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Alaska State Legislature

Senate

Office of the Secretary

OFFICIAL BUSINESS

P.O. BOX V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

January 9, 1989

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chairman
Resources Committee

Senator John Binkley, Co-chairman *MB*
Senator Rick Uehling, Co-chairman
Finance Committee

FROM: Nancy Quinto
Secretary of the Senate

RE: Executive Order No. 75

The President has referred Executive Order No. 75 (transferring responsibility for management of two of the state's energy loan programs, the bulk fuel loan program and the power development loan program, from the Department of Commerce and Economic Development to the Alaska Power Authority).

Section 23, Article III of the Constitution states:

The governor may make changes in the organization of the executive branch or in the assignment of functions among the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

Attachment

IN THE SENATE - Offered: 1/9/89
Resources and Finance
IN THE HOUSE - Labor and Commerce and
Finance

EXECUTIVE ORDER NO. 75

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. (a) As governor, I find that it would be in the best interests of the state's efficient administration to transfer responsibility for management of two of the state's energy loan programs, the bulk fuel loan program and the power development loan program, from the Department of Commerce and Economic Development to the Alaska Power Authority, to promote a coordinated and consistent energy policy for the state.

(b) As governor, I also find that it would be in the best interests of the state to change the Alaska Power Authority's name to the Alaska Energy Authority, to more accurately reflect the agency's increased and diversified responsibility for energy matters resulting from this Order.

* Sec. 2. AS 44.83.020 is amended to read:

CHAPTER 83. ALASKA ENERGY [POWER] AUTHORITY.

Sec. 44.83.020. CREATION OF AUTHORITY. There is created the Alaska Energy [POWER] Authority. The authority is a public corporation of the state in the Department of Commerce and Economic Development but with a separate and independent legal existence.

* Sec. 3. AS 44.83.230(1) is amended to read:

(1) "authority" means the Alaska Energy [POWER] Authority established by this chapter;

* Sec. 4. AS 44.83 is amended by adding new sections to read:

ARTICLE 10. POWER DEVELOPMENT REVOLVING LOAN FUND.

Sec. 44.83.500. CREATION OF FUND. (a) There is established in the Alaska Energy Authority the power development revolving loan fund to carry out the purpose of AS 44.83.500 -- 44.83.530. The fund may be used for no other purpose.

(b) The fund consists of

- 1 (1) appropriations to the fund by the legislature;
- 2 (2) repayments of principal to the fund; and
- 3 (3) income from investment of money in the fund and from
- 4 loans made from the fund.

5 Sec. 44.83.510. POWERS AND DUTIES OF AUTHORITY IN ADMINISTERING
6 THE FUND. (a) The authority may borrow from the fund for the purpose
7 of financing a power project acquired or constructed by the authority
8 under the energy program for Alaska (AS 44.83.380 -- 44.83.425).
9 Repayment of a loan from the fund must be made with the proceeds from
10 the sale of power from projects in the energy program for Alaska.
11 Except as provided in AS 44.83.398(i), the payments required to be
12 made by the authority on a loan from the fund constitute debt service
13 for the purpose of calculating the wholesale power rate in AS 44.83.-
14 398(b)(1).

15 (b) After completion of a final plan of finance and approval of
16 a project under AS 44.83.185(c), a loan may be made from the fund for

17 (1) the cost of a portion of the cost of final design,
18 acquisition, and construction of a power project;

19 (2) defeasance or payment of bonds or notes of the authori-
20 ty issued for a power project;

21 (3) the establishment of a reserve fund for renewals and
22 replacements for the operation of a completed power project; and

23 (4) any other project-related expenses, including those
24 described in AS 44.83.398(i).

25 Sec. 44.83.520. LOAN TERMS. (a) A loan from the fund shall be
26 repaid in accordance with the terms that the authority's board of
27 directors determines to be appropriate. In establishing the terms,
28 including provision for a return to the state of an amount in excess
29 of the principal amount of the loan, the board of directors shall

1 consider the revenue that the authority could reasonably derive from
2 the sale of power from the projects based upon

3 (1) the costs, at the time the power sales agreement is
4 initially negotiated or renegotiated, of alternative sources of energy
5 generation for utilities purchasing power from a project financed with
6 a loan from the fund;

7 (2) the effect of the loan terms on the wholesale power
8 costs to all utilities purchasing power from the initial project;

9 (3) the long-term benefits to consumers and communities of
10 stable wholesale power costs;

11 (4) the affordability of initial wholesale power costs that
12 result from the loan terms with utilities purchasing power from the
13 initial project;

14 (5) increasing repayment, not to exceed five years, of debt
15 service payment per kilowatt hour gradually over the initial period of
16 a loan repayment schedule to the extent necessary to avoid significant
17 rate increases to the consumer;

18 (6) the existing excess capacity of power projects; and

19 (7) the effects of increased capacity utilization, in-
20 flation, and alternative energy production costs over the life of the
21 initial project.

22 (b) The board of directors may defer repayment of a loan.
23 However, the loan must be repaid in full during the period of the loan
24 agreement.

25 (c) A loan to the authority from the fund may not exceed 50
26 years.

27 (d) In (a) of this section "initial project" means the project
28 described in AS 44.83.398(a).

29 Sec. 44.83.525. RATE REOPENERS. A power sales agreement for the

1 sale of power from the initial project, as described in AS 44.83.-
2 398(a), financed with a loan under AS 44.83.510 may include among its
3 provisions an agreed schedule of wholesale power rates notwithstanding
4 the provisions of AS 44.83.398, but must include a provision for a
5 rate reopener at least every 15 years.

6 Sec. 44.83.530. DEFINITIONS. In AS 44.83.500 -- 44.83.530

7 (1) "fund" means the power development revolving loan fund;
8 and

9 (2) "power project" means a project acquired or constructed
10 under the energy program for Alaska, AS 44.83.380 -- 44.83.425.

11 * Sec. 5. AS 44.83 is amended by adding new sections to read:

12 ARTICLE 11. BULK FUEL.

13 Sec. 44.83.600. BULK FUEL REVOLVING LOAN FUND ESTABLISHED.

14 There is established in the Alaska Energy Authority the bulk fuel
15 revolving loan fund to assist communities in purchasing bulk fuel. A
16 community, or a private individual who has written endorsement from
17 the governing body of the community, is eligible for a loan from the
18 bulk fuel revolving loan fund for a bulk fuel purchase.

19 Sec. 44.83.605. SPECIAL ACCOUNT ESTABLISHED. (a) There is
20 established as a special account within the bulk fuel revolving loan
21 fund the foreclosure expense account. This account is established as
22 a reserve from fund equity.

23 (b) The authority may spend money credited to the foreclosure
24 expense account when necessary to protect the state's security inter-
25 est in collateral on loans made under AS 44.83.600 -- 44.83.650 or to
26 defray expenses incurred during foreclosure proceedings after a de-
27 fault by an obligor.

28 Sec. 44.83.610. LOAN TERMS FOR BULK FUEL PURCHASES. (a) Loans
29 made from the bulk fuel revolving loan fund to one borrower in any

1 fiscal year

2 (1) may not exceed \$50,000;

3 (2) shall be repaid in one year or less; and

4 (3) may not exceed 90 percent of the wholesale price of the
5 fuel purchased.

6 (b) Interest may be charged on a loan made from the bulk fuel
7 revolving loan fund. Interest shall be charged on a loan at a rate
8 equal to the percentage of the average weekly yield of municipal bonds
9 for the 12 months preceding the date of the loan, as determined by the
10 authority from municipal bond yield rates reported in the 30-year
11 revenue index of the Weekly Bond Buyer. However, if the authority
12 finds that a community cannot afford to repay a portion of interest on
13 a loan, and makes a determination in writing, the authority may reduce
14 or eliminate the interest rate applicable to the loan.

15 (c) Repayments of the principal on a loan from the bulk fuel
16 revolving loan fund shall be paid by the authority into the bulk fuel
17 revolving loan fund.

18 Sec. 44.83.615. CONTRACTING AUTHORITY. The authority may con-
19 tract for the administration of the bulk fuel loan program established
20 in AS 44.83.600 -- 44.83.650.

21 Sec. 44.83.620. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR
22 FORECLOSURE. The authority shall dispose of property acquired through
23 default or foreclosure of a loan made under AS 44.83.600 -- 44.83.650.
24 Disposal shall be made in a manner that serves the best interests of
25 the state, and may include the amortization of payments over a period
26 of years.

27 Sec. 44.83.625. REGULATIONS. The authority shall adopt regu-
28 lations to implement AS 44.83.600 -- 44.83.650.

29 Sec. 44.83.650. DEFINITIONS. In AS 44.83.600 -- 44.83.650

1 (1) "bulk fuel storage facility" means a storage tank
2 capable of holding at least 10,000 gallons of petroleum fuel; and

3 (2) "community" means an organized municipality or an
4 unincorporated village which is a social unit, with a population under
5 2,000.

6 * Sec. 6. AS 44.33.600, 44.33.610, 44.33.620, 44.33.625, 44.33.630;
7 AS 45.87.010, 45.87.015, 45.87.020, 45.87.030, 45.87.040, 45.87.060, and
8 45.87.500 are repealed.

9 * Sec. 7. TRANSITION. (a) Litigation, hearings, investigations, and
10 other proceedings pending under a law amended or repealed by this Order, or
11 in connection with functions transferred by this Order, continue in effect
12 and may be continued and completed notwithstanding a transfer or amendment
13 or repeal provided for in this Order.

14 (b) Regulations adopted by the Department of Commerce and Economic
15 Development under authority of AS 45.87.060 before the effective date of
16 this Order, remain in effect until regulations are adopted under AS 44.83.-
17 625 by the Alaska Energy Authority, and take effect. The authority may
18 enforce the Department of Commerce and Economic Development regulations
19 until its own take effect.

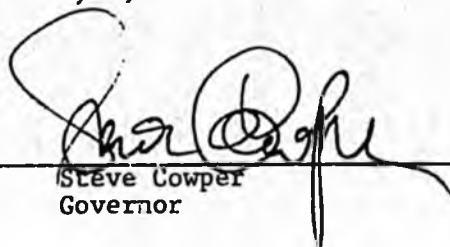
20 (c) Contracts, rights, liabilities, and obligations created by or
21 under a law amended or repealed by this Executive Order, and in effect on
22 the effective date of this Order, remain in effect notwithstanding this
23 Order's taking effect. Records, equipment, appropriations, and other
24 property of agencies of the state whose functions are transferred under
25 this Order shall be transferred to implement the provisions of this Order.

26 * Sec. 8. IMPLEMENTING NAME CHANGE. To be consistent with the name
27 change made by this Order, wherever in the Alaska Statutes, and in regu-
28 lations adopted under those statutes, "Alaska Power Authority" is used, it
29 shall be read as referring to the "Alaska Energy Authority." Under

1 AS 01.05.031, the revisor of statutes shall implement this section in the
2 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall
3 implement this section in the administrative regulations.

4 * Sec. 9. This Order takes effect July 1, 1989.

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6 DATED: January 9 1989

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9 Steve Cowper
10 Governor
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STEVE COWPER
GOVERNOR



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. 23, of the Alaska Constitution, I am transmitting Executive Order No. 75, transferring two of the state's energy loan programs to the Alaska Power Authority (APA), and consequently changing the APA's name.

Currently, the APA administers four energy funds: the rural electrification revolving loan fund (AS 44.83.361), the power project fund (AS 44.83.170), the power development fund (AS 44.83.382), and the power cost equalization fund (AS 44.83.162). The Department of Commerce and Economic Development (DCED) also currently administers four energy funds: the alternative energy revolving loan fund (AS 45.88.010), the residential energy conservation fund (AS 45.89.010), the bulk fuel revolving loan fund (AS 45.87.010), and the power development revolving loan fund (AS 44.33.600). The first two of these DCED funds are currently inactive. Consolidation of the six active funds in the APA will promote efficiency both inside and outside of state government, and will promote a coordinated and consistent energy policy for the state.

Transfer of the loan program funded by the bulk fuel revolving loan fund changes only the agency that administers the fund. The fund and the provisions governing its administration will remain unchanged.

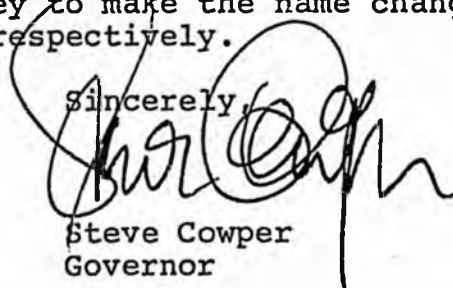
Transfer of the power development revolving loan fund requires more than a change in administration. Under existing AS 44.33.600 -- 44.33.630, DCED is authorized to lend money from the fund to the APA to finance the construction, acquisition, and operation of projects authorized under the energy program for Alaska (AS 44.83.380 -- 44.83.425). Transferring administration of this fund to the APA means that the APA's board of directors will be responsible for authorizing a withdrawal of money from the fund, as

a loan, for a designated project. The existing statutory constraints on lending money from the fund will, however, apply unchanged to these loans. Moreover, the APA will still be responsible for repaying amounts withdrawn from the fund with the money received from the sale of power from the designated project.

The new statutes being added by secs. 4 and 5 of the Order are virtually identical to the statutes being repealed in sec. 6. The additions and repealers merely effect the transfers described above.

This Executive Order also changes the APA's name to the "Alaska Energy Authority." This new name more accurately reflects that agency's increased and diversified responsibility for energy matters resulting from this Executive Order. To be sure of catching all references to the old name, sec. 8 of the Order requires the revisor of statutes and the regulations attorney to make the name changes in the statutes and regulations, respectively.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", is written over the typed name below. The signature is fluid and cursive, with a large loop at the end.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Transferring energy loan programs to APA
 Sponsor: Rules Committee
 Requestor: Governor
 Agency Affected: Commerce & Econ. Dev.
 BRU: Div. of Investments
 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	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
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: Martin Richard, Director 
 Division: Division of Investments Phone: 465-2500
 Date: 1/4/1989

Approved by Commissioner: Larry Mercurieff, Commissioner 
 Agency: Dent. of Commerce & Economic Development Date: 1/4/1989

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: APA consolidation

Agency Affected: Governor
BRU: _____

Sponsor: Rules
Requestor: Governor

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	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
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: *R. Berche*
Division: APA

Phone: 465-3575
Date: Jan. 5, 1989

Approved by Commissioner: *[Signature]*
Agency: DCED

Date: Jan. 5, 1989

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