

SB

92

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: April 12, 1995

FURTHER REFERRALS:

Date of Committee Action: 5/1/95

The FINANCE Committee considered:

SB 92

SENATE BILL NO. 92

AHFC SUBJECT TO EXEC. BUDGET ACT

"An Act requiring that, in addition to its operating budget, all activities of the Alaska Housing Finance Corporation are subject to the Executive Budget Act."

recommends it be replaced with the following committee substitute HRS CS SB 92 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) Revenue 3/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>[Signature]</i>	MULDEN	✓			
<i>[Signature]</i>	MARTIN	✓			
<i>[Signature]</i>	PANNELL			X	
<i>[Signature]</i>	KOHRING			X	
<i>[Signature]</i>	NAVARRE			X	
<i>[Signature]</i>	BROWN			X	
<i>[Signature]</i>	KELLY	✓			
<i>[Signature]</i>	THERRIAULT			X	

Acting
 CO-CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: 5892
BILL: (S) Publish Date: 3/1/95

Revision Date: _____ Dept. Affected: Revenue
 Title: AHFC Subject to Executive Budget Act BRU: AHFC
 Component: AHFC
 Sponsor: (S)RLS
 Requester: (S)STA COMPONENT SERIAL NO. 110/1937/

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

No additional costs or significant impact is anticipated with the implementation of this proposed legislation upon the Alaska Housing Finance Corporation.

Prepared by: [Signature] Phone: 07-564-9326
 Division: AHFC Date: 2/27/95
 Approved by: [Signature]
 Commissioner: Deborah Voigt Date: 2/27/95
 Agency: Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

9-LS0762AM ✓
Chenoweth
5/1/95

adopted NO(OB)

HOUSE CS FOR SENATE BILL NO. 92()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act redefining the activities of the Alaska Housing Finance Corporation that
2 are subject to the Executive Budget Act."

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

4 * Section 1. AS 18.56.089(a) is amended to read:

5 (a) The provisions of AS 37.07 (Executive Budget Act)

6 (1) apply to

7 (A) the operating budget of the corporation;

8 (B) amounts payable from corporate earnings or assets of the
9 corporation for grants or grant programs authorized by this chapter;

10 (C) interest rate subsidies and building subsidies as determined
11 by the corporation [, EXCEPT SUBSIDIES PAYABLE FROM THE
12 CORPORATION'S ARBITRAGE EARNINGS];

13 (D) the amount and source or sources of the total annual
14 appropriation for the corporation's loan programs for which a subsidy is

1 not provided, but the provisions of AS 37.07 are not otherwise applicable
2 to that appropriation;

3 (E) the amount and source or sources of the total annual
4 appropriation for the corporation's multi-family housing loans and the
5 corporation's housing programs and housing projects if a subsidy is
6 provided from the corporation's arbitrage earnings for the loans,
7 programs, or projects, but the provisions of AS 37.07 are not otherwise
8 applicable to that appropriation; and

9 (F) except as otherwise specifically provided in (2) of this
10 subsection, the activities of the corporation under AS 18.55 and the activities
11 of the corporation under this chapter [AS 18.55.010 - 18.55.960];

12 (2) do not apply to activities of the corporation under AS 18.55 and
13 this chapter that relate to the corporation's borrowing of money as provided in this
14 chapter to make, purchase, and service mortgage loans, including the issuing of
15 its obligations or evidence of that borrowing and the repayment of the debt
16 obligation [EXCEPT AS PROVIDED IN (1) OF THIS SUBSECTION OR
17 AS OTHERWISE SPECIFICALLY PROVIDED IN THIS CHAPTER].

Attachment 1
5/1/95

TO HCS SB 92 ()
9-LS0762\M
Chenoweth
5/1/95

Amendment 1

adopted

ND

OB

On page 2, lines 12 - 17, delete subsection (2) and replace with the following;

" (2) do not apply to activities of the corporation under AS 18.55 and this chapter that:

(A) relate to the corporation's borrowing of money as provided in this chapter to make or purchase mortgage loans, including the issuing of its obligations or evidence of that borrowing and the repayment of the debt obligation;

(B) relate to the corporation's ability to refinance existing mortgage loans in order to achieve a lower interest rate;

(C) are directly attributable to the servicing of mortgage loans, including real estate owned by the corporation as a result of foreclosure [EXCEPT AS PROVIDED IN (1) OF THIS SUBSECTION OR AS OTHERWISE SPECIFICALLY PROVIDED IN THIS CHAPTER]."

HOUSE CONCURRENT RESOLUTION NO.
 IN THE LEGISLATURE OF THE STATE OF ALASKA
 NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Introduced:

Referred:

A RESOLUTION

1 Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State
 2 Legislature concerning Senate Bill No. 92, relating to exemption of certain
 3 activities of the Alaska Housing Finance Corporation from the provisions of the
 4 Executive Budget Act.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

6 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the
 7 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the
 8 title of a bill, are suspended in consideration of Senate Bill No. 92, relating to exemption of
 9 certain activities of the Alaska Housing Finance Corporation from the provisions of the
 10 Executive Budget Act.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 7, 1995

SUBJECT: Effect of AS 18.56.089(a), making elements of the Alaska Housing Finance Corporation Act subject to the Executive Budget Act, AS 37.07 (Work Order No. 9-LS0675A)

TO: Representative Terry Martin, Chair
Legislative Budget and Audit Committee
ATTN: John Manly

FROM: Jack Chenoweth
Legislative Counsel 

You have asked about the effect of AS 18.56.089(a) "making the Alaska Housing Finance Corporation subject to AS 37.07, the Executive Budget Act.

" The current language of AS 18.56.089(a) derives from secs. 89 and 90, ch. 4, FSSLA 1992. That measure merged the then-Alaska State Housing Authority and various Department of Community and Regional Affairs housing-assistance programs into AHFC and made a number of collateral changes affecting all housing programs. The current language, a reworking and extension of significant changes previously made by ch. 12, SLA 1991, now reads:

(a) The provisions of AS 37.07 (Executive Budget Act)

(1) apply to

(A) the operating budget of the corporation;

(B) amounts payable from corporate earnings or assets by the corporation for grants or grant programs authorized by this chapter;

(C) interest rate subsidies and building subsidies as determined by the corporation, except subsidies payable from the corporation's arbitrage earnings;

(D) activities of the corporation under AS 18.55.010 - 18.55.960;

(2) do not apply to activities of the corporation under this chapter except as provided in (1) of this subsection or as otherwise specifically provided in this chapter.

The courts have observed that the Executive Budget Act implements the constitutional provision, article IX, sec. 13, by which all appropriations are to be made by legislative Act. Municipality of Anchorage v. Frohne, 568 P.2d 3, 5, at n. 5. The heart of AS 37.07 are its assignment of budget development, review, approval, and execution responsibilities among the several branches of state government, and its expression, in AS 37.07.080(a), of the limitation on program execution imposed on agencies, generally subjecting the programs to legislative appropriation.

AS 18.56.089(a) was revised with that in mind. Before its alteration by secs. 89 and 90 of ch. 4, FSSLA 1992, the provision directed that "[t]he operating budget of the corporation is subject to AS 37.07 (Executive Budget Act)." As you can readily see, following the 1992 amendment, now, in addition to legislative oversight and appropriation of the corporation's annual operating budget, the legislature has made a series of the corporation's program components subject to prior legislative review and approval:

(1) amounts payable from corporate earnings or assets . . . for grants or grant programs authorized by AS 18.56;²⁷

(2) interest rate subsidies and building subsidies as determined by AHFC,²⁸ except subsidies payable from the corporation's arbitrage earnings; and

(3) activities of AHFC under the former Alaska State Housing Authority Act (AS 18.55) programs: housing project and public building assistance; moderate cost and rental housing; and slum clearance and redevelopment.

²⁷ Among grant programs specifically enumerated in AS 18.56 are those concerned with energy efficient home design and construction (AS 18.56.410), the low cost and low income housing development fund and related grants (AS 18.56.650), the senior citizens housing development fund grants (AS 18.56.810), and the various components of the home energy conservation and weatherization program (AS 18.56.850).

²⁸ Several programs authorize use of interest rate subsidies in conjunction with housing. One of AHFC's principal programs is its "special mortgage loan purchase program," set out in AS 18.56.098, under which the corporation may purchase first or second mortgage loans. In conjunction with that, AS 18.56.091(a) directs establishment of a "home ownership assistance program (HOAP)," permitting low and moderate income persons to purchase homes with assistance of a subsidy. Subsidy assistance is also available under the corporation's housing development fund program for congregate housing, AS 18.56.100 -- see subsection (1), and the homeownership assistance fund, AS 18.56.430.

The theory behind these distinctions, as I recall from my work on the bills that eventually became ch. 4, FSSLA 1992, is this: The legislature was prepared to let AHFC receive payments from outstanding loans that originally had been generated by sale of revenue bonds or legislative appropriations, and re-loan those amounts free of the necessity or opportunity of legislative appropriation. However, one-time housing assistance programs for which there was no expectation that the corporation would eventually recover any significant portion of the assistance payment--such as those characterized by grants, subsidies, and the like--that tended to reduce AHFC's balance sheet position should, under the constitutional provision, have prior legislative approval.

AHFC recently closed out the public offer of more than \$100 million of low-income loans. Except for what has been reported in the newspapers, I have no details on that program. I understand from the Legislative Auditor that corporation officials have represented that they relied on arbitrage earnings⁴ to serve as the source of the subsidy component of those loans,

⁴ Arbitrage earnings are, generally, the earnings obtained from the difference in the price between purchase and sale of securities in two markets.

It is my recollection that, when, in 1992, the Senate had under consideration House Bill 152, the immediate predecessor of the bill that eventually became ch. 4, FSSLA 1992, the Senate's Community & Regional Affairs Committee was very concerned with trying to find a sure way by which to maintain legislative control over proposed subsidies without extending that control to loan earnings available for further lending. The first committee substitute drafts contemplated a long, program-by-program enumeration of the subsidies that were subject to legislative appropriation. The language eventually offered and agreed to, now AS 18.56.089(a)(1)(C), was suggested by AHFC bond counsel and inserted in the draft Senate C&RA Committee Substitute.

I am not aware of any other history of this provision. In what proved to be one of the 17th Legislature's longest and most detailed measures, the fact that the language appeared in the CRA Senate Committee Substitute allowed it to continue in place in all subsequent versions of the bill.

I don't know, but I can speculate that bond counsel may have sought the exception of the arbitrage earnings from the prior legislative appropriation requirement for at least two reasons: (1) the corporation may have insisted that, because those earnings reflected sound investment efforts by AHFC officials and contractors, the corporation should reap the reward, subject to the limitation that the earnings be made available for housing-program related

Representative Terry Martin, Chair
February 7, 1995
Page 4

that is, as the source of the money that would cover the difference between market interest rates and the announced five percent rate of these low-income housing loans. AHFC officials have apparently represented that they could issue loans in this volume without prior legislative appropriation. The re-lending of amounts derived from repayment of loan principal and interest does not require prior appropriation, while the subsidy component of those loans is free of the requirement of prior legislative appropriation under the exception for arbitrage earnings of AS 18.56.089(a)(1)(C). The test, it seems to me--and as I advised the Legislative Auditor--ought to be to ascertain whether (1) subsidy payments contemplated by this recent low-income housing loan initiative can fairly be distinguished from the face amounts of the loans, and (2) whether those subsidy payments are wholly attributable to AHFC's arbitrage earnings.

If you have additional information about the arbitrage earnings-based subsidy component and want it reviewed, please contact me.

JBC:klb:glc
95-045.klb

4

initiatives only, and (2) use of arbitrage earnings was, and is, closely circumscribed by Internal Revenue Service rulings, was carefully monitored by the federal tax service, and might require a commitment to use by the corporation sooner than would be possible if subject to legislative appropriation.

HOUSE CS FOR SENATE BILL NO. 92(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/12/95
Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring that, in addition to its operating budget, activities of the
2 Alaska Housing Finance Corporation, except the corporation's unsubsidized
3 mortgage loan activities and except certain of the corporation's multi-family loans
4 and projects, are subject to the Executive Budget Act."

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

6 * Section 1. AS 18.56.089(a) is amended to read:

7 (a) The provisions of AS 37.07 (Executive Budget Act)

8 (1) apply to

9 [(A)] the operating budget of the corporation, to all [;

10 (B) AMOUNTS PAYABLE FROM CORPORATE EARNINGS
11 OR ASSETS OF THE CORPORATION FOR GRANTS OR GRANT
12 PROGRAMS AUTHORIZED BY THIS CHAPTER;

13 (C) INTEREST RATE SUBSIDIES AND BUILDING
14 SUBSIDIES AS DETERMINED BY THE CORPORATION, EXCEPT

1 SUBSIDIES PAYABLE FROM THE CORPORATION'S ARBITRAGE
2 EARNINGS;

3 (D)] activities of the corporation under AS 18.55, and, except
4 as otherwise specifically provided in (2) of this subsection, to the activities
5 of the corporation under this chapter [AS 18.55.010 - 18.55.960];

6 (2) do not apply to activities of the corporation under this chapter that
7 relate to

8 (A) the corporation's borrowing of money as provided in
9 this chapter to make, purchase, and service mortgage loans, including the
10 issuing of its obligations or evidence of that borrowing and the repayment
11 of the debt obligation; ~~projects~~
12 *Programs*

13 (B) multi-family loans and projects not to exceed *A HFC's*
14 \$10,000,000 individually that may require grants or tax credits or that use
15 arbitrage earnings as subsidies; and

16 (C) the corporation's loan programs for which a subsidy is
17 not provided [EXCEPT AS PROVIDED IN (1) OF THIS SUBSECTION OR
AS OTHERWISE SPECIFICALLY PROVIDED IN THIS CHAPTER].



Alaska State Legislature

Legislative Budget & Audit Committee

House Members

Rep. Terry Martin, Chair
Rep. Con Beards
Rep. John Davies
Rep. Gary Davis
Rep. Mark Hamley (alt)
Rep. Vic Kohring

Senate Members

Sen. Randy Phillips, Vice Chair
Sen. Al Adams
Sen. Steve Frank
Sen. Rick Halford
Sen. Steve Rieger
Sen. Fred Zharoff (alt)

SB 92/HB 189 Sponsor Statement

Bringing all Activities of AHFC under the Executive Budget Act

SB 92/HB 189 was introduced by the Rules Committee at the unanimous request of the Legislative Budget and Audit Committee. In short, this legislation would bring all activities of the Alaska Housing Finance Corporation (AHFC) under the review procedures of the Executive Budget Act (AS 37.07).

Under the Executive Budget Act, an agency's budget for programs and services are established through both the executive and legislative processes for the annual general appropriations act (the operating budget). Currently AHFC statutes (AS 18.56.089) bring four listed areas under the Executive Budget Act:

- (1) the operating budget of the corporation
- (2) corporate earnings or assets used for grants or grant programs
- (3) interest rate subsidies and building subsidies as determined by the corporation
- (4) activities of the corporation related to the former ASHA program

All other current activities of the corporation are exempt from the budget process.

An example of a major AHFC program exempted is the program of distributing over \$110 million of corporation arbitrage funds for 5% low interest housing loans. SB 92/HB 189 would bring this program under legislative review as part of the operating budget.

The Legislative Budget and Audit Committee has stated that it feels programs such as the arbitrage distribution and all housing subsidy programs are significant state fiscal policy matters that should fall under the review process of both the legislative and executive branches.