

HB

401

FISCAL NOTE

No. 2
 Bill Number: HB 401
 (H) Bill Date: 1-8-96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____
 Title: Clean Water Fund Bonds
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Environmental Conservation
 BRU: Facility Construction & Operation
 Component: Facility Construction & Operation

COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Alaska Clean Water Fund	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ _____ *

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 if necessary.)

- * Projected bond costs have not yet been determined. Please see attached explanations.

The department supports this bill that authorizes the sale of revenue bonds to be used by the Alaska Clean Water Fund to fund construction of public wastewater systems, nonpoint source water pollution control projects, including solid waste management systems, and estuary conservation and management projects.

Prepared by: Larry Jones *Larry Jones*
 Division: Director, Division of Administrative Services

Phone: 465-5010
 Date: 1/2/96

Approved by Commissioner: Larry Jones for
 Agency: Department of Environmental Conservation

Date: 1/4/96

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Alaska Clean Water Fund - Bond Sales / Reasons why costs can not be determined:

The proceeds from the sale of bonds is to supplement available loan funds. Therefore, bonds will only be sold if the demand for construction loans exceeds the amount available in the Alaska Clean Water Fund (ACWF). However, the sale will have to be timed to allow a certain amount of the ACWF to be held as collateral for the bonds sold. Further considerations in the timing of the sale of bonds includes several financial issues such as rebate as it applies to selling bonds.

The department is working closely with the State Pond Committee, the Bond Committee's bond counsel and financial advisors to ensure all of these concerns are adequately addressed and that a bond sale only occurs when it is advantageous to the state. Consequently, the costs related to the sale of the bonds is unknown at this time. Finally, costs associated with the sale of bonds are usually paid from the proceeds of the bond sale.

Revision Date: _____ Dept. Affected: Revenue
 Title: Clean Water Fund Bonds BRU: Revenue Operations
 Component: Treasury Management
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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FUNDING: (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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current (FY96) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

All costs of issuance, administration, and debt service on the bonds will be paid from the Alaska Clean Water Fund. The proceeds of the bond issue will be deposited in the Clean Water Fund, thereby increasing the money available for loans to municipalities. There is no estimated fiscal impact on other State funds.

Prepared by: Forrest R. Browne *F.R. Browne* Phone: 465-3750
 Division: Treasury Management Date: 1/3/96
 Approved by Commissioner: *[Signature]* Date: 1/3/96
 Agency: Department of Revenue

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. _____ CS FOR HOUSE BILL NO. _____
 401 (STA)

Revision Date: 3/19/96
 Title: AK Clean Water Fund - Bond Sales

Department Affected: Environmental Conservation

Sponsor: ~~Systems~~ Rules
 Requestor: House Resources Committee

BRU: Facility Construction & Operation
 Component: Facility Construction & Operation

COMPONENT SERIAL NO. 637

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Alaska Clean Water Fund	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ _____ *

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 if necessary.)

* Projected bond costs have not yet been determined. Please see attached explanations.

The department supports this bill that authorizes the sale of revenue bonds to be used by the Alaska Clean Water Fund to fund construction of public wastewater systems, nonpoint source water pollution control projects, including solid waste management systems, and estuary conservation and management projects.

Prepared by: Keith Kelton
 Division: Director, Facility Construction & Operation

Phone: 465-5180
 Date: 3/19/96

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 3/19/96

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ALASKA CLEAN WATER FUND - Bond Sales / Reasons why costs can not be determined:

The proceeds from the sale of bonds is to supplement available loan funds. Therefore, bonds will only be sold if the demand for construction loans exceeds the amount available in the Alaska Clean Water Fund (ACWF). However, the sale will have to be timed to allow a certain amount of the ACWF to be held as collateral for the bonds sold. Further considerations in the timing of the sale of bonds includes several financial issues such as rebate as it applies to selling bonds.

The department is working closely with the State Bond Committee, the Bond Committee's bond counsel and financial advisors to ensure all of these concerns are adequately addressed and that a bond sale only occurs when it is advantageous to the state. Consequently, the costs related to the sale of bonds is unknown at this time. Finally, costs associated with the sale of bonds are usually paid from the proceeds of the bond sale.

Revision Date: _____ Dept. Affected: Revenue
 Title: Clean Water Fund Bonds BRU: Revenue Operations
 Component: Treasury
 Sponsor: Rules Committee
 Requestor: (H) Resources Committee COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

All cost of issuance, administration, and debt service on the bonds will be paid from the Alaska Clean Water Fund. The proceeds of the bond issue will be deposited in the Clean Water Fund, thereby increasing the money available for loans to municipalities. There is no estimated fiscal impact on other State funds.

Prepared by: Betty Martin, Comptroller *Betty Martin* Phone: 465-2300
 Division: Treasury Division Date: March 15, 1996
 Approved by Commissioner: Wilson L. Condon *Wilson L. Condon* Date: March 15, 1996
 Agency: Department of Revenue

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AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 401

Amendment 1: Clarification in the bond cap language.

Page 2, lines 14 - 15:

Following "revenue bonds"

Insert "under AS 37.15.560 - 37.15.605"

Page 2, line 15:

Following "total"

Insert "unpaid principal"

Page 2, line 16:

Following "bonds"

Delete "outstanding at any one time"

Insert ", including refunding bonds, but excluding
refunded bonds, issued under the provisions of AS
37.15.560 - 37.15.605,"

Page 2, lines 16-17

Following \$150,000,000

Delete "including principal and interest owed on the
bonds"

Amendment 2: grammatical clarification (limit scope of term 'money and revenue')

Page 4, lines 8-9:

Following "pledge of"

Insert "such"

Amendment 3: grammatical clarification (singular to plural).

Page 5, line 12

Following "default to"

Delete "the"

Insert "any"

Amendment 4: correct typographical omission.

Page 6, line 28

Following "refunding"

Insert "bonds"

Amendment 5: CSHB 401 allows municipalities and state agencies to access the Alaska Clean Water Fund for bond insurance and other collateral security for local obligations. "Other qualified entities" should also have access to the Fund for this purpose.

Page 9, line 26:

Following "municipal"

Delete "or"

Insert ","

Following "state agency"

Insert ", or other qualified entity"

AMENDMENT

OFFERED IN HOUSE RESOURCES

BY REPRESENTATIVE JOHN DAVIES

TO: CSHB 388 (RES):

Page 6, Line 27:

Following 'may'

Insert: ', for state land north of the Umiat baseline'

A DON WG -
N YNY NN

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1993
PHONE: (907) 269-5100
FAX: (907) 276-3697

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FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

March 19, 1996

The Honorable Joseph Green
Co-Chairman, House Resources
Committee
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182

Re: CSHB 401
Alaska Clean Water Fund

Dear Representative Green:

This letter will describe the reasons for the Administration's proposed amendments to CSHB 401, the bill to allow leveraging of the Alaska Clean Water Fund.

Amendment 1

The first amendment clarifies and corrects the bond cap language. Section 37.15.560(b) in CSHB 401, on page 2, lines 14-17, provides that

The state bond committee may not issue more than \$15,000,000 in revenue bonds during a fiscal year, excluding refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000, including principal and interest owed on the bonds.

Under the proposed amendment, the bond cap language would read:

The state bond committee may not issue more than \$15,000,000 in revenue bonds under AS 37.15.560 - 37.15.605 during a fiscal year, excluding refunding bonds. The total unpaid principal amount of revenue bonds may not exceed \$150,000,000, including refunding bonds, but excluding refunded bonds, issued under the provisions of AS 37.15.560 - 37.15.605.

The proposed amendment clarifies that the total cap excludes refunded bonds, as refunded bonds are generally considered no longer to be a liability of the issuer. The annual cap excludes refunding bonds, but the total cap includes refunding bonds.

We also propose deleting interest from the total cap. The inclusion of interest creates unnecessary ambiguities; for example, is the interest that is to be taken into account the interest owing or due this fiscal year, or is it the total interest that will be paid on the bonds to their maturity, but which is not yet "owed." How is interest on a variable rate bond calculated for purposes of the cap?

Finally, we have added references to the bond legislation to eliminate the possible interpretation that the cap computation includes other types of bonds that the State Bond Committee is authorized to issue.

Amendment 2

Amendment 2, on page 4, lines 8-9, is a grammatical clarification that limits the scope of the term "money and revenue" in section 37.15.570(c). This section identifies the money and revenue that the State Bond Committee may pledge to secure the bonds. The original text of HB 401 had included the term "such money and revenue" to refer back to the categories of money and revenue that could be pledged. The CS deleted the word "such" for purposes of conforming to legislative drafting style recommendations. However, in this case, strict adherence to the drafting style recommendations does not accurately reflect the intent that only the identified sources of money and revenue may be pledged.

Amendment 3

Likewise, amendment 3 restores the original language from HB 401 to the state aid intercept provision, section 37.15.575 on page 5, lines 10 - 19. The intent of this section is that the State Bond Committee can provide written notice to any state agency that might be holding funds payable to a municipality. By deleting the word substituting the word "the" for "any," the CSHB 401 suggests that only one state agency is the custodian of municipal funds, which is not accurate.

Amendment 4

Amendment 4 inserts the word "bonds" at the end of the sentence on page 6, line 28, referring to the issuance, exchange or sale, and delivery of refunding bonds. This amendment corrects a typographical error, an omitted word.

The Honorable Joseph Green
Co-Chairman, House Resources Committee
CSHB 401 - Alaska Clean Water Fund

March 19, 1996
Page 3

Amendment 5

The fifth amendment, on page 9, line 26, will allow qualified entities access to the Fund for purposes of obtaining bond insurance or otherwise guaranteeing local obligations. Under the federal Clean Water Act, the Fund may be used "to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates." 33 U.S.C. § 1383(d)(3).

Thank you for your consideration of these proposed amendments. Please do not hesitate to contact me if you require further assistance.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:

Marie Sansone
Marie Sansone
Assistant Attorney General

BMB/MS/lmt

cc: Keith Kelton, DEC
Ross Kinney, DOR
Lee Sharp, bond counsel

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P O Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

HB 401

HB 401

January 8, 1996

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to authorize the state bond committee to issue and sell state revenue bonds to fund public wastewater treatment systems, solid waste management systems, nonpoint source water pollution control projects, and estuary conservation and management projects. This bill also authorizes the Department of Environmental Conservation to use the Alaska clean water fund, a revolving loan fund, as security for the payment of the principal and interest on the bonds, provided the bond proceeds are deposited in the fund. By using the fund as security for the bonds, the state will be able to leverage or increase the amount of money in the fund that is available to municipalities and state agencies for water pollution control projects.

Section 2 of the bill provides the legal framework for the bond issuance and sale. This section is patterned after the international airports revenue bonds statutes, and establishes a cooperative relationship between DEC, which administers the Alaska clean water fund, and the state bond committee, which will administer the bond program. The bill requires the state bond committee to conduct its activities in the best interests of the state and its inhabitants, in a manner that will accomplish the most advantageous sale of the bonds, with due regard for the continued funding of projects under the Alaska clean water fund program.

The Honorable Gail Phillips
January 8, 1996
Page 2

Sections 3-12 of the bill amend the clean water fund loan program to clarify the statute. It authorizes DEC to use the fund to secure state-issued bonds and to make other amendments necessary to acknowledge the bond-issuance and repayment process.

I urge your prompt consideration and passage of this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 Willoughby Avenue
Juneau, Alaska 99801-1795

Phone: 465-5066
Fax: 465-5070

March 11, 1996

The Honorable Joe Green, Co-Chairman
The Honorable Bill Williams, Co-Chairman
House Committee on Resources
Alaska State Legislature
Juneau, Alaska 99801

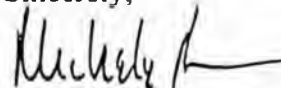
SUBJECT: Request for hearing on CS for House Bill No. 401 (STA)

Dear Representatives Green and Williams:

The Governor's Office and the Department of Environmental Conservation request that public hearings be scheduled for CS for House Bill 401 (STA). This bill is important for Alaskans for many reasons. It affords a way for our communities to obtain low-cost loans for their water pollution projects far into the future. This proposal will accomplish this goal while reducing general funds and in fact, at some point in the future, could eliminate the need for legislative appropriations for wastewater projects. Alaskan communities are simultaneously faced with many federal regulatory burdens and diminishing financial resources. It is important that we provide them with financial tools to deal with the many problems that they encounter. This bill would provide one of these financial tools.

We have attached a short analysis of the bill for your convenience in understanding the intent of the Legislation. At this time, the Alaska Clean Water Fund has the required collateral to support the proposed revenue bond leveraging plan. If legislation is enacted this session, adequate collateral would remain to ensure a bond issue large enough to meet anticipated demand. Delay in enacting this legislation will reduce the program's effectiveness in meeting our water pollution capital project needs. For this reason, we ask that the hearings be scheduled as soon as possible. If you wish to discuss this legislation, please call Keith Kelton at 465-5135. Thank you for your consideration.

Sincerely,



Michele Brown
Commissioner

MBVKK:lp (h:\co\clerical\white\leverage\hearing.ltr)
Enclosure: Bill Analysis

March 13, 1996

HOUSE BILL 401
SECTIONAL ANALYSIS

(Reflects changes made by House STA Committee)

Introduction

House Bill 401 will authorize the state bond committee (committee), which consists of the commissioners of the Departments of Administration, Commerce and Economic Development, and Revenue, to issue and sell state revenue bonds to fund public wastewater treatment systems, solid waste management systems, nonpoint source water pollution projects, and estuary conservation management projects. The bill authorizes the Department of Environmental Conservation (DEC) to use the Alaska clean water fund (fund), a revolving loan fund, as security for the payment of the principal and interest on the bonds, provided the bond proceeds are deposited in the fund.

The Alaska clean water fund and the proposed bond program are designed to comply with requirements for participation in a federal matching grant program under the Clean Water Act and, therefore, do not present any problem under the dedicated funds prohibition of the State Constitution.

By using the Alaska clean water fund as security for the bonds, the state will be able to leverage or increase the amount of money in the fund that is available to municipalities and other qualified entities for water pollution control projects.

Section 1. Section 1 of the bill recognizes that the proposed bond program is an appropriate use of the public credit, and that it will serve a public purpose by allowing public water pollution control projects to be financed and constructed much sooner than would otherwise be possible. This statement of the policies and purposes underlying the bill will also reflect the legislature's intent that the bonds to be issued are revenue bonds.

Section 2.

This section of the bill will create a new article, article 3A, in Title 37, the public finance title of the Alaska Statutes.

Sec. 37.15.560. BOND AUTHORIZATION - Authorizes the state bond committee to issue and sell revenue bonds to raise money to be deposited in the Alaska clean water fund. This section characterizes the Alaska clean water fund as a public enterprise of the state and the proposed bonds as revenue bonds. Under the Alaska Constitution, state-issued revenue bonds do not require voter approval. This section authorizes the committee to enter into agreements and perform those functions that are normally required to accomplish the task of issuing and selling bonds. The committee may not issue more than \$15,000,000 in revenue bonds during a fiscal year, excluding refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000, including principal and interest owed on the bonds.

Sec. 37.15.565. BOND REDEMPTION FUND - A bond redemption fund is established. This is a standard financing technique for making it easier and more accountable to perform the many functions necessary in the bond issuance and sales process. And also, to provide accountability for any future principal and interest payments and any premium redemptions on the bonds. The state bond committee will be responsible for administering the bond redemption fund, and may invest the proceeds of the bond redemption fund according to the 'prudent investor' standards established in AS 37.10.070, providing the earnings on these investments are retained in the bond redemption fund.

Sec. 37.15.570. BOND TERMS - The state bond committee may issue, sell, or redeem the bonds so as to achieve the greatest advantage for the State. The committee can make decisions based upon the market conditions, and does not require approval of another agency to execute these decisions. The committee will decide the level of security required from the Alaska clean water fund and the portion of the fund that will

provide this collateral security. The committee may appoint a trustee to perform all necessary functions. The committee must give due regard to the continued funding of projects under the Alaska clean water fund, including applicable state and federal requirements. Any such decisions made by the committee and expressed in a bond resolution are conclusively deemed to comply with the requirements of the legislation pertaining to the bond program.

Sec. 37.15.573. BOND RESOLUTION - The committee must adopt a bond resolution to issue bonds. The resolution will contain those terms and conditions necessary to identify and define the bonds and the bond sales process.

Sec. 37.15.575. STATE AID INTERCEPT - This section defines the procedure for allowing the State to intercept or garnish other legitimate sources of State aid should a community default on a loan from this fund. This paragraph is included in the legislation to enhance investor confidence in the program, improve the bond rating, and ultimately, lower program costs.

Sec. 37.15.580. PLEDGE OF THE STATE - This provision recognizes that the state may not alter the terms and conditions of a bond resolution by subsequent executive or legislative action.

Sec. 37.15.583. ENFORCEMENT BY BONDOWNER - To resolve any disagreements between the bondowners and the committee, 10 percent or more of the bondowners of any series or issue can bring suit in state superior court in Juneau. The ten percent threshold was selected to discourage frivolous litigation.

Sec. 37.15.585. AMOUNTS REQUIRED FOR PAYMENTS - Each year the committee will inform the commissioners of the departments of Environmental Conservation and Revenue of the amounts needed to pay for the bonds. The notice will be given at this time so that the departments will be able to incorporate these numbers into their financial planning for the current and next fiscal years.

Sec. 37.15.587. PURPOSES AND SUFFICIENCY OF REVENUE - Bond proceeds will be used to build projects that are eligible

under the clean water fund program. The committee will not issue bonds unless there is enough security available in the fund to make it prudent to issue the bonds.

Sec. 37.15.590. REFUNDING - If it is in the best interests of the State, the committee may refund all or some of the bonds. The committee will follow the defined procedures to conduct the refunding process. The committee may appoint a trustee to conduct this process. The trustee may invest funds in short-term federal instruments until the refunding proceeds are needed.

Sec. 37.15.595. BONDS AS LEGAL INVESTMENTS - The bonds are legal investments and can be traded and sold between institutions and persons. The State may accept them as security for the State and Municipal debts.

Sec. 37.15.603. REGULATIONS - The committee can adopt regulations to implement this program.

Sec. 37.15.605. Definitions - This section contains the definitions applicable to the bond program.

Section 3 - 12. Sections 3 - 12 of the bill amend AS 46.03.032, the statute that establishes the Alaska clean water fund.

Section 3. AS 46.03.032(a) - The Alaska clean water fund statute is amended to allow the fund to receive money from the sale of bonds and this money may be placed in a special account of the fund.

Section 4. AS 46.03.032(b) - The DEC will administer the fund consistent with the state and federal requirements applicable to the fund and with the requirements of the bond legislation.

Section 5. AS 46.03.032(c) - This section makes a technical correction in the citation of the Clean Water Act, to follow the proper citation form and to refer to the Clean Water Act as

amended.

Section 6. AS 46.03.032(d) - This section reorganizes the existing statute into a more understandable form. It also authorizes use of the fund to secure state-issued bonds, and authorized use of the fund to pay the principal and interest on the bonds and the costs of issuing and administering the bonds. The proceeds of the bond sale must be deposited into the fund.

Section 7. AS 46.03.032(f) - This section also reorganizes the existing statute into a more logical format and allows DEC to spend the money from the fund to carry out the bond program.

Section 8. AS 46.03.032(g) - The existing statute is amended to allow other qualified entities to receive loans from the fund. Currently, only municipalities may do this. Allowing DEC to make loans to other qualified entities will provide a tool to enable these organizations to cooperatively address environmental problems. Also, the section is amended to make it clear that the potential borrowers will demonstrate their credit-worthiness prior to loan commitment.

Section 9. AS 46.03.032(j) - This section amends the existing statute to accommodate the references to the bond issuance program. Some technical changes are also made to reference AS 46.06.021, the solid waste statute that establishes project priorities, rather than repeat them in full in the Alaska clean water fund statute.

Section 10. AS 46.03.032(k) - In addition to the reports the department already prepares for the program, DEC will prepare reports necessary for the committee.

Section 11. AS 46.03.032(o) - The definitions section includes one technical change in the terminology used to refer to solid waste management projects and adds a new definition for the term

"other qualified entity."

Section 12. AS 46.03.032(p) - This new subsection provides that any inconsistencies between any regulations adopted by the state bond committee under Title 37 and those adopted by DEC under Title 46 involving the Alaska clean water fund program will be resolved in favor of the Title 37 regulations.

Section 13. Clarifies that the portion of this legislation that is entitled ENFORCEMENT BY BONDOWNER would affect a change in Civil Procedure 3 and require all actions to be filed in Superior Court in Juneau.

Section 14. Recognizes that in order for all actions to be filed in Superior Court in Juneau, the second part of the paragraph that is entitled ENFORCEMENT BY BONDOWNER must receive a two-thirds majority vote of each house; otherwise that portion will not take effect.

**SENATE BILL 207
HOUSE BILL 401**

DEPARTMENT OF ENVIRONMENTAL CONSERVATION BILL SUMMARY

This bill will authorize the State Bond Committee to issue and sell State revenue bonds to provide funds for the Department of Environmental Conservation (DEC) to offer low-interest loans to municipalities. The municipalities would use these funds to finance the construction of public wastewater treatment systems, solid waste management systems, nonpoint source water pollution control projects and estuary conservation and management projects. DEC already operates the Alaska clean water fund, a revolving loan program that is funded by federal grants and State appropriations. The demand for these subsidized loans has been growing with the increase in federal requirements placed upon the local communities and the concurrent reduction in State revenues in the last few years. It is estimated that the demand for loans will exhaust the available supply of funds by the summer of 1998.

One solution to this problem is to leverage the Alaska clean water fund, that is, to increase the amount of money available to finance water pollution control projects by using the fund as collateral to secure State-issued revenue bonds. Programs similar to this proposal are currently in place in 21 states. Communities collect user fees for their sewerage and solid waste projects to provide the money to make their annual loan payments to the Department. Under this leveraging concept, the annual loan repayments would be used to pay back the bond investors. Nationwide, in the six years of operation of the clean water loan funds, there has never been a loan default. With such an excellent repayment history, the program risk is very small. A sizable corpus of money in the fund would provide extra security for the bonds and would also result in lower program costs which could be passed onto the municipalities. If this bill could be enacted this session, an adequate amount would be available in the corpus to accomplish this. Delays in passage will reduce the amount available to leverage and minimize the effectiveness of the legislation.

This type of bond sales program has been previously authorized to the State bond committee. In fact, this legislation is patterned after the statute created for the International Airport bond sales done by the committee for the Department of Transportation. The State bond committee has the expertise to properly conduct a bond sales issue. DEC has the expertise to properly run the clean water fund program. This legislation provides a simple, efficient method to assist the incorporated communities of the State by ensuring that low-cost loans for essential projects will be available well into the future, while reducing the demand for general-funded capital projects.

STATE REVOLVING FUNDS

Issuer	RATINGS			State Intercept
	Moody's	S & P	Fitch	
Alabama Water Pollution Control Authority	NR	NR	NR	No
Wastewater Management Authority of Arizona	Aa	AA+	NR	No
Arkansas Development Finance Authority	NR	AA	NR	No
Colorado Water Resources and Power Development Authority	Aa	AA/AA+	NR	No
State of Connecticut	Aa	AA+	AA	Yes
Indiana Bond Bank	NR	A	NR	Yes
Iowa Finance Authority	NR	A	NR	No
Kansas Development Finance Authority	Aa1	AA+	NR	Yes
Kentucky Infrastructure Authority	A	A	NR	No
Maine Municipal Bond Bank	NR	A+	NR	No
Maryland Water Quality Financing Administration	Aa	AA	AA-	Yes
Massachusetts Water Pollution Abatement Trust	Aa1/Aa	AAA/AA+/A+	AA+/AA	Yes
Michigan Municipal Bond Authority	Aa	AA	NR	Yes
Minnesota Public Facilities Authority	Aa	AAA	NR	No
Missouri State Environmental Improvement And Resources Authority	Aa1/Aa	NR	NR	No
New Jersey Wastewater Treatment Trust	Aa	AA	NR	Yes
State of Nevada	Aa	AA	NR	No
New York State Environmental Facilities Corporation	Aaa/Aa	AAA/A/A-	AAA/AA	Yes
North Dakota Municipal Bond Bank	A1	NR	NR	No
Ohio Water Development Authority	A	A	NR	No
Pennsylvania Infrastructure Investment Authority	NR	AA	NR	No
Rhode Island Clean Water Finance Agency	NR	NR	NR	No
South Dakota Conservancy District	A	NR	NR	No
Texas Water Development Board	Aa	AAA	NR	No
State of Wisconsin	Aa	AA	AA+	Yes

STATES THAT HAVE NO STATE INTERCEPT

Alabama	No uninsured ratings.
Arizona	Uninsured ratings are only for Phoenix, whose double-A general obligation ratings flow to the ratings on Arizona's SRF bonds.
Arkansas	Double-A Standard and Poor's rating; without state intercept, State is required to use supplemental reserve fund, which is utilized if earnings fall below required coverage.
Colorado	Double-A from both Mood's Investors Service and Standard & Poor's; without state intercept, State is required to use supplemental reserve fund, which is utilized if earnings fall below required coverage.
Iowa	Rated only single-A by Standard & Poor's.
Kentucky	Rated only single-A by both Moody's Investors Service and Standard & Poor's.
Maine	Rated only "A+" by Standard & Poor's; enjoys state moral obligation.
Minnesota	Similar to both Arkansas and Colorado, Minnesota has a supplemental reserve, but the debt is also secured by moral obligation pledge.
Missouri	Reserve fund equals 70% of outstanding loans, as opposed to lower conventional reserve fund levels for most other programs.
Nevada	Backed by State's general obligation pledge.
North Dakota	Rated "A1" by Moody's Investors Service.
Ohio	Rated only single-A by both Moody's Investors Service and Standard & Poor's.
Pennsylvania	Double-A Standard & Poor's rating; overcollateralization with over one-half of the program funds coming from the State of Pennsylvania.
Rhode Island	No uninsured ratings.
South Dakota	Rated only single-A by Moody's Investors Service.
Texas	Substantial overcollateralization; expectation that debt service coverage on pool will rise to over 8.0 times during the life of the bonds.



PRESTON GATES & ELLIS
ATTORNEYS

January 18, 1996

Ms. Michele Brown
Acting Commissioner
Department of Environmental Conservation
State of Alaska

The State Bond Committee
c/o Mr. Forrest Browne, Debt Manager
Treasury Division, Department of Revenue
State of Alaska

Re: Leveraging the Clean Water Act Revolving Fund Loan Program

Dear Ms. Brown and Members of the Committee:

We have been requested to evaluate the Alaska Clean Water Fund ("ACWF") revolving fund loan program for the purpose of making recommendations as to how the program can be structured to accommodate and provide for the sale of bonds ("Bonds"), the proceeds of which would be reinvested in the program. In so doing, we have been asked to consider the legal issues such a program may raise and to analyze the different options available for achieving such a program. We have also been requested to confirm that any format we propose complies with federal law requirements for the issuance of bonds the interest on which may be excluded from federal income tax. Concern has also been expressed that it comply with federal law relating to the federal Clean Water Act.

Finally, we were asked to assist in drafting necessary implementing legislation. Such legislation has been prepared through the efforts of the Department of Law, the Department of Environmental Conservation, the staff of the State Bond Committee, the financial advisor to the State Bond Committee and this firm. This legislation has been introduced in the Legislature as Senate Bill No. 207 and House Bill No. 401 (herein together, the "Bill").

In undertaking this task, we have reviewed the constitution and statutes of the State of Alaska relating to the ACWF (a state revolving fund or "SRF" under federal law) and have reviewed federal law relating to tax exemption of state and local governmental obligations and the Clean Water Act. We have reviewed relevant court decisions and opinions of the attorney general of the state, information relating to the operation of the revolving loan program and have met and

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had discussions with staff members of the State Bond Committee, the Department of Environmental Conservation ("DEC") and the Department of Law.

We respond as follows:

SUMMARY OF CONCLUSIONS

We believe that the Bonds may be issued by the State Bond Committee as provided in the Bill, without violation of Article IX, Section 8, of the State Constitution requiring an election approving the issuance of bonds. We also believe that under the Bill the program can be structured to allow leveraging of the ACWF by the issuance of Bonds, with the commitment of funds necessary to such a structure without violation of Article IX, Section 7, of the State Constitution restricting the dedication of revenues of the state. Finally, under the Bill, such a financing program can be structured to allow the Bonds to be issued on a tax-exempt basis. These conclusions are, of course, dependent on the final language of the legislation adopted, and the ultimate terms and provisions of the financing plan as adopted by the State Bond Committee.

LEGAL ANALYSIS

Regardless of the administrative structure chosen to implement a program of leveraging the ACWF by the issuance of bonds, there are two fundamental legal issues which must be addressed. They are the questions of (1) whether or not a vote of the people is required for the issuance of such bonds and (2) whether or not the issuance of such bonds can be structured in such a way as to comply with the constitutional prohibition against dedication or earmarking of revenues of the State.

One important point should be made before discussing the legal issues. In order for a bond counsel to be able to give an opinion approving an issue of bonds, he or she must be able to say that no reasonable argument can be made against the validity of such bonds. This is a strict standard and is sometimes difficult to meet even if one thinks that a court would be likely to uphold validity on a particular issue. The following discussion is the result of our effort to evaluate each issue in the light of the "no reasonable argument" standard.

Issuing State Bonds Without an Election

Article IX, Section 8, of the State Constitution provides as follows:

"No state debt shall be contracted unless authorized by law for capital improvements . . . and ratified by a majority of the qualified voters of the State who vote on the question."

Section 11 of Article IX provides:

"The restrictions on contracting debt do not apply to debt incurred through the issuance of revenue bonds by a public enterprise or public corporation . . . when the only security is the revenues of the enterprise or corporation."

Thus, Article IX, Section 8, requires that State bonds be issued only for capital purposes and only with an approving vote of the electorate. These restrictions are removed with respect to the issuance of revenue bonds issued by "a public enterprise or public corporation of the State . . . when the only security is the revenues of the enterprise or corporation." Although the Bill proceeds would not be used for capital facilities belonging to the state and no election is contemplated, these restrictions do not apply if one of the above exceptions can be invoked.

One approach would be to create or use a separate public corporation for the purpose of leveraging the revolving fund program. The Bonds can also be issued directly by the State, as contemplated by the Bill, through the State Bond Committee which now administers the issuance of other State debt, if to do so constitutes "the issuance of revenue bonds by a public enterprise . . . of the State . . . , when the only security is the revenues of the enterprise. . . ." There is little law on the subject of whether or not such a loan program can constitute a "public enterprise" for purposes of meeting the revenue bond exception to public vote requirements. Many cases recognize the validity of issuing such bonds for a public improvement, such as a utility system or an airport which generates revenue sufficient to secure the bonds. There is authority that the issuance of bonds primarily for reinvestment to make a profit (arbitrage bonds) is not a valid public purpose. See State v. City of Orlando, 576 So. 2d 1315, 1317 (Fla. 1991). Such arbitrage schemes are, however, quite different from the program contemplated here--the loaning of money to municipalities for clean water related public improvements. Under present federal law and DEC practice, such loans cannot bear interest at a rate greater than the Bonds so it is unlikely a profit could be made. We believe that the leveraging of the revolving fund program through the issuance of Bonds should be considered by the courts to be a public enterprise. While there seems to have been little litigation on this point, the existence of other similar State revolving fund programs financed in part by the issuance of revenue bonds, as well as the existence of a number of general purpose bond banks and industrial development authorities in Alaska and nationally, gives credence to the "public enterprise" characterization of such a program as being within the custom and practice nationally in municipal finance.

The proceedings of the Alaska Constitutional Convention further support the characterization of the Bonds as the revenue bonds of a public enterprise of the State. The minutes of the convention record the following exchange:

"HELLENTHAL: In Section 11 where the Committee deals with the non-applicability of the restrictions on debt, in the case of revenue bonds issued by public corporations of the state, first; public enterprises of the state, second; and

thirdly, any political subdivision. Does the committee mean by that language that any political subdivision can issue revenue bonds either through a public corporation or through a public enterprise, or directly, like the City of Anchorage did with its Eklutna project; and in the event that they choose to issue them directly without employing the device of the public corporation, with those bonds being exempt from the restrictions applicable to debt?

NERLAND: That was the intention of the Committee, Mr. Hellenthal."

This language makes clear the intent of the drafters that bonds to fund a public enterprise may be issued directly by the State without employing the device of a public corporation.

Case law defines "enterprise" broadly. "Enterprise" is not restricted to a scheme for making money but includes any object that is consistent with the interests of society and may engage the attention of men and invite their cooperation." under the holding in Maxwell vs. Akin, 89 F. 178, 180 C.C.C.D. Ore. 1898. Case law interpreting "enterprise," as it appears in federal statutes, does so very broadly. See Marshall v. McAlester Corp., 438 F. Supp. 1005, 1012 (E.D. Okla. 1977) ("enterprise" under the Fair Labor Standards Act).

Based on the foregoing, it appears that characterizing the revolving loan program as a public enterprise of the State should successfully bring into play the exceptions of Article IX, Section 11. Care should still be taken however in actually implementing the legislation to avoid the implication that the Bonds are, in any way, secured by the general funds or revenue of the State. To this end, it may be necessary to segregate in separate accounts the money paid into the fund out of general State funds and other ACWF moneys such as grants or loan repayments, to make clear that only federal grants, loan repayments and earnings thereon secure the Bonds, to create reserves that secure the Bonds only out of "revenues of the enterprise" and to make whatever other provisions are necessary to clarify the applicability of the revenue bond concept.

Dedicated Funds

In order to structure, in conjunction with the ACWF, a revenue bond financing vehicle, it is necessary to provide for, or authorize the issuing agency to provide for, the pledging or dedication of the revenue stream and other moneys which are to secure and pay the Bonds. The Bill does this. This is usually not a problem for a state or municipality. However, Alaska is subject to the requirements of Article IX, Section 7, of the State Constitution which provides:

"The proceeds of any state tax or license shall not be dedicated to any special purpose, except . . . when required by the federal government for state participation in federal programs."

The following questions are raised: May the State dedicate loan repayments (principal and interest) under the ACWF revolving fund program to be deposited in the ACWF? May the State pledge to the payment and security of the Bonds the loan repayments (principal and interest), federal grants received, State matching money and interest earned on ACWF money? May reserve funds or accounts be created out of funds other than revenue of the revolving fund loan program and pledged to secure and pay Bonds?

Dedications Required By Federal Law

In order to continue to qualify for participation in the federal funding program established by the Clean Water Act, implementing state legislation must be consistent with the Clean Water Act and relevant federal regulations. The proceeds of state bonds secured by the state revolving fund (the ACWF) are required to be paid into such fund. (33 U.S.C.A. Section 1383 (d)(4)) Repayment of loans out of a SRF must also be paid into the fund. (33 U.S.C.A. Section 1383(d)(1)(D)) Federal capitalization grants and state matching moneys are also required to be paid into the SRF. (33 U.S.C.A. Section 1382 (b) (1), (2)) Although there does not appear to be federal legislation specifically mandating the retention of interest earnings in the SRF, the regulations state that "SRF balances must be available in perpetuity and must be used solely to provide loans and other authorized forms of financial assistance" to assist communities in maintaining water quality. 40 CFR Section 35.3115 (1994) The Initial Guidance for State Revolving Funds contains similar language referring to "All funds within the SRF," as does 33 U.S.C.A. Section 1383 (c).

Thus it appears that federal legislation mandates that all of the major sources of money in the ACWF be deposited in that Fund and that moneys in the Fund may not be withdrawn except to be applied to provide financial assistance to local governments or state agencies for the purposes specified in the Act. One of the methods of giving financial assistance is to use such moneys to pay and secure bonds issued to provide funds for the same purposes. While federal law does not mandate that moneys in the SRF be used only for so securing bonds, as opposed to other authorized means of assisting communities, the discretion that Article IX, Section 7, intended to permanently vest in the legislature with respect to state revenues is almost totally eclipsed by these requirements of federal law which are "required . . . for state participation in" this federal program. Also, the case of State v. Alex, 646 P.2d 203, 209 (Alaska 1982) indicates that once moneys are in a given fund, Art. IX, Section 7, does not preclude their dedication to secure revenue bonds to which they relate. Thus, we believe that, as authorized by the Bill, the dedication of revenue sources in the Alaska Clean Water Act to the ACWF and the proposed dedication of money in the ACWF (other than state matching money or, possibly, the portion of loan repayments representing the loan of state matching money) to pay and secure bonds meet the requirements of Article IX, Section 7.

Tax Analysis

Under the Bill, a program may be structured in which tax-exempt bonds are issued by the State to acquire tax-exempt obligations of local governmental units. The debt obligations issued by the local governmental units must be tax-exempt governmental obligations and may not be tax-exempt private activity bonds. Care must be taken to ensure that the underlying projects do not have private business users in excess of that permitted by the Internal Revenue Code (the "Code") and that any private business management contracts for the facility meet the IRS guidelines in effect at the time the State bonds are issued.

The Code generally treats bonds as taxable "arbitrage bonds" if the bond proceeds are used to acquire "investment property" that has a yield that is materially higher than the bond yield. The term "investment property" includes securities (such as the obligations issued by local governmental units) but excludes from this treatment tax-exempt obligations that are not private activity bonds. Also, it is unlikely that any of the local obligations acquired would bear interest at a higher rate than the Bonds.

It is important that there be more projects to be financed than the non-bond resources available from the State and the federal government. Internal Revenue Service regulations generally prohibit the State from issuing more bonds, issuing bonds earlier, or allowing them to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes for which the bonds are issued. A review of the DEC projection in this regard indicates that this issue should not pose a problem. The State's goal in the program is to leverage additional borrowed money into more project financing. It is important to demonstrate that additional projects may be financed (and financed sooner) than could be financed if the State were just to use the state and federal resources available to demonstrate that the State is not issuing more bonds than are necessary or issuing them earlier than necessary.

Programs such as this usually require that debt service reserves be established to secure the bonds. If money derived from the State funds or from the federal government are pledged to secure the State bonds, that money will be subject to the Code rules relating to bonds and may be subject to the arbitrage rebate requirements if invested in excess of the bond yield.

The bond proceeds generally may be invested at yields in excess of the bond yield for a period of three years by the local governmental units. While the bond proceeds are held by the State and before they are used to acquire the local governmental unit obligations, the IRS regulations allow for a six-month investment period for State bond proceeds. This six-month temporary period is subtracted from the three-year period available to the local governmental units. In addition, there is a three-month temporary investment period for repayments that are expected to be recycled into purchase of new local obligations.

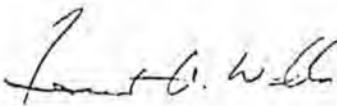
Ms. Michele Brown
The State Bond Committ
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The Code also contains specific requirements for "pooled financing bonds." In general, the State must reasonably expect that as of the close of the three-year temporary investment period, at least 95% of the net bond proceeds will have been used to acquire the local governmental unit obligations. In addition, the payment of legal and underwriting costs associated with the issuance of the bonds may not be contingent and at least 95% of such costs must be paid not later than 180 days after the State bond issuance.

We hope that the forgoing is of assistance. Please call with any questions or comments.

Very truly yours,

PRESTON GATES & ELLIS

By 
Forrest W. Walls

FWW:wp

cc: Ms Marie Sansone
Mr. Butch White
Mr. Chester Johnson
Mr. Mike Burns
Mr. Lee Sharp
Mr. Bill Mantle
Ms. Cynthia Weed

FWW09F.DOC

Government Finance Associates, Inc

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January 19, 1996

TO: MIKE BURNS
BUTCH WHITE
MARIE SANSONE
FORREST BROWNE

FROM: GOVERNMENT FINANCE ASSOCIATES, INC.

SUBJECT: ELIMINATION OF STATE INTERCEPT; EFFECT ON
ALASKA'S PROPOSED SRF FINANCING PROGRAM

We have been asked to evaluate the impact of removing the state intercept from the proposed SRF leveraging and bonding structure. In this connection, it is necessary to review the effects on both the underlying credit features and the projected financing costs for the program. In order to appropriately respond to this subject, background material should be presented, as follows.

DESIRED RATING: Generally speaking, as a result primarily of (i) the large cash infusions from the Federal and state governments, (ii) provisions of the local loan repayment arrangements, and (iii) the state creation and oversight, SRF's have been highly rated. For example, as indicated in the attachment, of the 25 active leveraged state SRFs, sixteen are rated double-A or better, without taking into account bond insurance. The other nine are rated single-A, or they are assigned insured ratings. Because of the high credit standing of these structures, only a few have chosen to be insured, since any rating in the double-A or higher categories makes bond insurance unnecessary. In most cases, insured bonds trade no better than a weak double-A. Additionally, double-A ratings, on an uninsured basis, give a borrower substantially greater flexibility, as a result of the lower cost of capital that the rating affords and the reduced number of restrictions that apply to uninsured debt. Taking these factors into consideration, combined with the inherent strengths of the Alaska SRF, we recommend that the State establish a goal of achieving no less than an uninsured rating of double-A.

USE OF STATE INTERCEPT: As shown in the attachment, of the sixteen active leveraged SRFs rated double-A or better, half of them use the state intercept of local aid to provide underlying security. The state intercept mechanism has been employed for numerous purposes over the years. In the 1970's, for example, states that created bond banks to reduce the cost of capital for localities often applied the state intercept to help secure the bonds that were sold by the respective state bond banks. As a policy matter, the rating agencies have concerns about the pooling of local credits, with disparate credit

Government Finance Associates, Inc.

standing, in the absence of some generic, extra credit support. State intercepts have often been used to address these rating agency misgivings about local credit pools and to "homogenize" the various credits within the pools. On occasion, state "moral obligation" pledges have been invoked for this purpose, but Moody's, in particular, gives little weight to the concept after "moral obligation" agencies in New York State had very serious credit problems in the 1970's, including a default on certain notes by one "moral obligation" agency. The state intercept is a well-established and favorably accepted credit device.

DIFFERENCE IN COST OF CAPITAL BETWEEN "A" AND DOUBLE "A" SRFs:

In our opinion, if the State does not make special arrangements, as discussed further below, to compensate for the loss of the state intercept, it is highly likely that a rating of single-A will be given to the State's SRF, as opposed to the more desirable double-A. If this development occurs, then the Alaska SRF will experience a more costly interest expense on the bonds it sells in the credit markets. We estimate that the current difference in interest costs between a single-A and double-A credit, over twenty years, on \$10 million is equal to \$271,000 in gross dollars. Compounding this difference over several years of SRF issuances, for \$100 million, it would amount to \$2.3 million over twenty years.

It should be noted that we are currently experiencing low interest rates. In a higher interest rate environment, this difference between single-A and double-A credits could be (and has been) as great as 50 basis points. In that situation, the difference in capital costs between a single A and double A could aggregate as much as \$7.0 million over twenty years. One could argue that the difference could be reduced through bond insurance, which is correct, but it is relevant to emphasize the following in this respect. First, bond insurance is rather expensive, often as much as one-half of one percent of total debt service. Second, bond insurers frequently require programmatic restrictions that even the rating agencies do not mandate.

ALTERNATIVES TO STATE INTERCEPT: As discussed above and as more fully exhibited in the enclosures, there are options for Alaska in achieving a double-A rating for the leveraged SRF over and above the use of the state intercept. The alternatives tend to fall into three categories. First, as demonstrated by the Arkansas, Colorado, and Minnesota programs, a supplemental reserve could be created that further secures the cash flow through excess revenues and unreleased fund balances. Second, overcollateralization of financed loans could also be accomplished through lower ratios of SRF debt to the program's fund balance and other unreserved monies; Missouri, Pennsylvania and Texas have followed this course. Third, other programs, such as Arizona and Nevada, have applied high general obligation bond ratings to secure the SRF debt; Arizona apparently issues uninsured debt only for high rated localities, such as Phoenix, and Nevada SRF debt is further secured by the State's general obligation pledge. Based on our understanding of the desire for flexibility in the Alaska program, we do not think that the third option is realistic for the Alaska context.

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CONCLUSION: The state intercept mechanism is a common feature for many, highly rated SRF structures. If the State wishes to eliminate the state intercept but still achieve a double-A rating, on an uninsured basis, for its leveraged SRF program, it will be necessary for operational adjustments to be made by the State. These adjustments could include, but would not necessarily be limited to, the establishment of supplemental reserve funds and significant overcollateralization of assets (lower debt to equity ratios). In effect, the Alaska program would be required to limit its flexibility in certain respects. The State will need to balance these additional restrictions and effect on the SRF's future programmatic flexibility against any perceived disadvantages of the use of a state intercept.

As a final comment, we would like to emphasize that in the absence of substantial reasons to the contrary, the use of the state intercept, as a result of its frequent use for other states that have received a double-A rating, will facilitate discussions with rating agencies and will be met with an historically favorable acceptance by the credit markets. These factors should result in a lower cost of capital for the Alaska SRF. We suggest that if Alaska desires to eliminate the state intercept, we should first discuss its elimination with the rating agencies to determine the replacement security feature that the agencies would possibly require in order for Alaska to achieve a double-A rating. Of course, if Alaska is satisfied with the single-A rating, then it becomes a matter of the additional cost of capital that would be incurred through the elimination of the state intercept.

Testimony before House Community and Regional Affairs

My name is Diana Bennett. I am the Finance Manager of the Anchorage Water and Wastewater Utility, a department of the Municipality of Anchorage. I am here today to speak in favor of House Bill 401 and its companion bill in the Senate, number 207, bills authorizing the State of Alaska to issue revenue bonds for the purpose of funding wastewater and other water quality improvement projects thru the Alaska Clean Water loan fund.

Although AWWU shares a common workforce and management, it is actually two separate utilities for regulatory purposes, establishing separate rates for service and incurring separate debt for capital projects. The wastewater utility relies substantially, almost entirely, on the Alaska Clean Water loan fund to finance its comprehensive capital improvement plan. We anticipate borrowing \$4-6 million

annually from the loan program. I hope the funds will be available to do so.

The low interest loan program has been extremely popular and well received throughout the country. The Anchorage Wastewater Utility has borrowed \$8.8 million from the low interest loan program, at rates substantially lower than would be possible in the regular bond market. We estimate this has saved the ratepayers at least \$400,000 over the past four years, in addition to the flexibility the program affords us. In the years this Alaskan program has been in existence, ADEC has made loans totaling \$53 million. There is still a tremendous need for low cost funding throughout the state. ADEC received requests for \$13 million in loans for the current fiscal year.

The bill under discussion will allow what many other states have done and leverage this initial capitalization money from the federal government. Increasing the amount of funds available allows

projects to be completed sooner than if we have to wait for our projects to move above the "cut line". This is a good way to increase the pool of money available for necessary water quality projects, without putting any other programs at risk. The burden for repayment remains with the communities requiring the funds. There is a strong incentive for them (us) to make our payments.

Without increasing the availability of funds, at the current request level of \$13 million, the state will run out of money to loan in only 2 years. The loans are being repaid, but the repayment stream has not reached equilibrium yet, and when it does it will only be, I believe, \$4 - 5 million - well below the projected need. The communities around the State need this source of low interest money to help finance sorely needed water quality improvements.

The revenue bonds will be backed, not by the full faith and credit of the state, but by the revenue coming from repayment of the loans. In

the history of the low interest loan program, there has never been a default - not in the entire United States. In fact, in Alaska, there has never been a late payment! These bonds will be extremely safe. The State will not be required to "bail out" any agency over this.

You may have seen a Municipality of Anchorage memo listing some recommended changes to this bill. The Utility is substantially in favor of the bill as was originally written, however, we were asked to comment on the bill, with an eye to any proposed changes. This Utility works closely with ADEC and we have agreed among our two groups that this bill, with or without any or all of the suggested revisions, is extremely workable, and will benefit the whole state of Alaska. I urge you to pass this bill. Thank you for your time.

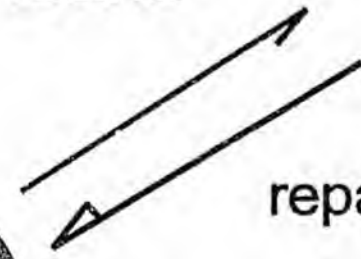
February 20, 1996

LEVERAGING THE CLEAN WATER FUND

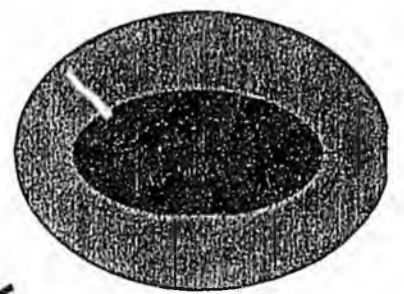
FEDERAL CAPITALIZATION GRANTS
STATE APPROPRIATIONS



loans



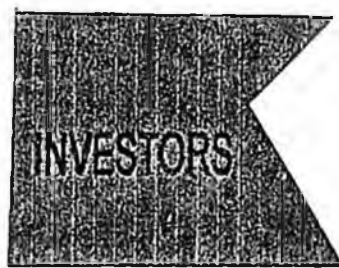
repayments



bond proceeds



1 bond issuance costs
2 annual bond payments



1 issue bonds

2 annual bond payments



LEVERAGING THE CLEAN WATER FUND

The upper part of the accompanying chart demonstrates how the Alaska Clean Water Fund (ACWF) currently operates:

- Federal capitalization grants & State appropriations (20% of federal grant amount) are deposited into the ACWF.
- ADEC administers the ACWF, providing loans to fund sanitation projects.
- Repayment of loan principal and interest is deposited into the ACWF to provide the basis for funding more community projects.
- Department of Revenue maintains the ACWF account and invests the unobligated balance, with the earnings also deposited into the ACWF.

The bottom portion of the chart illustrates the effects of leveraging on management of the ACWF:

- The ACWF balance will be pledged as collateral for revenue bonds. Costs of bond issuance are moved from the ACWF to the Bond Redemption Fund (BRF).
- The BRF will pass these funds to the State Bond Committee (SBC) who will then issue the bonds and sell them to investors.
- Bond proceeds from investors will be deposited into the ACWF. The proceeds will fund additional loans for projects. The loan repayments will produce the bond principle and interest payments.
- The SBC and the Trustee will make bond principle and interest payments from the ACWF and the BRF.

LOAN SPECIFIC INFORMATION

Community Served	Project Name	Project Number	Loan Amount	Agreement Date	Interest Rate	Amortization Period
Loans made during FY 90						
Anchorage	Eagle River	127011	\$7,759,380	10/31/89	4.65%	20 years
Homer	STP	409011	\$4,750,000	9/5/89	4.80%	20 years
Kachemak City	STP	451011	\$450,000	7/25/89	4.54%	20 years
Loans made during FY 91						
Anchorage	Campbell Creek	12702	\$2,238,607	12/17/90	4.84%	20 years
Nome	STP	627011	\$788,421	4/19/91	4.56%	20 years
Loans made during FY 92						
Anchorage	Eagle River Inc.	127011	\$3,000,000	9/6/91	4.65%	20 years
Cordova	Sewer Rehab	261011	\$735,310	9/24/91	4.42%	20 years
Anchorage	Campbell Creek II	127031	\$453,141	6/30/92	4.31%	20 years
Nome	Icy View	627021	\$2,000,000	6/30/92	4.31%	20 years
Seward	Lowell Point	769011	\$924,000	6/30/92	4.31%	20 years
Loans made during FY 93						
Seward	Dairy Hill	769021	\$40,000	11/23/92	4.75%	20 years
Juneau	Belt Press	445011	\$255,501	10/9/92	4.64%	15 years
Juneau	Back Loop Sewer	445021	\$1,620,500	2/2/93	4.56%	10 years
Anchorage	Pt. Woronzof	127041	\$2,443,128	4/26/93	4.24%	20 years
Juneau	Channel Drive	445031	\$536,000	6/7/93	4.23%	10 years
Loans made during FY 94						
Silka	I&I	783011	\$2,000,000	8/17/93	4.04%	20 years
Juneau	Goat Hill	445041	\$166,000	12/23/93	4.05%	10 years
Bristol Bay	Leader Creek	183011	\$2,235,321	3/1/94	4.11%	20 years
Loans made during FY 95						
Craig	Wastewater	265011	\$1,000,000	9/14/94	4.45%	20 years
Anchorage	Regional Landfill	127051	\$10,062,000	12/2/94	4.74%	20 years
Anchorage	Girdwood Wastewater	127061	\$2,500,000	4/24/95	4.17%	20 years
Loans made during FY 96						
Nome	Solid Waste	627031	\$2,000,000	7/19/95	3.99%	20 years
Anchorage	Eagle River TID	127071	\$2,500,000	10/30/95	3.86%	20 years
Anchorage	Miscellaneous Projects	127081	\$3,015,000	1/12/96	3.74%	20 years

**Alaska Clean Water Fund
Project List**

July 6, 1995

Municipality	Project Title	Score	Amount	Cumulative
Projects to be Funded from Existing EPA Capitalization Grant				
Statewide	Planning and Design		\$614,287	\$614,287
Anchorage	Merrill Field Leachate Collection System		\$4,875,000	\$5,489,287
Yakutat	Wastewater Treatment Plant	85	\$200,000	\$5,689,287
Bristol Bay	King Salmon, Phase II	67	\$4,769,413	\$10,458,700
Klawock	STP Upgrade and Int.	46	\$1,500,000	\$11,958,700

**Alaska Clean Water Fund
Project List**

July 6, 1995

Municipality	Project Title	Score	Amount	Cumulative
Projects Seeking Funding from FFY 96/97 Capitalization Grant				
DEC	Administrative Costs		\$578,240	\$578,240
Juneau	Goat Hill Sewer Phase II	73	\$770,000	\$1,348,240
Kodiak	Wastewater Treatment Plant Project	70	\$4,880,500	\$6,228,740
Bristol Bay Borough	Borough Landfill Expansion	69	\$285,000	\$6,513,740
Homer	East Trunk-STP to Lake Street	67	\$626,000	\$7,139,740
Bristol Bay Borough	King Salmon Sewer Phase III	67	\$1,576,265	\$8,716,005
Anchorage	Middle Fish Creek Trunk	65	\$3,000,000	\$11,716,005

**Alaska Clean Water Fund
Project Planning List**
July 6, 1995

Municipality	Project Title	Score	Amount	Cumulative
Craig	Wastewater Plant Reconstruction	66	\$4,000,000	\$4,000,000
Unalaska	Solid Waste Facility, Phase I	66	\$3,500,000	\$7,500,000
Anchorage	C-5-7 Trunk R&R	65	\$3,000,000	\$10,500,000
Nome Joint Utility	Wooden Utilidor Upgrade	63	\$2,000,000	\$12,500,000
Valdez	Robe River Subdivision Sewer Interceptor	54	\$5,024,900	\$17,524,900
Petersburg	Scow Bay Sewer Extension, Final Phase	54	\$2,064,000	\$19,588,900
Petersburg	Sludge De-watering Facility	53	\$1,115,000	\$20,703,900
Fairbanks	Wastewater Sludge Disposal	47	\$9,500,000	\$30,203,900
North Slope	Anaktuvuk Pass Sewer	47	\$3,000,000	\$33,203,900
North Slope	Point Hope Sewer Project	47	\$3,000,000	\$36,203,900
North Slope	Point Lay Sewer Project	47	\$3,000,000	\$39,203,900
North Slope	Wainwright Sewer Project	47	\$3,000,000	\$42,203,900
Fairbanks	Ft. Wainwright Interceptor Rehabilitation	47	\$800,000	\$43,003,900
Unalaska	Wastewater Secondary Treatment	46	\$9,000,000	\$52,003,900
Unalaska	Primary Wastewater Treatment Facility	46	\$7,500,000	\$59,503,900
Anchorage	Pt. Woronzof Incinerator	42	\$6,000,000	\$65,503,900
Dillingham	Northeastern Townsite Sewer	37	\$898,976	\$66,402,876
Dillingham	Area 5 Phase I & II	37	\$1,390,505	\$67,793,381
Dillingham	Area 4 Phase I & II	34	\$2,011,280	\$69,804,661
Sand Point	Harbor Sewer Extension	34	\$300,000	\$70,104,661
Fairbanks	Van Horn & South Cushman Sewer	33	\$900,000	\$71,004,661
North Pole	Highway Park/Badger-Hurst Sewer	29	\$2,850,000	\$73,854,661
Fairbanks	International Industrial Ave. Sewer, Ext.	29	\$850,000	\$74,704,661
Fairbanks	E.M. Jones Sewer Extension, Phase I	29	\$2,600,000	\$77,304,661
Fairbanks	Industrial Park Sewer Ext.	29	\$850,000	\$78,154,661

03/28/96

15:32:18

TCN: 60576

DATE & TIME: 03/20/96 08:00 TO 10:00 STATUS:7 STATS. IN

**** ORDER SUMMARY ****

SPONSOR: HRES HOUSE RESOURCES

CHAIRS: GREEN

PURPOSE: PUB PUBLIC HEARING

LEGISLATIVE

WILLIAMS

CONTACT: JEFF OR GARY

TEL#: (907)465-4846

CHAIRING SITE: JUNEAU

CAPITOL

CAP124

TOLL FREE: (700)222-1000

DIAL-UP:

LIO:(800)478-9908

SPONSOR REMARKS(PUB): TESTIMONY:Y ALLOWED

3 MINUTE LIMIT

TESTIMONY WILL BE TAKEN WITH A 3 MINUTE LIMIT.

SEE COMMITTEE SCHEDULE IN BASIS

SPONSOR REMARKS(LIO): BACKUP MATERIAL:Y MEETING IN PROGRESS:N MAX. SITES:10

OTHER SITES MAY ADD THRU THE JNU LIO

BACK-UP = NOM BACK-UP FAXED 3/19

TCN REQUESTED ON 03/20/96 AND HAS 3 UPDATES

**** AGENDA ****

- 1 HB 388 AREAWIDE OIL & GAS LEASING
- 2 HB 401 REVENUE BONDS: WATER & WASTE PROJECTS

**** PARTICIPATING LIOS ****

ANC ANCHORAGE

716 W 4TH, #200

LOCATION STAFF

* JNU JUNEAU

CAPITOL

CAP124

LOCATION STAFF

NOM NOME

FRONT STREET

LOCATION STAFF

PARTICIPANTS IN:ANCHORAGE

ANC

1	PAT	FOLEY	AOGA	TSFY. HB 388
	BOX 100360/ARCO AK		ANCHORAGE	AK 99510 (907)265-6243
2	BRAD	PENN	MARATHON OIL CO	TSFY. HB 388
	PO BOX 196168		ANCHORAGE	AK 99519 (907)564-6428
3	KEN	BOYD	DIV O&G	TSFY. HB 388
	3601 C ST		ANCHORAGE	AK 99503 (907)269-8800
4	LEE	SHARP	ADEC	TSFY. HB 401
	429 L ST, STE 400		ANCHORAGE	AK 99501 (907)276-1969
5	DIANA	BENNETT	AWWU	TSFY. HB 401
	3000 ARCTIC BLVD		ANCHORAGE	AK 99503 (907)786-5623
6	STEVEN	PORTER	ARCO	OBSV. HB 388
	PO BOX 100360		ANCHORAGE	AK 99501 (907)265-6329
7	TO	OBSERVE		OBSV. ALL ITEMS
8	TO	OBSERVE		OBSV. ALL ITEMS

PARTICIPANTS IN:JUNEAU

JNU

1	TO	OBSERVE		OBSV. ALL ITEMS
2	TO	OBSERVE		OBSV. ALL ITEMS
3	TO	OBSERVE		OBSV. ALL ITEMS
4	TO	OBSERVE		OBSV. ALL ITEMS
5	TO	OBSERVE		OBSV. ALL ITEMS
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03/28/96

15:32:18

TCN: 60576

DATE & TIME: 03/20/96 08:00 TO 10:00 STATUS:7 STATS. IN

PARTICIPANTS IN:JUNEAU

JNU

13	TO	OBSERVE	OBSV. ALL ITEMS
14	TO	OBSERVE	OBSV. ALL ITEMS
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16	TO	OBSERVE	OBSV. ALL ITEMS
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28	TO	TESTIFY	TSFY. ALL ITEMS
29	TO	TESTIFY	TSFY. ALL ITEMS
30	TO	TESTIFY	TSFY. ALL ITEMS

PARTICIPANTS IN:NOME

NOM

1 MRS. BERDA	WILLSON	NJU	TSFY. HB 401
BOX 70	NOME		AK 99762 (907)443-5288

**** SCHEDULING NOTES ****

JEFF CALLED 031996 TO CHANGE AGENDA-SJR39 DROPPED-HB388 ADDED-OFFNET DROPPED

**** UPDATES ****

01	03/18/96	12:52:21	ANNOUNCING TELECONFERENCE
02	03/19/96	15:06:08	NOME ADDED ON
03	03/19/96	17:49:43	OFFNET 1 DROPPED
03	03/19/96	17:49:44	ADDED HB 388
03	03/19/96	17:49:45	DROPPED SJR 39

