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85

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
SB 85

Private Activity Bonds

Received March 22, 1989
by The Rules Committee by
Request of the Governor

Heard March 29, 1989

Passed Out of Committee March 29, 1989
3 Do Pass
2 No Recommendation

TABLE OF CONTENTS

SB 85: Private Activity Bonds

- Item 1:** SB 85 by The Rules Committee by Request of the Governor
- Item 2:** Fiscal Notes
- Item 3:** Governor's Transmittal Letter
- Item 4:** Alaska Private Activity Bond Volume Cap Explanation
- Item 5:** Statutes
- Item 6:** CRA House Committee Report

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 22, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

SB 85

SENATE BILL NO. 85

[PRIVATE ACTIVITY BONDS]

"An Act relating to the issuance of private activity bonds; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have 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):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[2] ^{Senate} zero fiscal note(s) CRA/DOR
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
_____ <i>Wayne Wesley</i>		✓	
_____ <i>Jim Zwick</i>		✓	

Chairman's Signature

Item 2

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 85 (a)
PUBLISH DATE: 1/9/89

No. 3

#1

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act..issuance of private activity bonds.."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Plasman, Deputy Director
 Division: Municipal & Regional Assistance Phone: 465-4750
 Date: 11-15-88
 Approved by Commissioner: [Signature]
 Agency: Community & Regional Affairs Date: 15 NOV 88

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Issuance of Private Activity
Bonds _____
Sponsor: Rules
Requestor: Governor

Agency Affected: Department of Revenue
BRU: Treasury
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: November 1, 1988

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 11/7/88

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the issuance of private activity bonds.

The bill provides permanent authority for the state bond committee to allocate the private activity bond volume limit for Alaska. The bond committee was assigned this responsibility by ch. 81, SLA 1987. However, sec. 3 of ch. 81 repeals the committee's authority as of January 1, 1990. The attached bill would place, in statute, the temporary language that was enacted in sec. 1, ch. 81, SLA 1987.

The private activity bond limit for Alaska under current federal law is \$150,000,000 each year. This limit on the amount of certain types of debt that can be issued as tax-exempt applies to Alaska Student Loan Corporation bonds, Alaska Housing Finance Corporation's first-time home buyer bonds, bonds for most Alaska Power Authority projects, and possibly certain bonds that would be issued by the Alaska Industrial Development and Export Authority or municipalities.

Legislation needs to be enacted in 1989 to avoid any hiatus in the authority of the State to allocate the volume limit. Failure to do so would cause the allocation to revert to

Letter from the Governor

Item #3

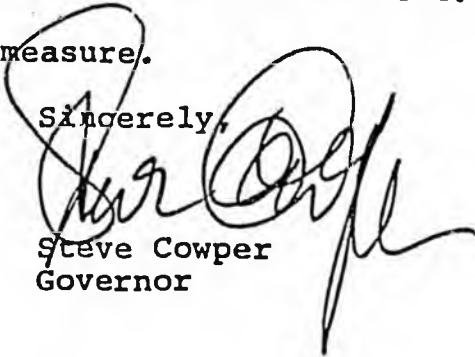
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85

federal law. Federal law mandates a fixed percentage allocation to municipalities. It is unlikely that municipalities would use all or even a significant portion of their limit. They have used none of the limit so far. Thus, an absence of legislation could cause significant amounts of state debt to be issued without tax exemption. This would increase needlessly the interest costs on such debt.

I urge your support of this measure.

Sincerely,



Steve Cowper
Governor

Item # 7

ALASKA PRIVATE ACTIVITY BOND VOLUME CAP
ALLOCATIONS, USE AND CARRYFORWARDS FROM INCEPTION

CALENDAR YEAR	TOTAL CAP	ALLOCATION	USE	CARRYFORWARD 1.
1986	\$250,000,000	\$125,000,000 TO AHFC \$125,000,000 TO ALL OTHER USERS	\$14,780,000 BY AIDEA	\$125,000,000 FOR AHFC 2. \$110,220,000 FOR STUDENT LOAN BONDS
1987	\$250,000,000	\$0	\$50,000,000 BY AHFC	\$185,590,000 TO AHFC 2. \$64,410,000 TO APA FOR POWER PROJECTS
1988	\$150,000,000	\$0	\$0	\$80,000,000 TO APA FOR SNETTISHAM
1989 (to date)	\$150,000,000	\$0	\$83,795,000 BY ASLC \$0	\$70,000,000 FOR STUDENT LOAN BONDS
TOTAL	\$800,000,000	\$250,000,000	\$148,575,000	\$635,220,000

UNUSED CARRYFORWARDS

AHFC	\$260,590,000	
APA	\$144,410,000	(FOR SPECIFICALLY NAMED PROJECTS)
ASLC	\$96,425,000	
TOTAL	\$501,425,000	

SPECIAL NOTE

An IRS ruling concerning of the 1986 carryforward for student loan bonds is pending. An unfavorable ruling could cause the 1986 carryforward to become unuseable. In that case a 1988 bond issue of the Alaska Student Loan Corporation ("ASLC") would use \$83,795,000 of the 1988 cap, leaving \$66,205,000 to carry forward for APA to purchase Snettisham. A ruling which did that would reduce unused carryforwards to the following amounts:

AHFC	\$260,590,000
APA	\$130,615,000
ASLC	\$0
TOTAL	\$391,205,000

NOTES

1. Carryforwards expire after three calendar years.
2. Under current Federal law AHFC will not be able to issue tax-exempt bonds for first time home-buyers after December 31, 1989.
3. No entity other than those identified in the tables has ever applied for an allocation of the private activity bond cap.

From DOR 2-1-89

Item # 5

Amendments

P.L. 100-647, § 5053(a):

Act Sec. 5053(a) amended Code Sec. 145 by redesignating subsection (d) as subsection (e).

For a special effective date, see Act Sec. 5053(c), below.

Act Sec. 5053(c) provides:

(c) EFFECTIVE DATE—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after October 21, 1988.

(2) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENT.—

(A) The amendments made by this section shall not apply to bonds (other than refunding bonds) with respect to a facility—

(i) the original use of which begins with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before July 14, 1988, and was completed on or after such date, or

(ii) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before July 14, 1988, and some of such expenditures are incurred on or after such date, and

(iii) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before July 14, 1988.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures greater than 10 percent of

the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(B) Subparagraph (A) shall not apply to any bond issued after December 31, 1989, and shall not apply unless it is reasonably expected (at the time of issuance of the bond) that the facility will be placed in service before January 1, 1990.

(3) REFUNDINGS.—The amendments made by this section shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before July 15, 1988, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

P.L. 99-514, § 1301(b):

Act Sec. 1301(b) amended Part IV of subchapter B of chapter 1 by adding Code Sec. 145 to read as above.

For text of Part IV of subchapter B of chapter 1 prior to amendment see the amendment notes for Code Sec. 141.

The above amendment applies generally to bonds issued after August 15, 1986. However, for transitional rules, see Act Secs. 1312-1318 following Code Sec. 103.

[Sec. 146]

SEC. 146. VOLUME CAP.

[Section 146(a)]

(a) GENERAL RULE.—A private activity bond issued as part of an issue meets the requirements of this section if the aggregate face amount of the private activity bonds issued pursuant to such issue, when added to the aggregate face amount of tax-exempt private activity bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

[Sec. 146(b)]

(b) VOLUME CAP FOR STATE AGENCIES.—For purposes of this section—

(1) IN GENERAL.—The volume cap for any agency of the State authorized to issue tax-exempt private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

(2) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue tax-exempt private activity bonds, all such agencies shall be treated as a single agency.

[Sec. 146(c)]

(c) VOLUME CAP FOR OTHER ISSUERS.—For purposes of this section—

(1) IN GENERAL.—The volume cap for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

(A) the population of the jurisdiction of such issuing authority, bears to

(B) the population of the entire State.

(2) OVERLAPPING JURISDICTIONS.—For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

icipated cost of the construction, recon-
-stitution of the facility involved.

(A) shall not apply to any bond issued
1, 1989, and shall not apply unless it is
d (at the time of issuance of the bond) that
placed in service before January 1, 1990.

5—The amendments made by this section
any bond issued to refund (or which is part
issued to refund) a bond issued before July

maturity date of the issue of which the
a part is not later than the average
the bonds to be refunded by such issue.

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of the refunding bond are used to redeem
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unding bond.

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volume cap for such calendar year.

action—

State authorized to issue tax-exempt
of the State ceiling for such calendar

NCY.—If more than 1 agency of the
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authority, bears to

raph (1)(A), if an area is within the
reated as only within the jurisdiction
al area unless such unit agrees to
year to the unit with overlapping

3, Commerce Clearing House, Inc.

[Sec. 146(d)]

(d) STATE CEILING.—For purposes of this section—

(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

(A) an amount equal to \$75 multiplied by the State population, or

(B) \$250,000,000.

Subparagraph (B) shall not apply to any possession of the United States.

(2) ADJUSTMENT AFTER 1987.—In the case of calendar years after 1987, paragraph (1) shall be applied by substituting—

(A) "\$50" for "\$75", and

(B) "\$150,000,000" for "\$250,000,000".

(3) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this section—

(A) IN GENERAL.—The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting "100 percent" for "50 percent".

(B) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

(C) CONSTITUTIONAL HOME RULE CITY.—For purposes of this section, the term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(4) SPECIAL RULE FOR POSSESSIONS WITH POPULATIONS OF LESS THAN THE POPULATION OF THE LEAST POPULOUS STATE.—

(A) IN GENERAL.—If the population of any possession of the United States for any calendar year is less than the population of the least populous State (other than a possession) for such calendar year, the limitation under paragraph (1)(A) shall not be less than the amount determined under subparagraph (B) for such calendar year.

(B) LIMITATION.—The limitation determined under this subparagraph, with respect to a possession, for any calendar year is an amount equal to the product of—

(i) the fraction—

(I) the numerator of which is the amount applicable under paragraph (1)(B) for such calendar year, and

(II) the denominator of which is the State population of the least populous State (other than a possession) for such calendar year, and

(ii) the population of such possession for such calendar year.

Amendments

P.L. 100-647, § 1013(a)(40):

Act Sec. 1013(a)(40) amended Code Sec. 146(d)(4)(B) by striking out "with respect to a possession" and inserting in lieu thereof "with respect to a possession".

The above amendment is effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which it relates.

[Sec. 146(e)]

(e) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—For purposes of this section—

(1) IN GENERAL.—Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue tax-exempt private activity bonds.

(2) INTERIM AUTHORITY FOR GOVERNOR.—

(A) IN GENERAL.—Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds.

(B) **TERMINATION OF AUTHORITY.**—The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of—

(i) the last day of the 1st calendar year after 1986 during which the legislature of the State met in regular session, or

(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

(3) **STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.**—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

[Sec. 146(f)]

(f) **ELECTIVE CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PURPOSE.**—

(1) **IN GENERAL.**—If—

(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

(B) the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes.

(2) **ELECTION MUST IDENTIFY PURPOSE.**—In any election under paragraph (1), the issuing authority shall—

(A) identify the purpose for which the carryforward is elected, and

(B) specify the portion of the excess described in paragraph (1) which is to be a carryforward for each such purpose.

(3) **USE OF CARRYFORWARD.**—

(A) **IN GENERAL.**—If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward purpose, any private activity bonds issued by such authority with respect to such purpose during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such purpose.

(B) **ORDER IN WHICH CARRYFORWARD USED.**—Carryforwards elected with respect to any purpose shall be used in the order of the calendar years in which they arose.

(4) **ELECTION.**—Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

(5) **CARRYFORWARD PURPOSE.**—The term "carryforward purpose" means—

(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a).

(B) the purpose of issuing qualified mortgage bonds or mortgage credit certificates.

(C) the purpose of issuing qualified student loan bonds, and

(D) the purpose of issuing qualified redevelopment bonds.

Amendments

P.L. 100-647, § 1013(a)(9):

Act Sec. 1013(a)(9) amended Code Sec. 146(f)(5)(A) to read as above. Prior to amendment, Code Sec. 146(f)(5)(A) read as follows:

(A) the purpose of the issuing exempt facility bonds described in 1 of the paragraphs of section 142(a).

The above amendment is effective as if included in the provision of the Tax Reform Act of 1986 (P.L. 99-514) to which it relates.

P.L. 100-203, § 10631(b):

Act Sec. 10631(b) amended Code Sec. 146(f)(5)(A) to read as above. Prior to amendment, Code Sec. 146(f)(5)(A) read as follows:

(A) the purpose of issuing bonds referred to in one of the clauses of section 141(d)(1)(A).

For the effective date of the above amendment, see Act Sec. 10631(c), below.

P.L. 100-203, § 10631(c):

Act Sec. 10631(c) provides:

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued after October 13, 1987 (other than bond issued to refund bonds issued on or before such date).

(2) **BINDING AGREEMENTS.**—The amendments made by this section shall not apply to bonds (other than advance refunding bonds) with respect to a facility acquired after

HOUSE COMMITTEE REPORT

Item 6

(7)
Date Referred: March 8, 1989

FURTHER REFERRALS: STATE AFFAIRS
FINANCE

Date of Committee Action: _____

The COMMUNITY & REGIONAL AFFAIRS Committee considered: SB 85

SENATE BILL NO. 85 [PRIVATE ACTIVITY BONDS]
"An Act relating to the issuance of private activity bonds; and providing for an effective date."

- RECOMMENDATIONS:
- be replaced with _____ the same title
 - have 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):
(Dept) | APPROVES PREVIOUS:
(Date/Dept) |
| <input type="checkbox"/> fiscal impact _____ | <input type="checkbox"/> fiscal note(s) _____ |
| <input type="checkbox"/> <u>zero</u> fiscal note _____ | <input type="checkbox"/> <u>zero</u> fiscal note(s) _____ |
| <input type="checkbox"/> <u>zero</u> with analysis _____ | <input type="checkbox"/> <u>zero</u> fn/analysis _____ |

SIGNING DO PASS:

Cheri Davis

Eileen P. Mahan

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Richard [Signature]</i>		X	
<i>[Signature]</i>		X	

Eileen P. Mahan

Chairman's signature