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HOUSE COMMITTEE REPORT

(7)

Date referred: 4/10/87

FURTHER REFERRALS: Finance

DATE: 5/5/87

The Labor & Commerce Committee has considered CSSB 64(R1s) am

"An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

RECOMMENDS:

- replace with HCSSB 64 (L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

D.A. Brubaker
Clyde Davidson
Bill Korman
David Jolley
A. Ellis

SIGNING OTHER RECOMMENDATIONS:

W. Funnace NO REC
Scott M... NO REC


Chairman's signature

Alaska State Legislature
Representative Niilo Koponen

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542 4th Avenue, Suite C
Fairbanks, Alaska 99701
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MEMORANDUM

TO: HOUSE LABOR & COMMERCE SUBCOMMITTEE
FROM: REPRESENTATIVE NIILLO KOPONEN 
DATE: 5 MAY 1987
RE: Amendment to CSSB 64 (Rules) am

I suggest the following amendment, by insertion into Section 39 of the bill:

(2) "business enterprise" means a single proprietorship, corporation, cooperative, firm, partnership, or other association of persons organized in any manner, for any creditworthy business purpose [OTHER THAN ON A NONPROFIT BASIS];

An Analysis of CSSB 64 (Finance)

This memorandum analyzes CS for Senate Bill No. 64 (Finance) "An Act relating to the Alaska Industrial Development and Export Authority; and providing for an effective date."

The legislation would accomplish three main objectives.

1. Creating an export financing program as a major focus of the Alaska Industrial Development and Export Authority (previously called "AIDA" and hereafter called "AIDEA");
2. Emphasizing small business enterprises in the AIDEA statutes; and
3. Providing a mechanism for infrastructure development in certain cases with no financial risk to the State of Alaska.

These are the key parts of the bill. Additionally, throughout legislative consideration of this bill, one other issue has been discussed - at what point should the Legislature be required to approve AIDEA participation in certain types of projects on an equity basis? CSSB 54 (L & C) placed this point at \$50 million, CSSB 64 (IT) required legislative approval for any project, while CSSB 64 (Finance) places the line at \$10 million. It is the strong feeling of the administration that AIDEA could effectively do its work on any of the proposed scenarios, but that overall economic development efforts for the state would be seriously hampered if the bill were to become stalled over a point.

A sectional analysis follows:

SECTION 1 amends the statutory section (AS 44.88.010) setting forth legislative findings and policy with respect to AIDEA. It inserts references to "export small business" enterprises throughout the section to give emphasis to these types of enterprises as the target of AIDEA's financing assistance. It also inserts four new paragraphs of findings (on pages 1 and 2 of the bill) relating to the importance to the state's economy of expanding and facilitating financing for export businesses in Alaska.

On page 3 of the legislation (still a part of Section 1), new language provides a finding that it is in the public interest to encourage export activities by providing financial assistance for such activities in cooperation with federal, state and private institutions. This new language also provides a finding that it is in the public's interest to give AIDEA the power to acquire ownership interests in certain types of projects and to issue taxable, as well as tax exempt, bonds to accomplish its statutory purposes.

SECTION 2 adds a new subsection to the findings and policies section (AS 44.88.010). The new subsection finds it to be a policy of the state and a public purpose to provide financial support, in cooperation with federal, state and private institutions, to increase the export of Alaska goods, entrepreneurial talent, raw materials, and services.

SECTION 3 creates a new statutory section (AS 44.88.060). This new statutory section creates the AIDEA revolving fund. The intent is to create a single fund into which all of AIDEA's assets will be deposited. Within the revolving fund, there will be the economic development account, the enterprise development account, and a number of other accounts. There are provisions later in the legislation defining AIDEA's ability to use assets of these various accounts. The revolving fund is created as a revolving fund so that payments on loans purchased or held by AIDEA in the fund can remain there and be used for AIDEA's purposes without necessitating an annual legislative appropriation.

SECTION 4 relates to the statement of AIDEA's purposes and contains provisions substantially similar to those described with respect to SECTION 1; that is, it adds references to export and small business enterprises in connection with AIDEA's purposes, and it adds new paragraphs which contain statements of AIDEA's purpose with respect to exporting transactions (such as to foster the expansion of Alaskan exports, to cooperate with other organizations for that purpose, to provide a source of guarantees, and so on). This amendment also (in paragraph (2) on page 5 of legislation) provides a reference to the statute which specifies the types of projects in which AIDEA may take an ownership interest.

SECTION 5 amends AIDEA's general powers (AS 44.88.080) by inserting language to clarify that AIDEA's power to issue bonds includes the power to incur debt generally.

SECTION 6 also amends the general powers section; it adds new powers relating to financing and assisting export transactions, including the power to participate with other programs pertaining to the exportation of Alaskan goods, services or raw materials, the power to provide export finance training to its staff, the power to coordinate with various, federal programs, and the power to guarantee loans to qualified exporters. This section also adds, as a general statement of AIDEA's powers, the power to provide financing assistance for small business enterprises.

SECTION 7 amends AIDEA's administrative procedure statutory section (AS 44.88.085). This amendment is a new technical, clean up matter reflecting the addition of new powers and purposes for AIDEA and, therefore, the need to adopt regulations in addition to those currently referenced in (b) - (e) of AS 44.88.085.

SECTION 8 repeals and reenacts AS 44.88.085(c). Generally speaking, this part of AIDEA's statutes is intended simply to establish a procedure for the adoption by AIDEA of its regulations. The current provisions of AS 44.88.085(c) include both a general power to adopt regulations and an express duty to adopt regulations with respect to certain matters. In SECTION 12 of the legislation (to be discussed below), additional matters are set forth with respect to which AIDEA will have an express duty to adopt regulations. The repeal and reenactment of AS 44.88.085(c) in this section of the legislation is necessary to preserve the general power to adopt regulations while also moving the statement of matters as to which AIDEA must adopt regulations to the same part of the statute as those matters described in SECTION 12.

SECTION 9 makes the same changes to AS 44.88.085(d) as those made to AS 44.88.085(a) under SECTION 7 (described above).

SECTION 10 makes the same changes to AS 44.88.085(e) as described in SECTION 9.

SECTION 11 makes the same changes to AS 44.88.085(f) as described in SECTION 9 and also makes a minor drafting style correction.

SECTION 12 (beginning on page 9 of the legislation) creates a new subsection (g) to AS 44.88.085. This new subsection contains those matters (referred to in connection with SECTION 8 above) as to which AIDEA must adopt regulations under the current provisions of AS 44.88.085(c).

SECTION 12 also creates a new subsection (h). Subsection (h) directs AIDEA to adopt certain regulations in connection with its program for encouraging the export of Alaska goods, services, and raw materials. These regulations must establish criteria for eligibility of exporters under the program, set forth equity and collateral requirements, and include other similar matters.

SECTION 13 amends AIDEA's statutory section pertaining to the issuance of bonds (AS 44.88.090). The changes made to AS 44.88.090(a) by this section are intended to set forth clearly that AIDEA's bond issuance powers also extend to the issuance of bonds for AIDEA's development project financing. The term "development project" is defined later in the legislation and contemplates those projects into which AIDEA may take an ownership interest.

SECTION 14 repeals and reenacts AS 44.88.090(e). The reason for the repeal and reenactment is to reorganize the subsection into a clearer form. Otherwise, the changes made in that subsection are only for the purpose of making it clear that AIDEA's bond issuing power extends to its export financing program and development project program, as stated above, with respect to SECTION 13.

SECTION 15 makes the same amendment to AS 44.88.090(g) as described with respect to SECTION 14.

SECTION 16 makes the same amendment to AS 44.88.090(h) as described with respect to SECTION 14.

SECTION 17 amends the statutory section authorizing AIDEA to enter into agreements with trustees (AS 44.88.100). Again, the changes are intended to make it clear that AIDEA's power to enter into agreements with trustees applies to its programs for export and development project financing.

SECTION 18 amends AIDEA's capital reserve fund statute (AS 44.88.105). The capital reserve fund created in AS 44.88.105 can be used by AIDEA to secure its bonds, but there are some limitations on that use. One of the limitations is the requirement in AS 44.88.105(f) that at least 20% of the principal amount of a loan be retained by the originating institution. The amendment makes it clear that this limitation applies to bonds issued under the export program.

SECTION 19 amends the statute that contains the state's pledge not to limit or alter AIDEA's power to fulfill contracts it enters into with bondholders and federal agencies. The amendment makes it clear that this pledge applies also with respect to export and development project financing. The amendment also contains some minor drafting style corrections.

SECTION 20 amends the statute that exempts AIDEA's property from local taxation (AS 44.88.140). The amendment again is for clarification purposes, the intent being to make it clear that the provisions of this statute apply also to development projects financed by AIDEA. The amendment contains a few minor drafting style corrections. Provisions have also been made for AIDEA to report annually to the Governor and the Legislature the extent of holdings the authority has which are tax exempt.

SECTION 21 amends the statutory section which created the enterprise development fund (AS 44.88.155). The amendment turns the "fund" into an "account" within the revolving fund created in SECTION 3 (as discussed earlier).

SECTION 22 amends AS 44.88.155(b) to reflect the change described in SECTION 21.

SECTION 23 amends AS 44.88.155(c) to reflect the change described in SECTION 21. In addition, the amendment made in this section contains a minor drafting style correction.

SECTION 24 amends AS 44.88.155(d) to provide that the various loan limitations set forth in this subsection apply only to loans financed with assets of the enterprise development account.

SECTION 25 amends AS 44.88.155(e) to reflect the change described in SECTION 21 and to make a minor drafting style correction.

SECTION 26 amends AS 44.88.155(f) to reflect the change described in SECTION 21. This amendment also adds language at the end of that subsection to make it clear that AIDEA may pledge assets of the enterprise development account only to secure bonds issued for the financing of "projects," a term which is defined in AS 44.88.220. Accordingly, bonds issued for the financing of development projects and exporting transactions cannot be secured by pledges of the assets of the enterprise development account.

SECTION 27 amends AS 44.88.155 by adding a new subsection (h) to make it clear that the provisions of that section (and, thus, the provisions relating to the enterprise development account) apply only with respect to loans purchased for "projects" under AS 44.88.155 - 44.88.159.

SECTION 28 amends the statute that creates AIDEA's loan insurance account (AS 44.88.157). The amendment takes the loan insurance account out of the enterprise development fund and puts it in the revolving fund. The amendment also limits the application of the loan insurance account to the financing of projects under AS 44.88.155.

SECTION 29 amends AS 44.88.157(b) to conform to the amendment described in SECTION 28 which limits the application of the loan insurance account to the financing of projects under AS 44.88.155.

SECTION 30 amends AS 44.88.157(k) to reflect the changes described in SECTION 29.

SECTION 31 amends AS 44.88.157(l) to reflect the changes described in SECTION 29.

SECTION 32 amends the small enterprise loan account statute (AS 44.88.158). The amendment inserts the phrase "small business enterprise" in place of small enterprise, and it takes the account out of the enterprise development fund and puts it into the revolving fund.

SECTION 33 amends AS 44.88.158(b) to reflect the changes made in SECTION 32. The amendment in this section also permits AIDEA to purchase or participate in the purchase of loans to small business enterprises without being limited to purchasing only the portion guaranteed by the federal government. However, with respect to language in AS 44.88.158(b) relating to the purchase of those guaranteed portions, the amendment in this section adds a permission to AIDEA to purchase the guaranteed portion of a loan made to pay the cost of an exporting transaction for a small business enterprise. The amendment in this section also contains a minor drafting style correction.

SECTION 34 amends the statutory section which sets a formula for how AIDEA must determine interest rates on loans it purchases (AS 44.88.159). The amendment makes it clear that this applies only to projects purchased under AS 44.88.155 - 44.88.159 (that is, projects purchased with assets of the enterprise development account).

SECTION 35 makes the same change with respect to the economic development fund (AS 44.88.172) as SECTION 32 makes with respect to the enterprise development fund; that is, it turns it into an account of the revolving fund. The amendment made in this section also makes it clear that the economic development account may be used only for the financing of "development projects," a term which is defined in SECTION 37 (discussed below). The economic development account is the source of financing for the projects that AIDEA expects to own or operate. The amendment includes language which (1) prohibits the pledge of assets in the enterprise development account (AS 44.88.155 - SECTIONS 21 through 27) in connection with the financing of a development project, and (2) directs AIDEA to make the financing assistance offered under the economic development account in the form of a loan to the maximum extent possible. The latter provision is in AIDEA's current law, but it is codified with the temporary and special acts. This amendment places it in the permanent statutes. Finally, the amendment in this section also includes a minor drafting style correction.

SECTION 36 requires AIDEA to obtain legislative approval for issuance of bonds for the acquisition, financing or operation of a development project.

SECTION 37 amends the statute which provides certain exemptions for AIDEA from the operation of other statutes (AS 44.88.159). The amendment in this section would exempt loans purchased or financed in whole or in part by AIDEA from the operation of the state's usury law. It would also make it clear that a guaranty by AIDEA in connection with its export financing program is not insurance for purposes of the state's insurance code.

SECTION 38 stipulates that the authority may not charge a penalty for prepayment of a loan after five years from the inception of the loan.

SECTION 39 defines authority as the Alaska Industrial Development and Export Authority.

SECTION 40 amends the definition section of the AIDEA statutes (AS 44.88.220). It adds new definitions for "development project" and "revolving fund." The development project definition includes those facilities described in paragraph (A)(i) of the definition of "project" under AIDEA's current statutes. The intent is to define development projects (that is, those projects with respect to which AIDEA may acquire an ownership interest) to include the basic resource development and infrastructure types of projects. The definition of revolving fund refers to the revolving fund created under SECTION 3.

SECTION 41 adds new provisions to AIDEA's statutes. The new provisions will become AS 44.88.300 - 44.88.390 and will relate to export assistance.

Under AS 44.88.300, AIDEA would work with financial institutions to determine which exporting transactions qualify for AIDEA assistance. The AIDEA assistance would be provided in the form of a guaranty of a loan for the exporting transactions.

Under AS 44.88.310, the transaction would qualify only if it has some significant contact with or benefit to the State of Alaska. That contact or benefit, generally speaking, would have to be in the form of a minimum percentage (25%) of the transaction resulting in the sale of Alaska materials abroad, the rendering of services abroad by an Alaska business, or providing similar benefits.

Under AS 44.88.320, AIDEA could guarantee up to 90 percent of a loan made to finance a transaction that qualifies under AS 44.88.310, but AIDEA would first have to find that the guaranty is reasonably necessary to stimulate or facilitate the making of the loan.

Under AS 44.88.330, the financing institution involved in the transaction would be required to make the first credit investigation with respect to the transaction.

Under AS 44.88.340, AIDEA would be required to keep confidential sensitive information about the transaction or the exporter involved in the transaction confidential.

Under AS 44.88.350, AIDEA would be allowed to establish fees by regulation to cover the costs of administering the export assistance program.

Under AS 44.88.360, a guarantee issued by AIDEA for an export transaction would guarantee against political or commercial loss of principal and interest on an eligible export transaction.

AS 44.88.370 would make it clear that a guaranty does not constitute a general obligation of the state.

AS 44.88.380 would shield officers, employees and agents of AIDEA from personal liability in connection with any guaranty AIDEA issues.

Under AS 44.88.390, the guarantee could be secured by an export insurance account into which AIDEA could deposit bond proceeds issued for the purpose as well as other amounts appropriated to AIDEA.

SECTION 42 directs the revision of statutes to change the name throughout.

SECTION 43 repeals subsection (c) of the statutory section amended by SECTIONS 32 and 33 (that is, AS 44.88.158). This repealer cleans up some outdated language and facilitates the financing of small business enterprises. SECTION 42 also repeals the requirement for legislative approval of each project financed from the economic development account; however, the bill retains the requirement elsewhere for legislative approval of any project over \$50,000,000 in size. SECTION 42 also repeals the AIDEA multifamily statutory section (AS 44.88.156).

SECTION 44 provides an immediate effective date.

No. 219

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CSSB 64 (RULES)
Publish Date: 4-8-87

Revision Date: April 8, 1987
Title: An Act relating to the Alaska Industrial Development Authority
Sponsor: Kelly, Kerttula, Faiks, et al.
Requestor: _____

Agency Affected: Commerce & Econ. Dev.
BRU: Alaska Industrial Dev. Auth.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		65.0	65.0	65.0	65.0	65.0
TRAVEL		10.0	10.0	10.0	10.0	10.0
CONTRACTUAL		25.0	15.0	15.0	15.0	15.0
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		5.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		110.0	95.0	95.0	95.0	95.0

CAPITAL		16,000.0	31,000.0	36,000.0	36,000.0	36,000.0
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REVENUE		16,110.0	31,095.0	36,095.0	36,095.0	36,095.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		16,110.0	31,095.0	36,095.0	36,095.0	36,095.0
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See Attached.

Prepared by: Bert Wagon, Executive Director
Division: Alaska Industrial Development Authority

Phone: 274-1651
Date: April 8, 1987

Approved by Commissioner: J. Anthony Smith
Agency: Commerce and Economic Development

Date: April 8, 1987

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

FISCAL NOTE CSSB 64 (RULES)

ANALYSIS

Should this bill become law, the costs to be incurred in operating the expended program are subject to the demand. The figures in the note are estimates of what may occur under this legislation. It is intended that the operating costs would be absorbed into the existing budget of the Authority so that no increase above the current requested budget would be required. This is possible due to the fact that the Authority currently holds a position vacant that could be utilized to handle many of the functions required by this bill.

All funds, both operating and capital, would be Authority program receipts with no general fund appropriation required.

APR 16 1987

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
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DURING SESSION
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Alaska House of Representatives

April 15, 1987

Rep. Dave Donley, Chairman
House Committee on
Labor & Commerce
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Donley:

As your records will show, HB 60, relating to export financing under the Alaska Industrial Development Authority, was referred to Labor & Commerce on January 21. Although I requested in early February that the bill be heard, it was not scheduled.

At the same time, the Senate version of the bill, SB 64, moved fairly easily through that body, and now awaits a hearing in your committee. I am asking with this letter that you bring the bill up, consider the substantial good it would provide the economy, and ask your committee to act on it.

To refresh your memory, these bills amend AIDA statutes to allow that agency to become more deeply involved in the financing, development and insurance of export products. Although the bill is considerably revised from its original version, and now incorporates many changes desired by the Cowper administration, I continue my wholehearted support of it because I believe it will provide services we currently lack.

I hope you will act on SB 64 as soon as possible. As you know, the end of the session is rapidly closing in on us, and it would be beneficial to the economy to have the bill enacted before we go home.

Thank you for your consideration of this request.

Best regards,

A handwritten signature in cursive script that reads "Terry Martin".

Rep. Terry Martin

TM/jwm
cc: Senator Kelly



STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HL+C 4-28-87 1:30p.m.

HL+C 5-5-87 1:30p.m.