* Sec. 21. AS 44.83.398(d)(2) is amended to read:

(2) may not be less than the rate charged residential consumers unless the utility demonstrates that a lower rate for industrial consumers will result in a rate for residential consumers that is lower than it would be if the industrial rate were not allowed; notwithstanding the provisions of this paragraph, if a utility is regulated by the Alaska Public Utilities Commission the rates for all classes of consumers of that utility shall be determined by the Alaska Public Utilities Commission.

* Sec. 22. AS 44.83.398(e) is repealed and reenacted to read:

(e) After determining the wholesale power rate for a power project under the provisions of this section, the authority may adjust the rate or change the rate provisions to insure that the revenue derived from that power project and the aggregate revenues of the authority will be adequate to comply with rate covenants and other agreements contained in any trust indenture or trust agreement entered into by the authority for the security of the holders of bonds issued to finance the power project.

* Sec. 23. AS 44.83.398(h) is amended to read:

(h) Notwithstanding (g) of this section, in the 1983 state fiscal year the proportionate share of debt service under (b) of this

PS

the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be perfected or to be valid, binding or effective against the parties.

* Sec. 6. AS 44.83.185(a) is amended to read:

(a) The authority shall submit a feasibility study and plan of finance, including a cost estimate from an independent source, for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

* Sec. 7. AS 44.83 is amended by adding a new section to read:

Sec. 44.83.192. INSURANCE REQUIREMENTS IN CONSTRUCTION CONTRACTS. In requesting bids and awarding construction contracts under this chapter the authority may not require a contractor to obtain workers' compensation, general liability, or other required insurance from a particular insurer, agent, or broker, ^{delete} and may not agree to provide insurance to a contractor who is awarded a construction contract.

delete →
Support { Jeff Berry supports existing language
delete / Ray Benich - APA wants deletion
Anselm Stracke - 2nd Com. of Admin

* Sec. 8. AS 44.83.195(a) is amended to read:

(a) When a project is operated by the authority, the authority shall enter into one or more contracts for the sale of electrical power, energy, transmission capacity, or service from the project.

HCS CSSB 168 (Fin)

Amendment #1

*Pat
Check*

Sec. 3

AS 44.83.092 Authority for Municipalities and Utilities to enter Power Sales Contracts

This section deals with the Washington Public Power Supply System (WPPSS) case from the Washington Supreme Court case where the court held the local utilities did not have the legal authority to enter into power sales contracts. The new section lays out the essential elements of a power sales contract and grants the authority for the local utilities to enter the contracts. It does not mandate the local utilities to enter such contracts.

Sec. 8 AS 44.83.192 Insurance Requirements in Construction Contracts

This section says the authority may not require a contractor to buy insurance from a particular broker or may not agree to provide insurance to a contractor.

Sec. 20. AS 44.83.398(b)(2)

This section is the "Susitna equity" clause and the House has it amended to be effective in 1991 and at dollar figure of \$5 billion dollars.

Sec. 25

This section authorizes a third turbine at Terror Lake without a cost figure.

Sec. 26

This section authorizes Chester Lake hydroelectric project at a construction cost of \$13,200,000.

The industrial rate section has been removed in its entirety.

The House Letter of Intent deals with the Susitna equity clause by telling the Authority to bond finance the present projects and asks the Governor to prepare a plan for the equity in future Energy Program for Alaska Projects. The Letter also directs the Authority to enter negotiations for the sale of power to U.S. Borax. The Authority would then return for necessary legislation to implement the sale. The Letter also assures the communities that the WPPSS amendment is permissive language and only deals with the legal authority to enter power sales contracts not a requirement to enter such contracts.

~~XXXXXXXXXX~~

A M E N D M E N T # |

Offered in the HOUSE

BY RINGSTAD

TO: HCS CSSB 168(Fin)

Page 1, line 9 through page 11, line 10:

Delete all material and insert the following:

"* Section 1. AS 44.83.040 is amended to read:

Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors shall elect one of their number as chairman and may elect other officers they determine desirable. The powers of the authority are vested in the directors, and four directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of a majority of the [AT LEAST THREE] directors. The directors of the authority serve without compensation, but they shall receive the same travel pay and per diem as provided by law for board members.

* Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

(b) The board may meet and transact business by an electronic medium if

(1) public notice of the time and locations where the meeting will be held by an electronic medium has been given in the same manner as if the meeting were held in a single location;

(2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and

(3) copies of pertinent reference materials, statutes, reg-

ulations, and audio-visual materials are reasonably available to participants and to the public.

(c) A meeting by an electronic medium as provided in this section has the same legal effect as a meeting in person.

(d) A director of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the director is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association that is a party to the contract or lease. When abstaining from voting, the director must disclose the reason for the abstention. A director who is a member of an electric cooperative that is organized under or subject to the Electric and Telephone Cooperative Act (AS 10.25) may vote on a resolution relating to a contract or lease to which that cooperative is a party. The director shall disclose the cooperative membership at the time of voting. A resolution of the authority that is approved by a majority of the directors present who are not barred from voting under this subsection is a valid action of the authority for all purposes.

* Sec. 3. AS 44.83 is amended by adding a new section to read:

Sec. 44.83.092. AUTHORITY FOR MUNICIPALITIES AND UTILITIES TO ENTER INTO POWER SALES CONTRACTS. The authority and any municipality or public or private entity operating an electric utility, or a municipality or private entity and another municipality or private entity, may enter into a contract providing for or relating to the sale of electric power by the authority to the municipality or entity, or by the municipality or entity to another municipality or entity.

The contract may provide

(1) that the amounts payable under the contract are operating expenses of the utility and are valid and binding obligations of the municipality or other entity payable from the gross revenues of the utility;

(2) for one or more appropriations of the amounts payable under the contract;

(3) for the municipality or other entity to assume the obligations of another contracting party in the event of a default by that party;

(4) that after completion of a project the municipality or other entity is obligated to make payments notwithstanding a suspension or reduction in the amount of the power supplied by the project;
or

(5) that payments under the contract are not subject to reduction by offset or otherwise.

* Sec. 4. AS 44.83.105 is amended to read:

Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PROGRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL] issue its bonds for the acquisition or construction of power projects to be acquired or constructed under the energy program for Alaska. The [ON WHICH THE] principal of and interest on the bonds are payable from money derived from the sale of wholesale power from power projects financed under AS 44.83.380 - 44.83.425 from the power development fund or from a source referred to in AS 44.83.100 as the authority determines. The bonds may be issued if

(1) appropriations to the power development fund for the power project are insufficient to cover the cost of acquiring or constructing the power project; and

(2) the authority determines that the amount of interest the authority will pay on its bonds is not more than alternative costs of securing money from other sources, except for the general fund, to pay for the acquisition or construction of the power project.

* Sec. 5. AS 44.83.110(b) is amended to read:

(b) Notwithstanding any other provisions of this chapter, the trust indenture, trust agreement, secured loan agreement, or other instrument or the resolution constituting a contract with bondholders shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that a contract entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement. This subsection does not require a covenant that varies from a covenant entered into in accordance with the provisions of AS 44.83.380 - 44.83.425.

* Sec. 6. AS 44.83.120 is amended to read:

Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the

legislature that a pledge made in respect of bonds is considered perfected and is [SHALL BE] valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be perfected or to be valid, binding or effective against the parties.

* Sec. 7. AS 44.83.185(a) is amended to read:

(a) The authority shall submit a feasibility study and plan of finance, including a cost estimate from an independent source, for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

* Sec. 8. AS 44.83 is amended by adding a new section to read:

Sec. 44.83.192. INSURANCE REQUIREMENTS IN CONSTRUCTION CONTRACTS. In requesting bids and awarding construction contracts under this chapter the authority may not require a contractor to obtain workers' compensation, general liability, or other required insurance from a particular insurer, agent, or broker and may not agree to provide insurance to a contractor who is awarded a construction con-

tract.

* Sec. 9. AS 44.83.195(a) is amended to read:

(a) When a project is operated by the authority, the authority shall enter into one or more contracts for the sale of electrical power, energy, transmission capacity, or service from the project. Unless the contract is entered into under AS 44.83.380 - 44.83.425, a [A] contract entered into under this section shall meet all requirements of AS 44.83.090.

* Sec. 10. AS 44.83.361(a)(2) is amended to read:

(2) principal [AND INTEREST] payments on loans made under this section.

* Sec. 11. AS 44.83.361(c) is amended to read:

(c) A loan from the rural electrification revolving loan fund shall bear an annual rate of interest of two percent of the unpaid balance of the loan. Interest received on a loan made under this section must be transferred monthly to the commissioner of revenue for deposit in the general fund.

* Sec. 12. AS 44.83.361(d)(2)(B) is amended to read:

(B) payments on the unpaid balance of the principal of the loan for each new consumer served by the electric service extended with the loan proceeds [DURING THE PRECEDING YEAR FOR WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the principal of the loan shall be made at a rate equal to the difference between the actual cost of making the service connection to the consumers and the minimum investment per consumer required of the utility before a loan is made under (b) of this section.

* Sec. 13. AS 44.83.361 is amended by adding a new subsection to read:

(f) In this section,

(1) "consumer" means a person, as defined in AS 01.10.-060(7), or a governmental agency, if the person or governmental agency requests and offers to pay for electrical service to a facility or part of a facility; the authority shall consider a person who, or a governmental agency that, offers to pay for electrical service to several facilities to be a separate consumer for each facility, if each facility is physically separate from another facility, other than through electric service lines, and if the person or governmental agency requests and offers to pay for electrical service to each facility;

(2) "facility" means a structure capable of receiving and using electrical energy; and

(3) "governmental agency" includes, with respect to the state or federal government or a municipal government, a legislative body, board of regents, administrative body, board, commission, committee, subcommittee, authority, council, agency, public corporation, school board, department, division, bureau, or other subordinate unit, whether advisory or otherwise, of the state, federal, or municipal government.

* Sec. 14. AS 44.83.384(b)(1) is amended to read:

(1) is economically feasible [MEETS THE REVENUE REQUIREMENTS OF AS 44.83.394]; and

* Sec. 15. AS 44.83.384(c) is amended to read:

(c) Notwithstanding (b)(1) of this section and AS 44.83.396 -

sioner of revenue. Interest received on money that is segregated or transferred under this section must be deposited in the general fund.

* Sec. 17. AS 44.83.396(a) is amended to read:

(a) A power project that is acquired or constructed as part of the energy program for Alaska is owned, [BY THE STATE] and shall be administered, by the authority.

* Sec. 18. AS 44.83.396(c) is amended to read:

(c) The authority shall enter into a contract or lease under reasonable terms and conditions to permit the applicant utility to operate the power project when the applicant utility is the only wholesale power customer to be served directly by the power project unless the authority determines a utility making application for a contract or lease to operate a power project is not a qualified utility or is not capable of operating that power project efficiently and in a manner that is consistent with national standards for the industry and with agreements with bondholders.

* Sec. 19. AS 44.83.396(e) is amended to read:

(e) When the authority permits a power project to be operated by a qualified utility under a contract or lease, the authority shall

(1) review and approve the annual budget for the operation and maintenance of the power project; and

(2) assure that the project is being operated efficiently and in a manner that is consistent with national standards for the industry and agreements with bondholders.

* Sec. 20. AS 44.83.398(b)(2) is amended to read:

(2) If, by July 1, 1991 [1986], the legislature has not

44.83.398 [AS 44.83.394 - 44.83.398]. the fund may be used by the authority to provide money for the cost of a power project that is or was either constructed or [AND] owned by the United States government if the requirements of this subsection are met. The provisions of AS 44.83.177 - 44.83.187 do not apply to a power project financed under this subsection. The authority may use money in the fund for the cost of a power project under this subsection if

- (1) the legislature enacts a law approving the project;
- (2) the division of budget and management in the Office of the Governor reviews a feasibility study and a plan of finance for the project and determines that the feasibility study complies with the requirements for a feasibility study submitted under AS 44.83.181(b) and that the plan of finance complies with the requirements for a plan of finance submitted under AS 44.83.181(c); and
- (3) the project meets the other requirements of this chapter.

* Sec. 16. AS 44.83.386 is amended to read:

Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue shall invest the money in the fund in accordance with AS 37.10.070 and 37.10.075. The Department of Revenue shall provide money in the fund to the authority only after costs have been [A COST FOR A PROJECT IS] incurred or amounts in the fund have been otherwise obligated under contracts for the acquisition and construction of a project. Amounts that have been obligated, but for which costs have not yet been incurred, may be segregated by the Department of Revenue or transferred to the authority only with the prior approval or agreement of the commis-

appropriated at least \$5,000,000,000 to the fund, in addition to appropriations to the fund of interest earned on money in the fund, the authority shall, beginning on that date, establish and maintain a separate wholesale power rate applicable to each power project that is acquired or constructed under the energy program for Alaska. The wholesale power rate shall be computed by the authority annually, or more frequently as may be necessary, and shall be the greater of

A) 10 percent of the amount the authority has invested in the power project, including loans and grants made by the state; or

(B) the rate that the authority estimates is necessary to produce revenue sufficient to pay

(i) operation, maintenance, and equipment replacement costs of the power project;

(ii) the power project's proportionate share of debt service on state loans and bonds for all power projects in the energy program for Alaska, determined in accordance with (g) of this section; and

(iii) safety inspections and investigations of the power project by the authority.

* Sec. 21. AS 44.83.398(c) is amended to read:

(c) The authority shall transmit all the money that it receives under (a) of this section to the commissioner of revenue for deposit in the state general fund except for money it has pledged or otherwise covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-HOLDERS].

* Sec. 22. AS 44.83.398(e) is repealed and reenacted to read:

(e) After determining the wholesale power rate for a power project under the provisions of this section, the authority may adjust the rate or change the rate provisions to insure that the revenue derived from that power project and the aggregate revenues of the authority will be adequate to comply with the rate covenants and other agreements contained in any trust indenture or trust agreement entered into by the authority for the security of the holders of bonds issued to finance power projects in the Energy Program for Alaska.

* Sec. 23. AS 44.83.398(h) is amended to read:

(h) Notwithstanding (g) of this section, in the 1983 state fiscal year the proportionate share of debt service under (b) of this section, expressed as a rate, for a power project for which a construction contract has been awarded before the effective date of this Act may not exceed the average debt service component of the wholesale power rate for all power projects in the energy program for Alaska. The limit imposed by this subsection shall be increased in the 1984 state fiscal year to four percent above the average debt service component of the wholesale power rate for all power projects in the energy program for Alaska and by an additional four percent above that average in each succeeding state fiscal year. If application of this subsection results in the production of insufficient revenue to pay the total debt service for all projects in the energy program for Alaska, a project that does not have its share of debt service limited under this subsection shall be subject to a rate in addition to the rate established under (b) of this section. The additional rate is

the rate that the authority estimates is necessary to produce revenue that is sufficient to pay the difference between the total debt service for all projects in the energy program for Alaska and the revenue actually produced to pay that debt service, multiplied by a fraction whose numerator is the total cost of the project and whose denominator is the total cost of all of the projects that are subject to the additional rate. In this subsection, "projects in the energy program for Alaska" does not include an intertie that is authorized as a separate project as described in (f) of this section.

* Sec. 24. AS 44.83.425(2) is amended to read:

(2) "debt service" means the amounts covenanted with respect to, or pledged to pay, bonds under a trust agreement securing [CASH FLOW NECESSARY TO SECURE] bonds;

* Sec. 25. Section 48, ch. 83, SLA 1980 is amended by adding a new subsection to read:

(e) The authorization made by this section for the Terror Lake project includes authorization for the installation of a third generating unit at the project.

* Sec. 26. The Chester Lake hydroelectric project is authorized, and a construction cost of \$13,200,000 is approved, under the provisions of AS 44.83.185(c).

* Sec. 27. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), and 44.83.394 are repealed.

* Sec. 28. This Act takes effect immediately in accordance with AS 01.-10.070(c)."

HOUSE LETTER OF INTENT

For Senate Bill No. 168

The Legislature, in enacting the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost. It is for this purpose that we have amended the "Susitna equity clause."

Substantial equity has been invested in the Energy Program by the State of Alaska and declining state revenues will have an impact on the development of energy projects for other regions of the state. It is the intent of the Legislature that the balance of the financing needed for those projects under construction in the Program be raised by debt financing - thus reserving future revenues for future energy projects throughout the rest of the state. We support the intent of the Alaska Power Authority to go to the bond market in early 1984 for the necessary funds. However, in order to further facilitate the bonding capability of the Power Authority, it is imperative that utilities who will receive wholesale power from Solomon Gulch, Terror Lake, Tyee Lake and Swan Lake sign power sales contracts as soon as possible and no later than January 1, 1984. By taking this action, the utilities served will ensure long-term benefits to their consumers through stable power rates.

The Governor is requested to prepare a plan for providing the necessary equity for future projects in the Energy Program for Alaska. This plan must be constitutionally sound and provide for the proper administrative and Legislative approval for the various projects. This plan shall be submitted to the Legislature no later than January 15, 1984.

It is the intent of the Legislature that the Alaska Power Authority enter negotiations to sell power to the U.S. Borax Company for its proposed mining operation near Ketchikan. If necessary, the power authority should return to the Legislature with proposals for statutory changes that may be needed to implement the negotiated power sale.

It is the intent of the legislature that the language enacted as AS 44.83.092 Authority for Municipalities and Utilities to Enter into Power Sales Contracts is permissive language for the local utilities to enter a power sales contract. This section addresses the essential components of a power sales contract and the legal authority to enter such contracts, not the requirement to enter such a contract or any of its provisions.

It is also understood by the legislature that in AS 44.83.000 (1) that the amounts payable under the contract may be operating expenses of the utility and the determination of this issue can only be found in the local utilities current financing documents.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
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Senate

Committee on Resources

April 20, 1983

Memo

To: Billy Berrier, Director Legal Services
From: Senator Bettye Fahrenkamp
Subject: Request for Legal Review

Attached is a proposed amendment to SB 168 relating to the Alaska Power Administration statutes. I would appreciate your review of this amendment prior to final consideration of the bill on Friday, April 22.

The intent of the amendment is to require APA to secure "take or pay" type contracts prior to any project construction activities. It is the sponsor's intent not to permit the type of "loose" contracts similar to those obtained for the Swan Lake project to satisfy the terms of this amendment.

April 15, 1983

House version

Proposed Amendments , SB 168 (APA)

1) On page 2, section (d), lines 4-13, make the following changes:

"(d) A director of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the director is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association that is a party to the contract or lease. When abstaining from voting, the director must disclose the reason for the abstention. A director who is a member of an electric cooperative which is organized under or subject to the Electric and Telephone Cooperative Act (AS 10.25.010--10.25.650) as provided in that act may vote on a resolution regarding a contract or lease to which the cooperative is a party and shall disclose that membership at the time of voting. A resolution of the authority that is approved by a majority of the directors present who are not barred from voting under this subsection is a valid action of the authority for all purposes."

not in
HB

Rationale

The intent of the amendment is to exempt directors who are customers of electric coops, and therefore by definition part owners, from the conflict of interest prohibition on voting. It is conceivable that a majority of the Board might be coop customers, such as of Chugach Electric Coop in Anchorage, at make Board action on a project such as the Anchorage-Fairbanks Intertie problematic.

done
in
HB

2) On page 4, delete section 6, lines 4-10. That section reads as follows:

Sec. 6. AS 44.83.185(a) is amended to read:

(a) The authority shall submit a feasibility study and plan of finance, including a cost estimate from an independent source, for a proposed new project to the legislature. When the report of the division of budget and management examining the feasibility study and plan of finance is completed as required by AS 44.83.183, it shall be submitted to the legislature.

Rationale

Section 44.83.186 requires an independent cost estimate after the legislature approves a project and allows only a 7.5% increase in costs without having to revise the feasibility study and resubmit the study and the independent estimate to the legislature for reapproval. The APA is currently obtaining independent cost estimates in advance and verifies estimates in-house to avoid coming back to the legislature. The amendment is felt to be redundant and would require unnecessary costs, especially in the case of smaller projects.

not in
HB

3) Page 7, line 1, Sec. 14. "AS 44.83.394 is deleted."

Page 5, before line 28, add the following new section and renumber accordingly:

Sec. 12. AS 44.83.384(b)(1) is amended to read:

"(b) Money in the fund may be used under (a) of this section only for a project that

(1) [meets the revenue requirements of AS 44.83.394] is economically feasible; and "

Rationale

The effect of the Administration's amendment in the bill to 44.83.394 would be to make the project expenditures dependent on an authority's finding that the project is economically feasible. Section 44.83.394(b) addresses the same allowed uses of money in the fund and makes the sections redundant. This amendment would preserve the intent to ensure economical feasibility while eliminating the redundancy.

On page 5, line 29, change "AS 44.83.394--" to "AS 44.83.395--"

This is a conforming amendment to the above change.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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Senate

Committee on Resources

TO: Billy Berrier, Director
Legal Division

FROM: Bettye Fahrenkamp, Chairman
Senate Resources Committee

RE: SB 168, An Act relating to the Alaska Power Authority.

DATE: April 25, 1983

Please draw up in final form a Senate Resources Committee Substitute for SB 168, incorporating the following amendments:

AMENDMENT NO. 1

On page 2, section(d), lines 4-13, make the following changes:

'(d) A director of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the director is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association that is a party to the contract or lease. When abstaining from voting, the director must disclose the reason for the abstention. A director who is a member of an electric cooperative which is organized under or subject to the Electric and Telephone Cooperative Act (AS 10.25.010--10.25.650) as provided in that act may vote on a resolution regarding a contract or lease to which the cooperative is a party and shall disclose that membership at the time of voting. A resolution of the authority that is approved by a majority of the directors present who are not barred from voting under this subsection is a valid action of the authority for all purposes."

AMENDMENT NO. 2

On page 4, following line 10 add the following new section 7 and renumber accordingly:

Sec. 7. AS 44.83.186 is repealed.

Billy Berrier
April 25, 1983
Page 2

AMENDMENT NO. 3

On page 5, before line 28, add the following new section 12 and renumber accordingly:

Sec. 12. AS 44.83.384(b)(1) is amended to read:

(b) Money in the fund may be used under (a) of this section only for a project that

(1) meets the revenue requirements of AS 44.83.394 is economically feasible; and

On page 7, line 1, Sec. 14, Change "AS 44.83.394 is amended to read:" to "AS 44.83.394 is repealed."

On page 5, line 29, change "AS 44.83.394--" to "AS 44.83.395--" to conform.

If you have questions concerning the Committee Substitute, please contact Patrick Pourchot of my staff and return the completed copy of the bill to him in Room 125 Capitol.

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

To: Senator Betty Fahrenkamp

From: Kurt Dzinich, Senior Advisor *KSD*
Senate Advisory Council

Date: June 24, 1983

Subj: SB 168

Per your request, I have reviewed the amendments made to SB 168 by various committees of the House. Following comments are based on HCS CSSB 168 (Fin), dated 6/21/83:

Section 7. Similar bill was passed and vetoed by Governor Hammond last year mainly because it precluded potential cost savings to the State on large projects. Significant amount of evidence indicates that substantial potential savings are possible to the state on large projects. Passage of this section would prohibit the State from even considering the issue on all APA projects, regardless of size or potential savings. I believe that the State should retain the option of providing insurance on large projects (greater than \$50 or \$100 million) if it determines that to be in its best interest.

Section 21. This section allows the utilities which buy power from APA to charge lower rates to industrial customers as long as the resulting residential rates are lower also. It is standard practice to have industrial rates lower than residential rates. (See attached table). It should be noted that AS 44.83.398(a)(1) still requires that utilities give preference to all classes of consumers except industrial consumers.

The existing-rate constraints are not consistent with the legislated goals of the Energy Program for Alaska, i.e. to provide lowest reasonable rates and to enhance economic development - see AS 44.83.010.

As to concern expressed by some that passage of this section would result in building of projects with substantial overcapacity, it should be noted that this issue is now addressed in AS 44.83.177, 181, 183, 185, 382 and 384. These provisions all deal with various aspects of determining the best alternative, the economic feasibility, timing, financing, sizing, etc., and provide more than sufficient constraints and checks for precluding construction of oversized and uneconomical projects.

Section 25. This section clarifies that the original Terror Lake authorization also included the third generating unit. Current project involves the installation of only two units. If this section is approved, APA would still have to determine the best timing for adding the third unit based on load forecasts and develop a plan of finance. I see no problem with this section.

Section 26. This section provides legislative approval for a new project as mandated by AS 44.83.185(c). The problem is that AS 44.83.185(a) has not been complied with yet.

The reason for this section seems to be AS 44.83.185(b) which prevents APA from proceeding with the engineering and design until the legislature approves the project. The APA currently has sufficient funds to proceed with the design of the project. The project is needed and the local community (Metlakatla) has apparently secured a \$5 million REA federal loan.

Rather than approving the project prior to complying with AS 44.83.185(a), I would recommend that the legislature only approve proceeding with the design and that construction may only be initiated after AS 44.83.185(a) and (c) have been complied with.

NEW Section 44.83.092. This section clarifies the fact that APA has the authority to enter into power sales agreements which may contain take-or-pay provisions. I don't see any problem with it as long as the section is permissive rather than mandatory, i.e. may rather than will or must (see second sentence of proposed section).

Above comments are based on my belief that take-or-pay provisions are not necessary as they tend to shift most of the risk to the utilities rather than keeping them with the owner - the state in our case - where they properly belong. I would be willing to go along with take-or-pay provisions only if that is in fact the only way to secure long term revenue bond financing. To date, I remain to be convinced.

Price

Electricity

		Cost of Fossil Fuels Delivered to Steam-Electric Utility Plants				Average Retail Electricity Prices for Privately Owned Utilities ¹				
		Coal	Residual Oil ²	Natural Gas ³	All Fossil Fuels ⁴	Residential	Commercial	Industrial	Other	Total ⁵
		Cents per million Btu				Cents per kilowatt-hour				
1973	AVERAGE	40.5	78.8	33.8	47.5	2.54	2.41	1.25	2.10	1.96
1974	AVERAGE	71.0	191.0	48.1	90.9	3.10	3.04	1.69	2.75	2.49
1975	AVERAGE	81.4	201.4	75.4	103.0	3.31	3.45	2.07	3.08	2.92
1976	AVERAGE	84.8	195.9	103.4	110.4	3.73	3.69	2.21	3.27	3.09
1977	AVERAGE	94.7	220.4	130.0	127.7	4.05	4.09	2.50	3.51	3.42
1978	AVERAGE	111.6	212.3	143.8	139.3	4.31	4.36	2.79	3.62	3.69
1979	AVERAGE	122.4	299.7	175.4	162.1	4.64	4.68	3.05	3.96	3.99
1980	AVERAGE	135.1	427.9	221.4	190.4	5.36	5.48	3.69	4.76	4.73
1981	January	142.7	540.2	245.3	219.2	5.43	5.72	3.94	4.92	4.96
	February	146.3	572.9	260.5	218.2	5.52	5.83	3.95	5.01	4.99
	March	148.3	583.9	264.0	215.0	5.76	6.01	4.04	5.33	5.12
	April	146.9	568.3	273.5	241.9	5.99	6.14	4.07	5.20	5.20
	May	146.7	552.8	282.7	250.6	6.26	6.29	4.16	5.47	5.36
	June	152.7	506.1	286.3	234.6	6.49	6.48	4.36	5.37	5.59
	July	156.5	496.3	288.6	227.5	6.58	6.47	4.48	5.61	5.76
	August	157.0	494.4	291.1	220.2	6.62	6.49	4.49	5.52	5.78
	September	157.2	501.0	286.5	212.3	6.63	6.48	4.49	5.65	5.74
	October	160.2	511.9	300.7	217.7	6.57	6.52	4.40	5.31	5.64
	November	159.1	521.0	300.0	215.1	6.42	6.48	4.46	5.43	5.61
	December	156.7	505.0	291.4	215.5	6.32	6.46	4.56	4.60	5.65
		AVERAGE	153.2	529.4	282.5	222.5	6.20	6.29	4.29	5.28
1982	January	160.8	484.6	301.0	226.5	6.22	6.49	4.66	5.44	5.74
	February	164.1	487.6	310.4	222.2	6.35	6.68	4.70	R5.83	5.84
	March	165.6	470.9	315.8	219.8	6.58	6.79	4.83	6.39	5.97
	April	164.6	478.0	323.5	214.3	6.72	6.82	4.84	5.77	5.99
	May	165.0	486.0	331.6	215.7	6.94	6.86	4.95	5.91	6.09
	June	167.0	479.6	345.8	224.7	7.08	6.94	4.92	6.01	6.18
	July	164.4	468.9	356.2	237.6	7.18	6.98	5.12	6.13	6.38
	August	164.7	458.1	355.7	227.6	7.22	6.91	5.14	6.09	6.40
	September	165.9	464.4	358.5	226.9	7.18	6.97	5.25	6.07	6.41
	October	164.7	479.3	360.4	219.9	7.21	7.09	5.09	5.81	6.33
	November	165.2	489.6	351.5	217.9	6.94	7.04	4.88	5.69	6.14
	December	162.8	453.6	355.6	216.5	6.71	6.78	5.01	5.85	6.11
		AVERAGE	164.6	475.1	340.7	222.4	6.86	6.86	4.95	5.92
1983	January	166.7	444.0	346.9	214.6	6.65	6.78	5.03	5.91	6.13
	February†	NA	NA	NA	NA	6.73	6.86	4.96	5.97	6.12

Geographic coverage: Fossil Fuels—the lower 48 States and the District of Columbia. Electricity—the 50 United States and the District of Columbia.

¹The 1973 through 1979 data are for Classes A and B privately owned electric utilities only. The 1980 and forward data are for selected Class A utilities whose electric operating revenues were \$100 million or more during the previous year.

²See Note B on the last two pages of this section.

³Includes small quantities of coke oven gas, refinery gas, and blast furnace gas.

⁴Average price for total sales to ultimate consumers.

⁵Includes a major adjustment by one utility.

†Preliminary data. R=Revised data. NA=Not available.

Sources: • See the last two pages of this section.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.

Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section 23 -- This section provides for an immediate effective date.

Sincerely,



Bill Sheffield
Governor

The amendments proposed in SB 168 would change the existing law affecting the Alaska Power Authority in three areas: (1) financing (Sections 3-7 and Sections 13-23), (2) other programs (Sections 8-12), and (3) administration (Sections 1 and 2). The financing provisions are the most important of the amendments proposed.

Financing Amendments

Some of the most critical amendments regarding financing contained in SB 168 (Sections 18, 19, 21 and 22) focus on AS 44.83.398. That provision of the Energy Program for Alaska legislation was most affected by HB 9 last year, and most specifically addresses the calculation of the wholesale power rates applicable to power sold from the Authority's projects.

Section 18 would amend subsection (c) of the statute to clarify that covenants as well as pledges can control the disposition of power sales revenues when those covenants are entered into in order to secure bonds. As a technical matter, distinctions can arise between covenants and pledges.

Section 19 redrafts existing subsection (e) of the statute in order to clarify that the wholesale power rate applied to a project's power will be sufficient to support the debt service costs (i.e., the rate covenants and other agreements) contained in trust indentures securing bonds issued to finance power

projects. Present law restricts the wholesale power rate calculation to the calculus contained in the statute and may limit the ability of the Authority to adjust rates in order to satisfy the indenture provisions. Inasmuch as the Energy Program for Alaska is not a static program and new projects may be brought in, the setting of the rate for power sales must be sufficiently flexible to cover debt service and yet sufficiently clear to insure that the intentions of the Energy Program for Alaska are met.

Section 21 redefines "debt service" in order to clarify the scope of what that term, especially as the term is used in the calculation of the wholesale power rate, includes. Advisors to the Authority have suggested that it is wise to make manifestly clear that debt service can include not only repayments of principal and interest, but also coverage requirements, fund replenishment requirements, and the like.

Section 22 repeals three sections, the most critical repealer being the deletion of the so called "blackmail" clause. As you know, the blackmail clause was enacted under different economic circumstances, and is now no longer relevant and indeed is primarily negative in its affect. The blackmail clause requires that if after July 1, 1986 \$5 billion has not been appropriated to the Power Development Fund, then the wholesale

power rate will be the greater of the wholesale power rate as normally determined or (as is more likely to be the case) 10% per annum of all the investments made in projects within the Energy Program for Alaska. This potentially high rate is troublesome to purchasers entering into power sales contracts, and is troublesome to bondholders and underwriters who might see the potential for very high rates as a threat to the ability of purchasers to even pay for the power they have purchased. Moreover, the blackmail clause has been challenged as unconstitutional in the Trustees for Alaska lawsuit, and this repeal would moot that claim.

Other financing sections, which we submit are critical, are:

(a) Section 13 amends AS 44.83.386 so that bondholders will be assured that money which has been appropriated for a project which is being partially financed by bond proceeds may be segregated by the Commissioner of Revenue or transferred to the Authority before costs (i.e., construction costs) are in fact incurred. This amendment meets the bondholders' concern that a project which is being partially debt-financed will not be left partially constructed due to withdrawal of appropriated moneys otherwise designated for

that project. The Commissioner of Revenue is, nevertheless, left with the ~~option~~ option to segregate or transfer that money.

(b) Section 15 clarifies that the Authority, which is an entity of the State, owns projects which it acquires or constructs. This is necessary in order to assure the Authority's ability to pledge identifiable assets and receipts from projects to secure bonds.

The remaining financing sections provide:

(a) Section 3 would amend the mandate in AS 44.83.105 to issue revenue bonds if appropriations are insufficient for a project to permission to issue revenue bonds. A mandate to issue bonds might be hollow if the market would not accept the issue or if the rates were so high as to make the issuance unfeasible. The amendment would also permit (but not mandate) revenue bonds to be secured by revenue from sources other than projects under the Energy Program for Alaska. The amendment does not change the prerequisite of establishing that cheaper sources of fund are unavailable prior to issuance of the revenue bonds.

(b) Existing law contains potential inconsistencies between the requirements for bond issuances generally and bonds issued under the Energy Program for Alaska. Section 4 makes the two sets of requirements more consistent by modifying AS 44.03.110(b). The modification also expands the list of types of instruments which contain covenants to secure bonds.

(c) In Section 5, the minor modification proposed is intended to clarify for bankruptcy purposes the nature of a pledge made in respect of bonds.

(d) Section 6 introduces a requirement that plans of finance include a cost estimate from an independent source.

(e) Section 7 meshes conflicting provisions (like those remedied in proposed Section 4). The change modifies an existing provision of law to recognize that contracts entered into under the Energy Program for Alaska legislation may require some different elements than those otherwise entered into.

(f) Section 14 of the bill deletes an ambiguous rate of return analysis for project feasibility (i.e., that operation of a project should be able to provide a return annually to the State of 5% of the amount the Authority has spent from the fund for that project). The bill as amended would still retain the "economic feasibility" test for projects.

(g) Sections 16 and 17 amend existing provisions relating to operation of power projects under the Energy Program for Alaska. The operator must be one complying with national standards for the industry, and must perform in a manner consistent with operating covenants in bond indentures.

(h) Section 20 is a technical amendment to existing law to recognize, pursuant to legislative intent, the difference between interties and production projects for purposes of calculating wholesale power rates.

(i) Section 22, which provides for the deletion of the blackmail clause, also provides for the deletion of two other subsections. AS 44.83.195(b), requiring rate reductions at the expiration of contracts, would be repealed

because such a reduction would conflict with the pooling-of-costs concept embodied in the Energy Program for Alaska. AS 44.83.382(b)(2), which states what the Power Development Fund includes, is repealed because the prohibition against dedicated funds already requires that power sales receipts not pledged to a particular debt service fund must go to the General Fund and be appropriated in any event.

Other Programs

Sections 8-11 of the bill modify existing provisions relating to the Rural Electrification Revolving Loan Fund Program. Sections 8 and 9 are offered in order to moot a claim raised in the Trustees for Alaska lawsuit -- that is, that interest earnings on appropriations must be returned to the General Fund unless the interest itself is appropriated. Sections 10 and 11 clarify, through an amendment and some definitions, provisions which, during the operation of the loan program, have been perceived as problems. Section 12 amends existing law to clarify that, as in the Bradley Lake situation, a project owned by the United States for which the Authority spends money need not continue to be owned by the United States in order for those expenditures to be valid. The amendment only clarifies what must have been the previous legislative intent.

Administration

Section 1 would provide that action taken by a majority of the members of a quorum of the Board, whatever the size of that quorum, is valid. Presently, law requires that three Board members, even if those same three comprise the quorum, must vote in favor of an action for that action to be valid. Such a provision requires unanimity in those instances where only three Board members are present. Section 2 permits the Board of the Authority to conduct official business using electronic media such as telephones. This approach has been taken by the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority. Given the distances and the conflicting demands on the time of the Board members, this proposal has merit. The proposal in Section 2 would also permit a member of the Board who has connections with a party to a lease or contract being presented to the Board to abstain from a vote. This approach is consistent with the approach pending before the Legislature in HB 20 and in other ethics provisions currently before the Legislature. The absence of this provision would, under an Attorney General's opinion rendered to the Authority, prevent an entity with a relationship to a Board member from even being considered by the Board despite the abstention by the Board member.

Alaska State Legislature

Advisory Council Members
Senator Kerttula, Chairman
Senator Bennett
Senator Vic Fischer
Senator Fahrenkamp



Pouch V
State Capital
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Fahrenkamp
Alaska State Legislature

FROM: Kurt S. Dzinich *KSD*
Senior Advisor
Senate Advisory Council

SUBJECT: Senate Bill 168

DATE: March 17, 1983

In response to your request, attached is a review of SB168. While the overall impact will be positive on the energy program for Alaska, I have taken issue with a few of the proposed sections and have noted so on the attached document.

The most significant change proposed is contained in item (3) of Section 22. This item proposes to eliminate AS 44.83.398(b)(2), known more affectionately as the Susitna blackmail clause. Most of the rest of the proposed changes would improve the energy program by allowing APA to obtain long-term bonding and by clarifying some of the existing ambiguities in the statutes. I would recommend passage except as noted.

KSD;ial
Attachment

SENATE BILL 168

The effect of SB 168, by section, is as follows:

- Section 1. Clarifies the language of the statute by requiring that affirmative votes consist of the majority of the directors present.
- Section 2. Allows for meetings by electronic media. In the long run, this would decrease travel costs and time waste while allowing the APA Board to meet on short notice and despite climatic travel constraints. Subsection (d) is worthwhile in that it prevents directors from voting on leases or contracts if they have a conflict of interest. However, if a director receives his electricity from a CO-OP, he would probably be ruled to have a conflict of interest since all CO-OP customers are owners of the utility.
- Section 3. Essentially makes it permissive rather than mandatory for APA to issue bonds and further clarifies the language of the statute and should be approved.
- Section 4. Provides for consistency between statutes and is therefore desirable.
- Section 5. Provides for conformity with other pertinent statutes and should be approved.

- Section 6. Provides for an independent cost estimate to be submitted with the feasibility study and a plan of finance. I believe that this section is redundant in view of 44.83.186, which requires an independent cost estimate after the legislature approves a project and allows for only a 7.5% increase before the project has to be recycled by the APA and reauthorized by the legislature. As a matter of policy, the APA has been obtaining independent cost estimates since last year and has hired an in-house estimator to provide further verification of cost estimates. The proposed procedure would further increase the cost of the studies especially since this section would apply to large and small projects equally. Recommend against passage of this section.
- Section 7. Adds a requirement for sale contracts for transmission of electricity. The use of the term electrical power or energy is redundant. The section further clarifies that the contracts must be in compliance of AS 44.83.380 - 44.83.425 or AS 44.83.090.
- Sections 8&9. Insure that AS 44.83.361 does not violate the Alaska Constitution as alleged in a pending lawsuit.
- Sections 10 & 11. Clarify the provisions of existing statutes on the Rural Electrification Revolving Loan Fund program without making substantial changes to it.
- Section 12. Clarifies the existing statute on the use of the fund for federally owned projects.
- Section 13. Modifies the existing statute to allow APA to market bonds.
- Section 14. If the section is amended as proposed, the requirements for using the fund will be economic feasibility. This redundant in that 44.83.384 specifies the conditions under which the fund may be used while 44.83.398 specifies in great detail the sale of power and revenue requirements. Recommend that this section be totally deleted and 44.83.384(b) (1) changed to read is economically feasible. The reference to .394 in subsection .384(c) should also be deleted.
- Section 15. Provides for ownership of projects by the authority rather than the state and should make it easier to market bonds.
- Section 16. Provides for use of national and industrial standards in the APA's determination of whether a utility is qualified to operate a power project owned by APA.

Section 17 &
18.

Assure that power projects are operated in a manner consistent with the bonding agreements.

Section 19.

Allows APA to adjust the wholesale power rates to meet bonding requirements while still complying with the statutes on rate setting.

Section 20.

Clarifies that interties are not covered under the energy program for Alaska in the rate setting subsection. This clarifies the intent desired by the legislature when it passed HB9 last year.

Section 21.

Clarifies the definition of debt service thereby making it easier to secure bonds.

Section 22.

(1) Repeal of AS 44.83.195(b) is necessary in order to align it with other rate making provisions of the statutes.

(2) Repeal of AS 44.83.382(b) (2) is required because any unencumbered revenues must go into the general fund.

(3) Repeal of AS 44.83.398(b) (2) is desirable for two reasons. First, in a pending lawsuit *Trustee of Alaska v. State*, the constitutionality of this section is being challenged. Second, this section could result in a substantial increase in APA wholesale rates if the legislature does not appropriate a total of \$5 billion by July 1, 1986, into the power development fund. Since it appears almost certain that this level of appropriation can not be achieved, APA is experiencing problems in negotiating power sales contracts. Since providing lowest reasonable cost energy is the mandated goal of the program, it makes sense to minimize uncertainty and maximize marketability.

Recommend repeal of all three items.

Section 23.

Provides for an immediate effective date.

SENATE BILL 168 (Resources c.s.)

The effect of SB 168, by section, is as follows:

- Section 1. Clarifies the language of the statute by requiring that affirmative votes consist of the majority of the directors present.
- Section 2. Allows for meetings by electronic media. In the long run, this would decrease travel costs and time waste while allowing the APA Board to meet on short notice and despite climatic travel constraints.
Prevents directors from voting on leases or contracts if they have a conflict of interest, but exempts directors who are customers of electric coops, and therefore by definition part owners.
- Section 3. Essentially makes it permissive rather than mandatory for APA to issue bonds and further clarifies the language of the statute and should be approved.
- Section 4. Provides for consistency between statutes and is therefore desirable.
- Section 5. Provides for conformity with other pertinent statutes and should be approved.

Section 6.

Provides for an independent cost estimate with the feasibility study and a plan of finance. I believe that this section is redundant in view of 44.83.186, which requires an independent cost estimate after the legislature approves a project and allows for only a 7.5% increase before the project has to be recycled by the APA and reauthorized by the legislature. As a matter of policy, the APA has been obtaining independent cost estimates since last year and has hired an in-house estimator to provide further verification of cost estimates. The proposed procedure would further increase the cost of the studies especially since this section would apply to large and small projects equally. Recommend against passage of this section.

Section 7

Adds a requirement for sale contracts for transmission of electricity. The use of the term electrical power or energy is redundant. The section further clarifies that the contracts must be in compliance of AS 44.83.380 - 44.83.425 or AS 44.83.090.

Sections 8⁴9.

Insure that AS 44.83.361 does not violate the Alaska Constitution as alleged in a pending lawsuit.

Sections 10⁴

11.

Clarify the provisions of existing statutes on the Rural Electrification Revolving Loan Fund program without making substantial changes to it.

Section 12

Section 14 makes a project's expenditures dependent on a finding that the project is economically feasible. This section removes the redundancy under current statute, preserving the intent to ensure economic feasibility while eliminating the criteria in 2 places in the statutes.

Section 13

Clarifies the existing statute on the use of the fund for federally owned projects.

Section 14

Modifies the existing statute to allow APA to market bonds.

Section 15.

If the section is amended as proposed, the requirements for using the fund will be economic feasibility. This redundant in that 44.83.384 specifies the conditions under which the fund may be used while 44.83.398 specifies in great detail the sale of power and revenue requirements. Recommend that this section be totally deleted and 44.83.384(b)(1) changed to read is economically feasible. The reference to .394 in subsection .384(c) should also be deleted.

Section 16

Provides for ownership of projects by the authority rather than the state and should make it easier to market bonds.

Section 17

Provides for use of national and industrial standards in the APA's determination of whether a utility is qualified to operate a power project owned by APA.

Section 18

19

Assure that power projects are operated in a manner consistent with the bonding agreements.

Section 20

Allows APA to adjust the wholesale power rates to meet bonding requirements while still complying with the statutes on rate setting.

Section 21

Clarifies that interties are not covered under the energy program for Alaska in the rate setting subsection. This clarifies the intent desired by the legislature when it passed HB9 last year.

Section 22

Clarifies the definition of debt service thereby making it easier to secure bonds.

Section 23

(1) Repeal of AS 44.83.195(b) is necessary in order to align it with other rate making provisions of the statutes.

(2) Repeal of AS 44.83.382(b) (2) is required because any unencumbered revenues must go into the general fund.

(3) Repeal of AS 44.83.398(b) (2) is desirable for two reasons. First, in a pending lawsuit *Trustee of Alaska v. State*, the constitutionality of this section is being challenged. Second, this section could result in a substantial increase in APA wholesale rates if the legislature does not appropriate a total of \$5 billion by July 1, 1986, into the power development fund. Since it appears almost certain that this level of appropriation can not be achieved, APA is experiencing problems in negotiating power sales contracts. Since providing lowest reasonable cost energy is the mandated goal of the program, it makes sense to minimize uncertainty and maximize marketability.

Repeal of AS 44.83.186. An additional requirement of an independent cost estimate immediately following project approval would serve no useful purpose and would involve additional costs. (An independent cost estimate is already required prior to submittal to the legislature for approval.)

Section 24

Provides for an immediate effective date.



Official Business

Alaska State Legislature

Senate Resources Committee

all adopted
by senate
Resources
Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 20, 1983

AMENDMENT NO. 1

On page 2, section(d), lines 4-13, make the following changes:

"(d) A director of the authority may not vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if the director is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation, or association that is a party to the contract or lease. When abstaining from voting, the director must disclose the reason for the abstention. A director who is a member of an electric cooperative which is organized under or subject to the Electric and Telephone Cooperative Act (AS 10.25.010--10.25.650) as provided in that act may vote on a resolution regarding a contract or lease to which the cooperative is a party and shall disclose that membership at the time of voting. A resolution of the authority that is approved by a majority of the directors present who are not barred from voting under this subsection is a valid action of the authority for all purposes."

Rationale

The intent of the amendment is to exempt directors who are customers of electric coops, and therefore by definition part owners, from the conflict of interest prohibition on voting. It is conceivable that a majority of the Board might be coop customers, such as Chugach Electric Coop in Anchorage, and make Board action on a project such as the Anchorage-Fairbanks Intertie problematic.

AMENDMENT NO. 2

On page 4, following line 10 add the following new section 7 and renumber accordingly:

Sec. 7. AS 44.83.186 is repealed.

Rationale

Section 6 of the bill amends 44.83.185 to require an independent cost estimate of a project prior to submittal to the legislature for approval. Section 44.83.186 was passed last year with the same intent. It requires an independent cost estimate following legislative approval and resubmittal if the estimate comes in higher than 7½% over the legislatively approved figure. Assuming that a prior independent cost estimate best serves the legislature's objective of acting on the best possible information regarding a project's "true" costs, an additional requirement of an independent estimate immediately following approval appears to serve no useful purpose and certainly would involve additional costs. Of course, neither requirement prevents possible cost-overruns several years down the road.

SB 168, APA

AMENDMENT NO. 3

On page 5, before line 28, add the following new section 12 and renumber accordingly:

Sec. 12. AS 44.83.384(b)(1) is amended to read:

(b) Money in the fund may be used under (a) of this section only for a project that

(1) meets the revenue requirements of AS 44.83.394 is economically feasible; and

On page 7, line 1, Sec. 14, Change "AS 44.83.394 is amended to read:" to "AS 44.83.394 is repealed."

On page 5, line 29, change "AS 44.83.394--" to "AS 44.83.395--" to conform.

Rationale

Sec. 14 as stated in the bill would amend AS 44.83.394 to make a project expenditures dependent on an authority's finding that the project is economically feasible. Section 44.83.384(b) addresses the same allowed uses of money in the fund and makes the sections redundant. This amendment would preserve the intent to ensure economic feasibility while eliminating the criteria in two places in the statutes.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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Senate

Committee on Resources

MINUTES

April 22, 1983
3:10 p.m.

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chair	Senator V. Fischer
Senator Ziegler, Vice Chair	Senator Mulcahy
Senator Eliason	Senator Sturgulewski
Senator P. Fischer	

CALENDAR

- HJR 38 Relating to marketing and transporting Alaska's natural gas

- SJR 12 Opposing the extension of the provisions of the Export Administration Act of 1979 that effectively bans the export of Alaska North Slope Oil.

- HB 151 An Act making a special appropriation to the Department of Natural Resources, division of parks, for acquisition and development of the House of Wickersham in Juneau; and providing for an effective date.

- SB 222 An Act relating to the organization of the Department of Natural Resources, substituting references in the Alaska Statutes to the department and the commissioner for references to the division of lands and the director of the division of lands.

- SB 181 An Act making supplemental appropriation to the Department of Natural Resources for land deficiency entitlements; and providing for an effective date.

- SB 233 An Act enacting the Northwest Interstate Compact on Low-level Radioactive Waste Management; and providing for an effective date.

SB 168 An Act relating to the Alaska Power Authority; and providing for an effective date.

HJR 38

Representative Cowdery, sponsor of the measure, felt the measure was needed to back the Reagan administration's efforts to establish a free market.

Harold Moles, Vice President for Alaskan Operations, Northwest Alaskan Pipeline Company, felt the resolution should not be passed at the risk of delaying or harming the gas pipeline project.

Jer McCutcheon supported passing the resolution, but felt it was not in Alaska's best interest.

Senator V. Fischer asked if the Administration had a position on the resolution. Senator Fahrenkamp said they had been invited to speak, but had expressed no interest.

Senator Fahrenkamp felt that the Budget & Audit Committee hearings scheduled to be held over the weekend might provide useful information for the committee, and so held the bill over.

SJR 12

Jim Palmer, Joint Oil & Gas Committee Aide, explained that the resolution calls for our Congressional delegation to do everything possible to remove the ban on export of Alaskan oil when the Export Administration Act is considered later this year.

Senator Sturgulewski moved to report out SJR 12 with individual recommendations. Motion passed without objection.

CSHB 151

Representative Mike Miller of Juneau, co-sponsor of the legislation, explained the necessity to acquire the Wickersham collection before it is dispersed. There was discussion of exactly how the appropriation could be used.

Senator V. Fischer moved to adopt the committee substitute, including the letter of intent, and to report the bill out with individual recommendations. Motion passed without objection.

SB 222

Sharon Barton, special assistant to the Commissioner of the Department of Natural Resources, explained that the bill is a "housekeeping" measure and endorsed its passage.

Senator Sturgulewski moved that the bill be brought before the committee, and moved Barton's first recommended amendment. Motion passed without objection.

Barton continued to offer suggested amendments. Senator Fahrenkamp asked that the amendments be prepared in writing for the committee's consideration, and held the bill over until those could be received and until the statute revisor's opinion could be asked.

SB 181

Rav Mann, Property Management Officer for the Municipality of Anchorage, gave a history of the Municipality's efforts to obtain its land entitlement.

There was discussion of whether the Municipality would take a \$5 million settlement as provided in statutes, or if it would continue to approach the legislature for additional funds or land.

Jane Anvik, Municipality of Anchorage Assembly Member, felt it was not in Anchorage's best interest to accept a full cash settlement at this time if that would preclude any efforts to seek amendments to the entitlement provisions.

Bill was held over.

SB 233

Stan Hungerford, Air & Solid Waste Management Section, Department of Environmental Conservation, and T.R. Strong, Head of the Radiation Control Section for the State of Washington, spoke in support of SB 233 and explained how it would be beneficial to Alaska to become a member of the Northwest Interstate Compact.

Senator Mulcahy moved to report out the bill with individual recommendations. The motion passed without objection.

SB 168

Sterling Gallagher, Vice President of John Naveen & Co., supported SB 168, and the first three proposed amendments.

Commissioner Dick Lvon, Department of Commerce & Economic Development, supported the bill and the amendments and urged early passage of the measure.

There was discussion of the fourth amendment offered by Senator V. Fischer, who said he preferred not to move his amendment.

Dave Hutchens, Alaska Rural Electrical Cooperative Association, supported the bill and the three amendments.

Senator Mulcahy moved the amendment . Senator V. Fischer asked that the question be divided. On the question, each amendment passed without objection.

Senator Mulcahy moved that the Resources committee substitute for SB 168, including the three amendments, be reported out with individual recommendations. The motion passed without objection.

The meeting was adjourned at 4:45 p.m.

HOUSE LETTER OF INTENT

House CS for CS for Senate Bill No: 168 (Resources)

The Legislature, in enacting the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost. It is for this purpose that we have amended the "Susitna equity clause."

Substantial equity has been invested in the Energy Program by the State of Alaska and declining state revenues will have an impact on the development of energy projects for other regions of the state. It is the intent of the Legislature that the balance of the financing needed for those projects under construction in the Program be raised by debt financing - thus reserving future revenues for future energy projects throughout the rest of the state. We support the intent of the Alaska Power Authority to go to the bond market in early 1984 for the necessary funds. However, in order to further facilitate the bonding capability of the Power Authority, it is imperative that utilities who will receive wholesale power from Solomon Gulch, Terror Lake, Tyee Lake and Swan Lake sign power sales contracts as soon as possible and no later than January 1, 1984. By taking this action, the utilities served will ensure long-term benefits to their consumers through stable power rates.

The Governor is requested to prepare a plan for providing the necessary equity for future projects in the Energy Program for Alaska. This plan must be constitutionally sound and provide for the proper administrative and Legislative approval for the various projects. This plan shall be submitted to the Legislature no later than January 15, 1984.

A M E N D M E N T

Offered in the HOUSE

BY:

To: HCS CSSB 168 (Res)

Page 9, line 22: following the word "with",

insert the

Page 9, line 25: delete all material, and insert

finance power projects in the Energy Program for Alaska.