

SB

2017

02/05/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
13:37:50 PARTICIPANT LIST (ALL PARTICIPANTS) BY:FBX
TCN:60290 SCHEDULED FOR:02/05/96 13:30 TO 15:30 FOR:FBX
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS
LOCATION:FAIRBANKS
SB 207 MS. MARIE SANSONE ATTY GEN.OFFICE TESTIFY

02/14/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
14:25:25 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC
TCN:60350 SCHEDULED FOR:02/14/96 13:30 TO 15:30 FOR:ANC
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS
LOCATION:ANCHORAGE
SB 207 MR. LEE SHARP DEC TESTIFY

02/14/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150
14:18:05 PARTICIPANT LIST (TESTIFIERS ONLY) BY:COR
TCN:60350 SCHEDULED FOR:02/14/96 13:30 TO 15:30 FOR:COR
PUBLIC HEARING SENATE COMMUNITY & REGIONAL AFFAIRS
LOCATION:CORDOVA
SB 207 MR. GEORGE KEENEY CITY OF CORDOVA TESTIFY

SENATE COMMITTEE REFERRAL
First Committee of Referral

DATE: 1/8/96

FURTHER: State Affairs
 Judiciary, Finance

Date of 5-Day Notice: 2/1/96
 (in accordance with Uniform Rule 23)

DATE TURNED
 INTO OFFICE: _____

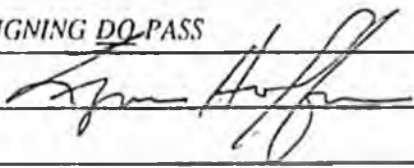

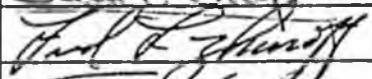
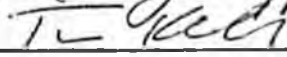
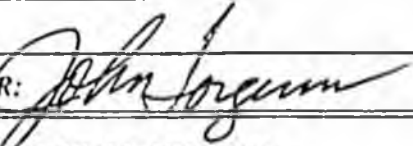
The Community & Regional Affairs Committee considered SENATE BILL NO. 207

"An Act relating to revenue bonds for water and wastewater projects."

and recommends:

- be replaced with _____ CS SB 207 (CRA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill: same title
- new title
- House Bill: same title
- technical title
- new: SCR# _____

SIGNING DO-PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
			✓		
			✓		
			—		
CHAIR: 	✓				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
Revenue	1/2/96	✓	
Environment-Nonsensations	1/2/96	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

CS FOR SENATE BILL NO. 207(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing the issuance and sale of revenue bonds to fund public
 2 wastewater systems, nonpoint source water pollution control projects, including
 3 solid waste management systems, and estuary conservation and management
 4 projects; authorizing the use of the Alaska clean water fund to pay and secure
 5 the bonds and to pay costs related to issuance and administration of the bonds;
 6 authorizing certain measures to secure payment of the bonds; and amending
 7 Rule 3, Alaska Rules of Civil Procedure."

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

9 * Section 1. POLICY AND PURPOSES. The legislature finds that the expenditures,
 10 transfers, and applications of money, and the use of the public credit through the issuance of
 11 revenue bonds, as authorized by this Act, will serve a public purpose by allowing the financing
 12 of needed public water quality improvements substantially sooner than would otherwise be
 13 possible.

1 * Sec. 2. AS 37.15 is amended by adding new sections to read:

2 ARTICLE 3A. ALASKA CLEAN WATER FUND BONDS.

3 Sec. 37.15.560. BOND AUTHORIZATION. (a) For purposes of providing part
4 of the money to be used to provide financial assistance to municipalities and other
5 qualified entities for the purposes stated in AS 46.03.032(d), including the costs of bond
6 issuance and administration, the issuance and sale of revenue bonds of the state is
7 authorized, subject to (b) of this section. The bonds are to be issued by the state bond
8 committee, as provided in AS 37.15.560 - 37.15.605, as part of the Alaska clean water
9 fund revolving loan fund program (AS 46.03.032), a public enterprise of the state. The
10 net proceeds of the sale of the bonds, remaining after any payment of costs of issuance
11 and administration, shall be paid into the Alaska clean water fund. Accrued interest paid
12 on the bonds shall be paid into the Alaska clean water fund for transfer to the Alaska
13 clean water fund revenue bond redemption fund (AS 37.15.565).

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

18 (c) The bonds do not constitute a general obligation of the state. Authorization
19 by the voters of the state or the legislature is not required.

20 (d) The state bond committee may enter into agreements with other state
21 agencies as necessary or convenient to implement AS 37.15.560 - 37.15.605.

22 (e) The state bond committee may contract for the services of underwriters,
23 paying agents, trustees, bond printers, rating agencies, bond insurance, credit
24 enhancement providers, accountants, financial advisors, and bond counsel, and other
25 services as are necessary to accomplish the bond issuance and sale.

26 Sec. 37.15.565. BOND REDEMPTION FUND. (a) There is established a
27 special fund of the state, known as the "Alaska clean water fund revenue bond
28 redemption fund," which is a trust fund for paying and securing the payment of the
29 principal of and interest and redemption premium, if any, on the bonds and which shall
30 be at all times completely segregated and set apart from all other funds of the state. The
31 committee, on behalf of the state, may obligate and bind the state to set aside and pay
32 into the bond redemption fund, on a monthly or other periodic basis, any part or parts

1 of, or all of, or a fixed proportion of, or a fixed amount of the money in the Alaska clean
2 water fund (AS 46.03.032) sufficient to pay the principal of and interest and redemption
3 premium, if any, on the bonds and, if it considers it necessary, to set aside and maintain
4 reserves for this purpose. The bond redemption fund shall be drawn upon only for the
5 purpose of paying the principal of and interest and redemption premium, if any, on the
6 bonds, together with related trustee fees, if any.

7 (b) Money in the bond redemption fund may be invested in the same manner and
8 on the same conditions as permitted for investment of money belonging to the state or
9 held in the treasury under AS 37.10.070; however, the committee may agree with the
10 bondholders to further limit these investments. Earnings on investments must be retained
11 in the bond redemption fund.

12 (c) Separate accounts may be created in the bond redemption fund for the
13 purposes of paying and securing the bonds. The accounts may be combined for purposes
14 of investment.

15 Sec. 37.15.570. BOND TERMS. (a) The bonds may be issued and sold at
16 public or negotiated sale in the manner, in the amounts or series, and at the time or times
17 that the committee determines. The bonds, or each series of them, shall be sold at the
18 price and upon the terms, conditions, and covenants set by the committee after
19 considering market conditions. Interest rates may be fixed or variable.

20 (b) The bonds mature at the time or times fixed by the committee. The bonds
21 may be subject to redemption before their fixed maturities, as determined by the
22 committee, with or without a premium or premiums. The bonds may be in
23 denominations determined by the committee; may be issued in fully or partially
24 registered form; must be payable as to principal and interest at the place or places
25 determined by the committee; must be signed on behalf of the state in the manner
26 provided by the committee; must be issued under and subject to the terms, conditions,
27 covenants, and protective features safeguarding payment of the bonds and relating to the
28 funding of projects as found necessary by the committee, including covenants requiring
29 the setting aside and maintenance of certain reserves to secure the payment of principal
30 and interest, all under regulations and conditions of the committee.

31 (c) The committee may pledge to the payment of the principal of and interest
32 on bonds issued by the committee part or all of the legally available money or other

1 assets on hand in the Alaska clean water fund (AS 46.03.032); part or all of the revenue
2 of the Alaska clean water fund, including federal capitalization grants, the proceeds of
3 loan repayments, and interest on money in the fund; the proceeds of the sale of bonds;
4 and money on hand in the bond redemption fund. Revenue of the Alaska clean water
5 fund, if so pledged, must be paid into the Alaska clean water fund. The committee may
6 provide for the issuance of additional bonds, secured by a pledge of money and revenue,
7 ranking junior to, senior to, or on a parity with, outstanding bonds, upon conditions
8 prescribed in the bond resolution. A pledge of loan repayments securing bonds may be
9 made applicable to specific loans from the Alaska clean water fund or, on a pooled basis,
10 to all loan repayments received.

11 (d) If the committee finds it reasonably necessary, the committee may select a
12 trustee or trustees for the holders of the bonds, or any series of them, for the
13 safeguarding and disbursement of any of the money in the bond redemption fund created
14 by AS 37.15.565, or for duties with respect to the enforcement, authentication, delivery,
15 payment, and registration of the bonds as the committee may determine. The committee
16 shall fix the rights, duties, powers, and obligations of the trustee or trustees.

17 (e) In its determination of all matters and questions relating to the issuance and
18 sale of the bonds and the fixing of their maturities, terms, conditions, and covenants as
19 provided in (a) - (d) of this section, the decisions of the committee shall be those that
20 are reasonably necessary for the best interests of the state and its inhabitants and that will
21 accomplish the most advantageous sale of the bonds, with due regard, however, for the
22 continued funding under AS 46.03.032 of the categories of projects identified in
23 AS 46.03.032(d). Decisions of the committee, as expressed in a bond resolution, are
24 final and are conclusively considered to comply with the requirements of AS 37.15.560 -
25 37.15.605 and AS 46.03.032.

26 (f) A bond resolution may provide that the bonds issued must contain a recital
27 that they are issued under AS 37.15.560 - 37.15.605 and AS 46.03.032, and a bond
28 containing this recital is conclusively considered to be valid and to have been issued in
29 conformity with AS 37.15.560 - 37.15.605 and AS 46.03.032.

30 Sec. 37.15.573. BOND RESOLUTION. The committee shall authorize the
31 issuance of bonds by adopting a resolution and shall prepare all other documents and
32 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or

1 series of them. The bond resolution must fix the principal amount, denominations, date,
2 maturities, manner of sale, place or places of payment, rights of redemption, if any,
3 terms, form, conditions, and covenants of the bonds or each series of them. A bond
4 resolution may state terms, conditions, amounts, and other limitations on loans to be
5 made from the Alaska clean water fund (AS 46.03.032) from the relevant bond proceeds.

6 Sec. 37.15.575. STATE AID INTERCEPT. If a municipality is in default on
7 the payment of principal or interest on a loan from the Alaska clean water fund
8 (AS 46.03.032), the committee may provide written notice of default to the state agency
9 that is the custodian of money that is payable to the municipality. If the committee
10 determines to provide notice, a separate written notice shall be given in each instance of
11 default. Notwithstanding any other provision of law, at any time after receipt of written
12 notice of default, the agency head shall withhold payment of the money from the
13 municipality. The agency head shall pay over the withheld money to the committee for
14 deposit in the Alaska clean water fund for the purpose of paying or securing the principal
15 and interest on the loan.

16 Sec. 37.15.580. PLEDGE OF THE STATE. The state pledges to and agrees
17 with the holders of bonds issued by the committee under AS 37.15.560 - 37.15.605 and
18 AS 46.03.032 that the state will not limit or alter the rights and powers vested in the
19 committee by AS 37.15.560 - 37.15.605 and AS 46.03.032 to fulfill the terms of any
20 contract made by the committee with the holders, or in any way impair the rights and
21 remedies of the holders until the principal amount of the bonds, together with the interest
22 on them with interest on unpaid installments of interest, are fully met and discharged.
23 The committee may include this pledge and agreement of the state in a contract with the
24 holders.

25 Sec. 37.15.583. ENFORCEMENT BY BONDOWNER. (a) The owner or
26 owners of not less than 10 percent of the aggregate principal amount of any series or
27 issue of bonds or the trustee for the owners of the bonds or any series of them may, by
28 appropriate proceedings in state court, require and compel the transfer, setting aside, and
29 payment of money and the enforcement of all of the terms, conditions, and covenants as
30 required and provided in AS 37.15.560 - 37.15.605, AS 46.03.032, and the bond
31 resolution.

32 (b) A proceeding under (a) of this section may be commenced and conducted

1 only in the Superior Court for the State of Alaska, First Judicial District at Juneau.

2 Sec. 37.15.585. AMOUNTS REQUIRED FOR PAYMENTS. The committee
3 shall, before June 30 of each year or from time to time within the year, as appropriate,
4 commencing with the year in which the bonds are issued, certify to the commissioners
5 of revenue and environmental conservation the amounts required in the current fiscal
6 year and the next ensuing fiscal year by the bond resolution or resolutions to be paid out
7 of the Alaska clean water fund into the bond redemption fund and to be paid into and
8 maintained in any reserve fund or account or other fund or account created by the bond
9 resolution or resolutions, and shall also certify to the commissioners the last date or dates
10 upon which payments may be made.

11 Sec. 37.15.587. PURPOSES AND SUFFICIENCY OF REVENUE. The
12 proceeds of bonds may be used for the purposes described in AS 46.03.032(d). Bonds
13 may not be issued unless the committee first finds that revenue to be derived from
14 repayment of loans from the Alaska clean water fund will be sufficient, together with
15 other available money, to comply with all the covenants of the bond resolutions.

16 Sec. 37.15.590. REFUNDING. (a) The committee may refund the bonds or any
17 part of them at or before their maturities or redemption dates by the issuance of
18 refunding revenue bonds of the state if, in the opinion of the committee, refunding is
19 advantageous to and in the best interests of the state and its inhabitants.

20 (b) The issuance of refunding bonds need not be authorized by the voters of the
21 state or by an act of the legislature. The committee shall adopt the resolution or
22 resolutions and prepare all other documents and proceedings necessary for the issuance,
23 exchange or sale, and delivery of the refunding. All provisions of AS 37.15.560 -
24 37.15.605 and AS 46.03.032 applicable to revenue bonds are applicable to the refunding
25 bonds and to the issuance, sale, or exchange of them, except as otherwise provided in
26 this section.

27 (c) Refunding bonds may be issued in a principal amount sufficient to provide
28 money for the advance or current refunding of all bonds to be refunded and interest on
29 the refunded bonds and, in addition, for the payment of all costs of issuance and
30 administration of the refunding bonds. These expenses also include the difference in
31 amount between the par value of the refunding bonds and any amount less than par for
32 which the refunding bonds are sold; the premium, if any, necessary to be paid in order

1 to call or retire the outstanding bonds and the interest accruing on them to date of the
2 call or retirement; and other such costs. The committee is authorized to incur such
3 expenses.

4 (d) The committee may contract with a refunding trustee to hold the proceeds
5 of refunding bonds in trust until the proceeds, together with earnings on the proceeds,
6 are applied to pay the principal of, premium, if any, and interest on the bonds to be
7 refunded. Until the refunding bond proceeds are applied, the proceeds may be invested
8 in direct obligations of, or obligations guaranteed by, the United States or an agency or
9 corporation of the United States whose obligations constitute direct obligations of, or
10 obligations guaranteed by, the United States.

11 Sec. 37.15.595. BONDS AS LEGAL INVESTMENTS. The bonds are legal
12 investments for all banks, trust companies, savings banks, savings and loan associations,
13 and other persons carrying on a banking business, all insurance companies and other
14 persons carrying on an insurance business, and all executors, administrators, trustees, and
15 other fiduciaries. The bonds may be accepted as security for deposits of all money of
16 the state and its political subdivisions.

17 Sec. 37.15.603. REGULATIONS. The committee may adopt regulations
18 necessary to implement the provisions of AS 37.15.560 - 37.15.605.

19 Sec. 37.15.605. DEFINITIONS. In AS 37.15.560 - 37.15.605,

20 (1) "bond redemption fund" means the Alaska clean water fund revenue
21 bond redemption fund established in AS 37.15.565;

22 (2) "bond resolution" means the resolution or resolutions adopted by the
23 committee under AS 37.15.573 authorizing the issuance of bonds;

24 (3) "bonds" means the Alaska clean water fund revenue bonds authorized
25 in AS 37.15.560 - 37.15.605;

26 (4) "commissioner of revenue" means the principal executive officer of
27 the Department of Revenue as provided in AS 44.25.010, or a successor;

28 (5) "commissioner of environmental conservation" means the principal
29 executive officer of the Department of Environmental Conservation as provided in
30 AS 44.46.010, or a successor;

31 (6) "committee" means the state bond committee created in AS 37.15.110
32 or any other committee, body, department, or officer of the state that succeeds to the

1 rights, powers, duties, and obligations of the state bond committee by lawful act of the
2 legislature;

3 (7) "costs of issuance and administration" means all costs associated with
4 issuance and administration of Alaska clean water fund revenue bonds and refunding
5 bonds, including costs of bond printing, official statements, financial advisors, travel
6 costs, rating agencies, bond insurance, letters and lines of credit for credit enhancement,
7 underwriters, legal services, paying agents, bond registrars, bond and esc ow trustees,
8 arbitrage rebate, and all other costs, including administrative costs, both direct and
9 indirect.

10 * Sec. 3. AS 46.03.032(a) is amended to read:

11 (a) There is established as a separate fund the Alaska clean water fund, which
12 is distinct from any other money or fund in the treasury, and which consists of money
13 appropriated by the legislature to meet federal matching requirements, federal
14 capitalization grants, loan repayments, interest received from loan repayments, [AND]
15 interest received from investment of money in the Alaska clean water fund, and the
16 proceeds and accrued interest received from the sale of revenue bonds issued under
17 AS 37.15.560 - 37.15.605 and secured by the Alaska clean water fund. Separate
18 accounts may be created in the Alaska clean water fund. The accounts may be
19 combined for purposes of investment.

20 * Sec. 4. AS 46.03.032(b) is amended to read:

21 (b) The department shall administer the Alaska clean water fund consistent with
22 the requirements of this section and AS 37.15.560 - 37.15.605.

23 * Sec. 5. AS 46.03.032(c) is amended to read:

24 (c) The department may accept and make use of all capitalization grants
25 provided by the federal government under 33 U.S.C. 1251 - 1387 (the federal Clean
26 Water Act), as amended [BY P.L. 100-4].

27 * Sec. 6. AS 46.03.032(d) is repealed and reenacted to read:

28 (d) Except as otherwise limited by federal law, the Alaska clean water fund may
29 be used

30 (1) for the following categories of projects:

31 (A) planning, designing, building, constructing, and rehabilitating
32 a public wastewater collection, treatment, or discharge system;

1 (B) implementing a management program for controlling water
2 pollution from nonpoint sources under 33 U.S.C. 1329, including planning,
3 designing, building, constructing, and rehabilitating a solid waste management
4 system; and

5 (C) developing and implementing an estuary conservation and
6 management program under 33 U.S.C. 1330;

7 (2) to provide the following types of financial assistance for the
8 categories of projects listed in (1) of this subsection:

9 (A) making loans to municipalities and other qualified entities;

10 (B) buying or refinancing the debt obligations of a municipality
11 or other qualified entity;

12 (C) providing collateral security for or purchasing insurance for
13 a municipal or other qualified entity debt obligation; and

14 (3) to pay and secure the payment of the principal of and interest on
15 revenue bonds issued by the state and to pay the costs of issuance and administration of
16 the bonds, so long as the proceeds of the bond sale are deposited in the Alaska clean
17 water fund.

18 * Sec. 7. AS 46.03.032(f) is repealed and reenacted to read:

19 (f) The department

20 (1) may spend money from the Alaska clean water fund to pay the costs
21 of

22 (A) administering the fund; and

23 (B) the department in conducting activities under this section and
24 AS 37.15.560 - 37.15.605, including the costs of issuance and administration as
25 defined in AS 37.15.605;

26 (2) shall spend money from the Alaska clean water fund to pay

27 (A) into the bond redemption fund (AS 37.15.565), and into any
28 other bond redemption fund or account created by a relevant bond resolution, the
29 amount certified by the state bond committee under AS 37.15.585; and

30 (B) the costs of the state bond committee in conducting activities
31 under this section and AS 37.15.560 - 37.15.605, including the costs of issuance
32 and administration as defined in AS 37.15.605.

1 * Sec. 8. AS 46.03.032(g) is amended to read:

2 (g) A municipality or other qualified entity wishing to borrow money from the
3 Alaska clean water fund shall demonstrate to the satisfaction of the department that it
4 [THE MUNICIPALITY]

5 (1) has sufficient legal authority to incur the debt for which it is
6 applying; and

7 (2) will establish and maintain a dedicated source of revenue or other
8 acceptable revenue source for repayment of the loan and sufficient reserves for the
9 loan as may be necessary.

10 * Sec. 9. AS 46.03.032(j) is amended to read:

11 (j) Except as necessary to comply with the covenants of a bond resolution
12 under AS 37.15.573, a [A] loan made by the department shall be made according to the
13 standards, criteria, and procedures established by regulations under this section. A loan
14 made from the Alaska clean water fund may be subject to the state aid intercept
15 provisions of AS 37.15.575. Except as necessary to comply with the covenants of
16 a bond resolution under AS 37.15.573, in [IN] making a loan from the Alaska clean
17 water fund for a solid waste management system [FACILITY], the department shall give
18 priority to a project that will alleviate severe health or environmental concerns in the
19 community or region proposing the system [FACILITY]. In addition, the department
20 may consider

21 (1) the extent of local or regional support for the proposed system
22 [FACILITY]; and

23 (2) the extent to which the applicant can demonstrate that the full range
24 of solid waste management options has been reasonably considered and that the proposed
25 system [FACILITY] is consistent with the promotion of the solid and hazardous waste
26 management practices established in AS 46.06.021 [IN THE FOLLOWING ORDER OF
27 PRIORITY:

28 (A) WASTE SOURCE REDUCTION;

29 (B) RECYCLING OF WASTE;

30 (C) WASTE TREATMENT; AND

31 (D) WASTE DISPOSAL].

32 * Sec. 10. AS 46.03.032(k) is amended to read:

1 (k) The department shall prepare reports required by the federal government in
2 conjunction with federal capitalization grant award conditions. The department shall
3 also prepare reports and notices, including notices of default, required by the state
4 bond committee in conjunction with bonds issued under AS 37.15.560 - 37.15.605.

5 The department shall also prepare a biennial report on the Alaska clean water fund and
6 notify the legislature that it is available on or before the first day of each first regular
7 session of the legislature.

8 * Sec. 11. AS 46.03.032(o) is amended to read:

9 (o) In this section,

10 (1) "other qualified entity" means an intermunicipal or interstate
11 agency as those terms are used in 33 U.S.C. 1383, and may include an authority,
12 corporation, instrumentality, enterprise, or other entity formed through an
13 agreement between a municipality and one or more other governmental entities
14 under AS 29.35.010(13) or under art. X, sec. 13, Constitution of the State of
15 Alaska, or between a municipality and a regional housing authority under
16 AS 18.55.996(b);

17 (2) "solid waste management system [FACILITY]" includes capital
18 improvements and equipment used for the purpose of solid and hazardous waste source
19 reduction, recycling, treatment, or disposal.

20 * Sec. 12. AS 46.03.032 is amended by adding a new subsection to read:

21 (p) Regulations adopted by the department under this section that would affect
22 issuance or repayment of revenue bonds under AS 37.15.560 - 37.15.605 may not be
23 inconsistent with those statutes or with regulations adopted by the state bond
24 committee under those statutes. To the extent that regulations adopted by the
25 department are inconsistent with AS 37.15.560 - AS 37.15.605, with regulations
26 adopted by the state bond committee under those statutes, or with the covenants of a
27 bond resolution adopted under AS 37.15.573, the provisions of AS 37.15.560 -
28 37.15.605, the regulations adopted under those statutes, and the covenants of the bond
29 resolution govern.

30 * Sec. 13. The provisions of AS 37.15.583(b), enacted by sec. 2 of this Act, have the effect
31 of changing Rule 3, Alaska Rules of Civil Procedure, by limiting, to the Superior Court for
32 the State of Alaska, First Judicial District at Juneau, the venue district in which a proceeding

1 under AS 37.15.583(a), enacted by sec. 2 of this Act, may be commenced and conducted.
2 * Sec. 14. The provisions of AS 37.15.583(b), enacted by sec. 2 of this Act, take effect
3 only if sec. 13 of this Act receives the two-thirds majority vote of each house required by
4 art. IV, sec. 15, Constitution of the State of Alaska.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 207

- 1 Page 6, line 6, after "in":
- 2 Insert "the current fiscal year and"

- 3 Page 8, line 12, after "letters":
- 4 Insert "and lines"

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 207

1 Page 2, line 7, after "authorized":

2 Insert ", subject to (b) of this section"

3 Page 2, after line 13:

4 Insert a new subsection to read:

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

9 Reletter the following subsections accordingly.

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 207

BY SENATOR TORGERSON

1 Page 7, lines 19 - 21:

2 Delete all material.

3 Page 8, lines 27 - 28:

4 Delete "The provisions of this section shall be liberally construed in order to
5 carry out the purposes for which they were enacted."

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR TORGERSON

TO: SB 207

1 Page 2, line 5:

2 Delete "state agencies"

3 Insert "other qualified entities"

4 Page 9, line 18:

5 Delete "state agencies"

6 Insert "other qualified entities"

7 Page 9, line 20:

8 Delete "state agency"

9 Insert "other qualified entity"

10 Page 9, line 22:

11 Delete "state agency"

12 Insert "other qualified entity"

13 Page 10, line 11:

14 Delete "state agency"

15 Insert "other qualified entity"

16 Page 11, line 20, following "(1)":

17 Insert "other qualified entity" means an intermunicipal or interstate agency as
18 those terms are used in 33 U.S.C. 1383, and may include an authority, corporation,
19 instrumentality, enterprise, or other entity formed through an agreement between a
20 municipality and one or more other governmental entities under AS 29.35.010(13) or

1 under art. X, sec. 13, Constitution of the State of Alaska, or between a municipality and
2 a regional housing authority under AS 18.55.996(b);

3 (2)"

4 Page 11, lines 22 - 25:

5 Delete "i

6 (2) "state agency" means a department, authority, public
7 corporation, instrumentality, or other administrative unit of the executive branch
8 of state government"

STATE OF ALASKA
1996 LEGISLATIVE SESSION

FISCAL NOTE

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/Revenue: (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
---------	-----	-----	-----	-----	-----	-----

REVENUE FUND SOURCE: _____

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 (FY98) 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: 485 3750
 Division: Treasury Management Date: 1/3/96
 Approved by Commissioner: *[Signature]* Date: 1/7/96 13:36
 Agency: Department of Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution: _____

FISCAL NOTE

No. 2

Bill Version: SB 207

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. (S) Publish Date: 1/8/96

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
----------------------	-----	-----	-----	-----	-----	-----

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: Larry Jones
Division: Director, Division of Administrative Services

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

Approved by Commissioner: Larry Jones
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 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 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.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 207

Page 6, line 6:

Following "required in":

Insert "the current fiscal year and"

Page 8, line 12:

Following "letters":

Insert "and lines"

STATE OF ALASKA
DEPARTMENT OF REVENUE
TREASURY DIVISION
P.O. BOX 110405
JUNEAU, AK 99811-0405

FACSIMILE TRANSMISSION COVER SHEET

DATE: January 8, 1996
FAX NUMBER: 6735 / 5177
TO: Law / DEC
ATTENTION: Marie Sansone / Mike Burns
FROM: Forrest R. Browne

NUMBER OF PAGES FOLLOWING THIS TRANSMISSION: 2

If this transmission is incomplete, please call this office at the following number:

PHONE NUMBER: (907) 465-3750

FAX NUMBER: (907) 465-2394

COMMENTS:

Chester & I have reviewed the January 4th, Clean Water legislation and have the following suggested changes: Page 6 still needs "the current fiscal year and" inserted. Interest (and perhaps principal) payments start six months after closing, which may be in the same fiscal year as the closing. On page 8, suggest adding "and lines" of credit. This is apparently a new and less costly method of credit enhancement which is sometimes being used to obtain a AAA rating on revenue bonds.

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

207

January 8, 1996

The Honorable Druc Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

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.



— Governor's Letter of Transmittal —

The Honorable Drue Pearce

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

January 25, 1996

The Honorable John Torgerson, Chairman
Senate Committee on Community and Regional Affairs
Alaska State Legislature
Juneau, Alaska 99801

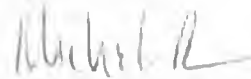
SUBJECT: Request for hearing on Senate Bill 207

Dear Senator Torgerson:

The Governor's Office and the Department of Environmental Conservation request that public hearings be scheduled for Senate Bill 207. This bill is important for Alaskans for many reasons. It affords a way for our communities to obtain low-cost financing for their water pollution projects far into the future. This proposal will accomplish this goal without any significant general funding required and in fact, at some point in the future, could eliminate the need for legislative appropriations. 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 large enough bond issue 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

MB/KK:lp (11/10/95) (10/10/95) (10/10/95) (10/10/95)

Enclosure: Bill Analysis

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 OF ALASKA

Department of Environmental Conservation
 Facility Construction and Operation
 410 Willoughby Avenue, Suite 105
 Juneau, AK 99801-1795
 Phone: 465-5180
 Fax: 465-5177

Keith Kelton, Director

Sending To: Deb Davidson

Fax Number: 4779

From: Butch White

Number of Pages (Including Cover Sheet): 1

Comments: Deb: After reviewing the proposed changes w/ Lee Sharp (State Bond Comm Bond Counsel) he recommended the change to the second sentence of #1. / This is also dependent on Lee's changes to the definitions being accepted regarding qualified entities. OK per our call.

Also, either a Comm report discussing intent, or a memo from the department should be done. This would clarify that the total amount loaned to a municipality is not limited by the language at sec 2, page 2, line 9. Only the amount of bond proceeds loaned is limited. Funds from the ACWF could also be loaned to a community.

We recommend the following sentences be placed in SB 207, Section 2, page 2, line 9 at the end of the sentence that finishes, "a public enterprise of the state."

Listed in order of preference. The amounts and percentages shown are suggested for discussion purposes only.

- 1) The state bond committee may not issue more than \$15,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. However, no more than \$7,500,000 of bond proceeds may be loaned to one municipality or other qualified entity in any one fiscal year. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
- 2) The state bond committee may not issue more than \$30,000,000 in revenue bonds in any two consecutive fiscal years, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
- 3) The state bond committee may not issue more than \$15,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.

We recommend the following sentences be placed in SB 207, Section 2, page 2, line 9 at the end of the sentence that finishes, "a public enterprise of the state."

Listed in order of preference. The amounts and percentages shown are suggested for discussion purposes only.

- 1) The state bond committee may not issue more than \$15,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. However, no municipality may borrow more than 50% of the total amount of bonds sold in any one fiscal year. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
- 2) The state bond committee may not issue more than \$10,000,000 in revenue bonds in any two consecutive fiscal years, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
- 3) The state bond committee may not issue more than \$15,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.

revised list sent 2/16/96

§ 44.85.100

STATE GOVERNMENT

§ 44.85.120

Revisor's notes. — Enacted as AS
44.58.095. Renumbered in 1980.

Sec. 44.85.100. Annual report and audit. (a) Before October 1 of each year the bond bank authority shall make a report of its activities for the preceding fiscal year to the governor and to the legislature. The report shall set out a complete operating and financial statement covering its operations during the year. The bond bank authority must have an audit of its books and accounts made at least once in each year by certified public accountants and the cost of the audit shall be considered an expense of the bond bank authority and a copy of the audit shall be filed with the commissioner of revenue and the legislature.

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted. The bond bank authority may not issue revenue bonds, other than refunding bonds, in excess of \$50,000,000 during any fiscal year beginning after June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that fiscal year. (§ 1 ch 79 SLA 1975; am § 40 ch 106 SLA 1980; am § 2 ch 86 SLA 1983)

Revisor's notes. — Formerly AS
44.58.100. Renumbered in 1980.

Sec. 44.85.110. Annual budget. The bond bank authority shall prepare and submit an annual budget under AS 37.07 (Executive Budget Act). (§ 1 ch 79 SLA 1975)

Revisor's notes. — Formerly AS
44.58.110. Renumbered in 1980.

Sec. 44.85.120. Care and custody of bonds. The bond bank authority, in accordance with AS 36.80 (State Procurement Code), may enter into agreements or contracts with a bank, trust company, banking or financial institution inside or outside the state as may be necessary, desirable, or convenient, in the opinion of the bond bank authority, for rendering services in connection with the care, custody, or safekeeping of municipal bonds or other investments held or owned by the bond bank authority, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering services in connection with the delivery to the bond bank authority of municipal bonds or other investments purchased by it or sold by it, and to pay the cost of those services. The bond bank authority may also, in connection with any of the services to be rendered by a bank, trust company, or banking or financial institution as

STATE OF ALASKA

Department of Environmental Conservation
Facility Construction and Operation
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795
Phone: 465-5180
Fax: 465-5177

Keith Kelton, Director

Sending To: Deb Davidson

Fax Number: 4779

From: Keith Kelton

Number of Pages (Including Cover Sheet): 3

Comments: Page 2 has proposed suggestions, Page 3
has Bond Bank's current "cap" language, for
your information.

We recommend the following sentences be placed in SB 207, Section 2, page 2, line 9 at the end of the sentence that finishes, "a public enterprise of the state."

Listed in order of preference. The amounts and percentages shown are suggested for discussion purposes only.

- 1) The state bond committee may not issue more than \$15,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. However, no municipality may borrow more than 50% of the total amount of bonds sold in any one fiscal year. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
- 2) The state bond committee may not issue more than \$30,000,000 in revenue bonds in any two consecutive fiscal years, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000; exclusive of refunding bonds.
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§ 44.85.100

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(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted. The bond bank authority may not issue revenue bonds, other than refunding bonds, in excess of \$50,000,000 during any fiscal year beginning after June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that fiscal year. (§ 1 ch 79 SLA 1975; am § 40 ch 106 SLA 1980; am § 2 ch 86 SLA 1983)

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Definition of "authority"

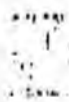
AMENDMENTS TO SENATE BILL NO. 207

1. At each place in the Bill where the phrase "state agency" appears,* except page 5, lines 8 and 9, replace the term with "other qualified entity" and wherever in the Bill the phrase "state agencies" appears,* except page 2, lines 16 and 17, replace the phrase with "other qualified entities"; put the substitute language in bold and underlined where replacing bold and underlined language in the Bill.

*The phrase "state agency" or "state agencies" should be replaced in the following places in the Bill: Page 2, line 5; page 9, lines 18, 20, and 22; page 10, line 11; at page 11, line 23, the phrase would be deleted and replaced by the following amendment.

2. In Section 11 of the Bill, on page 11, delete all the material on lines 23 through 25 and replace with the following:

(2) "other qualified entity" means an intermunicipal or interstate agency as those terms are used in 33 U.S.C.A § 1383, and may include authorities, corporations, instrumentalities, enterprises, or other entities formed by a municipality or formed through an agreement between a municipality and one or more other governmental entities pursuant to AS 29.35.010(13) or Section 13 of Article X of Alaska Constitution, or between a municipality and a regional housing authority pursuant to AS 18.55.996(b).



PRESTON GAIRS & ELLIS
ATTORNEYS

February 8, 1996

VIA FACSIMILE

Mr. Michael Burns, Chief
Alaska Department of Environmental Conservation
Division of Facility Construction & Operation
Municipal Grants Section
410 Willoughby Avenue, Suite 105
Juneau, AK 99801

Re: Amendments to Senate Bill No. 207

Dear Mr. Burns:

In response to your request for amendatory language to SB207 to ensure that SRF loans could be made to joint municipal entities as well as joint entities consisting of a municipality and a regional housing authority, there is attached to this memo my suggestions for change.

As the Clean Water Act uses specific terms to describe the types of governmental agencies that may receive financial assistance under the Act, it seemed prudent to use those same descriptive terms in the state legislation. 33 U.S.C. § 1383 authorizes financial assistance from the fund to a "municipal, intermunicipal, interstate or State agency" for the construction of publicly owned treatment works. I recommend that where used with respect to borrowing from the fund, the phrases "state agency" and "state agencies" in the Bill be changed to "other qualified entity" or "other qualified entities" as appropriate. "Other qualified entity" would then be defined in Section 11 of the Bill as set out in the attached amendatory language and would not include State agencies. All references to state agencies as entities that could borrow from the fund would be removed from the Bill. The two references to state agencies that would remain relate to management of the fund and do not authorize state agencies to borrow from the fund. Intermunicipal entities would be added to the Bill as entities that could borrow from the fund.

For your information, AS 29.35.020 authorizes municipalities to provide "utility services" outside their boundaries, although there are some limitations when the utility is within the boundaries of another municipality.

Alaska Statute 29.35.010(13) authorizes municipalities to enter into agreements with other municipalities, with the state or with the United States for the cooperative or joint administration of any function or power. This specific statutory authorization parallels the provisions of Section 13 of Article X of the Alaska Constitution.

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

Mr. Michael Burns, Chief
February 8, 1996
Page 2

Alaska Statute 18.55.996 creates and authorizes the activation of regional housing authorities. Subsection (b) specifically provides that a regional housing authority may enter into agreements with local government units for the exercise of the function or power relating to construction, operation and maintenance of public utilities. During the period of the agreement, the regional housing authority is deemed to have the same powers and functions relating to the subject matter of the agreement as those of the local government with which the agreement is made. This grant of authority includes the authority separately, or together with the municipality, to issue notes and bonds to finance the project that is the subject of the agreement.

If you have any questions, please call me.

Sincerely,

PRESTON GATES & ELLIS

By: 
Gerald L. Sharp

GLS:shm
Attachments
c: Marie Sansons (via fax)

We recommend the following sentences be placed in SB 207, Section 2, page 2, line 9 at the end of the sentence that finishes, "a public enterprise of the state."

The state bond committee may not issue more than \$25,000,000 in revenue bonds in any one fiscal year, exclusive of refunding bonds. The total amount of revenue bonds outstanding at any one time may not exceed \$150,000,000, exclusive of refunding bonds.

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To	DEB Davidson	From	MIKE BURAS
Co	Senate CIRA	Co.	ADEC
Dept.		Phone #	465 5136
Fax #	465 4779	Fax #	



PRESTON GATES & ELLIS
ATTORNEYS

FAX COVER SHEET

February 8, 1996
(Date)

To: Michael Burns
(Individual)

From: Gerald L. Sharp

Alaska Department of Environment's
Conservation
(Company)

No. of Pages: 4
(Including Cover Page)

Re: # 15426-00001

907-465-5177
(Teletype No.)

907-465-5136
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COMMENTS:

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Co: Equal OIRA	Co: ADEL	
Dept:	Phone: 465 5136	
Fax: 465 4779	Fax:	

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SUITE 400 420 I. STREET ANCHORAGE, ALASKA 99501-1937 PHONE: (907) 276-1969 FACSIMILE: (907) 276-1365

PRESTON GATTS & ELLIS
ATTORNEYS

February 8, 1996

VIA FACSIMILE

Mr. Michael Burns, Chief
Alaska Department of Environmental Conservation
Division of Facility Construction & Operation
Municipal Grants Section
410 Willoughby Avenue, Suite 105
Juneau, AK 99801

Re: Amendments to Senate Bill No. 207

Dear Mr. Burns:

In response to your request for amendatory language to SB207 to ensure that SRF loans could be made to joint municipal entities as well as joint entities consisting of a municipality and a regional housing authority, there is attached to this memo my suggestions for change.

As the Clean Water Act uses specific terms to describe the types of governmental agencies that may receive financial assistance under the Act, it seemed prudent to use those same descriptive terms in the state legislation. 33 U.S.C. § 1383 authorizes financial assistance from the fund to a "municipal, intermunicipal, interstate or State agency" for the construction of publicly owned treatment works. I recommend that where used with respect to borrowing from the fund, the phrases "state agency" and "state agencies" in the Bill be changed to "other qualified entity" or "other qualified entities" as appropriate. "Other qualified entity" would then be defined in Section 11 of the Bill as set out in the attached amendatory language and would not include State agencies. All references to state agencies as entities that could borrow from the fund would be removed from the Bill. The two references to state agencies that would remain relate to management of the fund and do not authorize state agencies to borrow from the fund. Intermunicipal entities would be added to the Bill as entities that could borrow from the fund.

For your information, AS 29.35.020 authorizes municipalities to provide "utility services" outside their boundaries, although there are some limitations when the utility is within the boundaries of another municipality.

Alaska Statute 29.35.010(13) authorizes municipalities to enter into agreements with other municipalities, with the state or with the United States for the cooperative or joint administration of any function or power. This specific statutory authorization parallels the provisions of Section 13 of Article X of the Alaska Constitution.

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

AMENDMENTS TO SENATE BILL NO. 207

1. At each place in the Bill where the phrase "state agency" appears,* except page 5, lines 8 and 9, replace the term with "other qualified entity" and wherever in the Bill the phrase "state agencies" appears,* except page 2, lines 16 and 17, replace the phrase with "other qualified entities"; put the substitute language in bold and underlined where replacing bold and underlined language in the Bill.

*The phrase "state agency" or "state agencies" should be replaced in the following places in the Bill: Page 2, line 5; page 9, lines 18, 20, and 22; page 10, line 11; at page 11, line 23, the phrase would be deleted and replaced by the following amendment.

2. In Section 11 of the Bill, on page 11, delete all the material on lines 23 through 25 and replace with the following:

(2) "other qualified entity" means an intermunicipal or
interstate agency as those terms are used in 33 U.S.C.A. §
1383, and may include authorities, corporations,
instrumentalities, enterprises, or other entities formed by a
municipality or formed through an agreement between a
municipality and one or more other governmental entities
pursuant to AS 29.35.010(13) or Section 13 of Article X of
Alaska Constitution, or between a municipality and a regional
housing authority pursuant to AS 18.55.996(b).

STATE OF ALASKA

Department of Environmental Conservation
Facility Construction and Operation
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795
Phone: 465-5180
Fax: 465-5177

Keith Kelton, Director

Sending To: Deb Davidson

Fax Number: 465

From: Mike Burns / Butch White

Number of Pages (Including Cover Sheet): 3

Comments: Various suggestions for a "CAP" or maximum
for SB207; as requested in Monday's hearing.

Please call w questions / Butch White 465-5145

(Mike had an appointment so I'm covering for him)

The suggestions are from the state Bond Committee's
Financial Advisor - Chester Johnson.

Government Finance Associates, Inc.

71 Broadway, Suite 1301
New York, New York 10006
(212) 809-6700
FAX (212) 809-6317

2/7/96

TO: Mike Burns
Butch White

FROM: Government Finance Associates, Inc.

SUBJECT: Proposed Maximum Amount of SRF Leveraged Debt Outstanding

You have requested that we compute the appropriate aggregate, maximum amount of SRF leveraged debt to be outstanding at any time. We have proposed a number of \$250 million for this purpose, based upon the following assumptions:

1. We have assumed that the SRF would issue approximately \$13 million per year over a twenty year period.
2. Because the debt would be repaid on a level debt service basis, approximately \$110 million of the \$260 million would be retired over the course of the first twenty years.
3. This would leave an amount of \$150 million outstanding on a continuing basis.
4. Other factors argue for a number higher than \$150 million, including the prospective impact of inflation, the possibility of longer term issues (resulting in slower principal retirements), and the flexibility to include large, single projects that may occur from time to time.

Therefore, we believe that the number of \$250 million will provide sufficient latitude, while it also limits appropriately the maximum amount of debt that the program can have outstanding at any time.

Government Finance Associates, Inc.

71 Broadway, Suite 1301
New York, New York 10006
(212) 809-5700
FAX (212) 809-6317

February 7, 1996

**TO: MIKE BURNS
BUTCH WHITE
ROSS KINNEY**

FROM: GOVERNMENT FINANCE ASSOCIATES, INC.

**SUBJECT: OPTIONS: ESTABLISHMENT OF DEBT LIMIT
FOR THE LEVERAGED SRF FINANCING PROGRAM**

Based on yesterday's discussions with Mike and Butch, we have prepared a few suggestions for establishing debt limits that should not create particular burdens for the program in the absence of fairly severe credit problems. We based our suggestions on the assumption that if the program is running rather smoothly, which we believe should be case, then any of the following should not be a hindrance and otherwise an obstacle. Also, the \$50 million in option three was included because of the dollar precedent in the Alaska Bond Bank Authority legislation.

Give us a call when you have a moment to discuss these alternatives, plus any other options you believe could work effectively.

1. Bonds and other long-term debt obligations may not be issued at any time, excluding refunding bonds and notes, that five percent of the face amount of outstanding loans in the SRF leveraged loan portfolio are in delinquency. When DEC and the State Bond Committee make determination that such delinquency exists, a joint report will be prepared by DEC and the State Bond Committee within three months of such determination and delivered to the Governor and the State Legislature describing the conditions under which the delinquency(ies) occurred and the recommended course of action to be taken to cure the unpaid balance and to establish timely payment from the affected projects in the future.
2. Bonds and other long-term debt obligations may not be issued at any time, excluding refunding bonds and notes, that the earnings and other available monies, on a projected basis, from the corpus of the Alaska Clean Water Fund can not cover at least one-third of the projected interest costs on the bonds representing loans contained in the SRF leveraged loan portfolio.
3. Excluding refunding bonds and notes which may be sold without respect to this limitation, bonds and other long-term debt obligations may be sold annually in an amount equal to the greater of (i) \$50 million or (ii) that portion of the (three)five-year financing plan for which the State Bond Committee determines can be sold in that year, based upon its independent review of the credit worthiness and financing capacity of the leveraged SRF program, without adversely affecting the financial and credit integrity of the program.

FACSIMILE TRANSMISSION COVER SHEET

**STATE OF ALASKA, DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
100 Cushman Street, Suite 400
Fairbanks, Alaska 99701
(907) 451-2811 (office) (907) 451-2985 (fax)**

DATE: February 6, 1996 **TIME:** 1:30 pm **REF. NO:** _____

TO: Honorable John Torgerson
Chairman, Senate Committee on
Community & Regional Affairs
Alaska State Legislature
State Capitol, Room 427
Juneau, AK 99801
465-4779

FROM: Marie Sansone, AAG
Juneau /AGO

The information contained in the FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of the TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

**PLEASE INFORM US IMMEDIATELY
IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL.**

(907) 451-2944 Ask for Judith Smith

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 6, 1996

The Honorable John Torgerson
Chairman, Senate Committee on
Community & Regional Affairs
Alaska State Legislature
State Capitol, Room 427
Juneau, AK 99801-1182

Re: SB 207
Alaska Clean Water Fund

Dear Senator Torgerson:

During the February 5, 1996 hearing on SB 207, the bill to authorize leveraging of the Alaska Clean Water Fund, you asked whether the Alaska Municipal Bond Bank Act, AS 44.85, contains provisions relating to "state aid intercept," the "pledge of the state," and "enforcement by bond owner" comparable to those found in SB 207, page 5, lines 6-31.

The bond bank's state aid intercept provision is found at AS 44.85.170(b). The state pledge is found at AS 44.85.130(b). The bond bank's provisions relating to enforcement by the bondowners are found at AS 45.85.310 and 45.85.320. The bond bank's enforcement provisions are more detailed than those found in SB 207. Copies of the bond bank statutes are attached.

If you require further assistance, please do not hesitate to contact our office.

Yours Truly,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: *Marie Sansone*
Marie Sansone
Assistant Attorney General

MS/jas

cc: Fat Pourchot, Legislative Liaison
Keith Keltor, DEC
Ross Kenney, DOR
Deborah Behr, AGO

By Fax: 465-4779

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110800-DIAMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-8735

§ 44.85.170

ALASKA STATUTES

§ 44.85.180

Sec. 44.85.170. Loans to political subdivisions and joint insurance arrangements. (a) The bond bank authority, to carry out the purposes and policies of this chapter, may lend money to municipalities through the purchase by the bond bank authority of municipal bonds of municipalities and if the purpose of the loan is to provide financing for a municipal self-insurance program and the loan meets the credit standards of the bond bank authority, may lend money to municipalities, or municipal joint insurance arrangements organized under AS 21.76. Notwithstanding a home rule charter provision requiring public sale by a municipality of its municipal bonds, a municipality may sell its municipal bonds to the bond bank authority at a negotiated, private sale. The bond bank authority, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bond bank authority for such payment and may otherwise assist municipalities as provided in this chapter.

(b) Notwithstanding any other provision of law, to the extent that any department or agency of the state is the custodian of money payable to a municipality, at any time after written notice to the department or agency head from the bond bank authority that the municipality is in default on the payment of principal or interest on municipal bonds then held or owned by the bond bank authority, or amounts due under an agreement between the bond bank authority and a municipality or a municipal joint insurance arrangement organized under AS 21.76, the department or agency shall withhold the payment of that money from that municipality and pay over the money to the bond bank authority for the purpose of paying principal of and interest on the bonds or debt. The notice shall be given in each instance of default. (§ 1 ch 79 SLA 1975; am § 2 ch 56 SLA 1976; am § 1 ch 48 SLA 1978; am § 3 ch 118 SLA 1988; am § 8 ch 85 SLA 1989)

State Aid
intercept

Revisor's notes. — Formerly AS 44.85.170. Renumbered in 1980.

Cross references. — For legislative findings and purposes in connection with the 1989 amendments to this section, see § 1, ch. 85, SLA 1989 in the Temporary and Special Acts.

Effect of amendments. — The 1989 amendment, effective June 2, 1989, added the language beginning "and if the pur-

pose of the loan" to the end of the first sentence of subsection (a), and in subsection (b), inserted "other" near the beginning and the language beginning "or amounts due under an agreement" and ending "organized under AS 21.76" near the middle of the first sentence, added "or debt" to the end of the first sentence, and added the second sentence.

Sec. 44.85.180. Issuance of bonds and notes. (a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including

- (1) the purchase of municipal bonds;
- (2) the making of loans through the purchase of municipal bonds, notes, or certificates of participation secured by an agreement be-

§ 44.85.130

ALASKA STATUTES

§ 44.85.130

to the custody and safekeeping of its municipal bonds or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, in the opinion of the bond bank authority, is necessary or desirable. (§ 1 ch 79 SLA 1975; am § 52 ch 106 SLA 1986)

Revisor's notes. — Formerly AS 44.58.120. Renumbered in 1980. Effect of amendments. — The 1986 amendment inserted "in accordance with AS 36.30 (State Procurement Code)" near the beginning of the first sentence.

Sec. 44.85.130. Effect of obligations. (a) Bonds and notes issued under this chapter are not a debt or liability of the state and do not create or constitute an indebtedness, liability, or obligation of the state, nor do they constitute a pledge of the faith and credit of the state. All bonds and notes issued under this chapter, unless funded or refunded by bonds or notes of the bond bank authority, are general obligations of the authority to which the full faith and credit of the authority are pledged to the payments of them, except to the extent provided by the resolution authorizing the issuance of them. Each bond and note must contain on its face a statement to the effect that the bond bank authority is obligated to pay the principal and interest on the instrument only from revenues or funds of the bond bank authority and that the state is not obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal or the interest on the bond or note.

(b) The state pledges to and agrees with the holders of the bonds or notes issued under this chapter that the state will not limit or restrict the rights vested in the bond bank authority to purchase, acquire, hold, sell, or dispose of municipal bonds or other investments or to make loans to political subdivisions or to establish and collect fees or other charges convenient or necessary to produce sufficient revenues to meet the expenses of operation of the bond bank authority and to fulfill the terms of any agreement made with the holders of its bonds or notes or in any way impair the rights or remedies of the holders of the bonds or notes until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid and discharged. (§ 1 ch 79 SLA 1975)

pledge of the state.

Revisor's notes. — Formerly AS 44.58.130. Renumbered in 1980.

§ 44.85.310

STATE GOVERNMENT

§ 44.85.320

Revisor's notes. -- Formerly AS 44.58.300. Renumbered in 1980.

Sec. 44.85.310. Default in payment. If the bond bank authority defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for 30 days, or if the bond bank authority fails or refuses to comply with this chapter or defaults in an agreement made with the holders of an issue of notes or bonds, the holders of 25 percent in the aggregate principal amount of the outstanding notes or bonds of that issue, by instrument filed in the office of the clerk of the district court of the first judicial district and executed in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those notes or bonds for the purposes provided in this chapter. (§ 1 ch 79 SLA 1975)

Revisor's notes. -- Formerly AS 44.58.310. Renumbered in 1980.

Sec. 44.85.320. Powers and duties of trustee on default. (a) A trustee appointed under this section may, and shall in the trustee's name, upon written request of the holders of 25 per cent in principal amount of the outstanding notes or bonds,

(1) by civil action enforce all rights of the noteholders or bondholders, including the right to require the bond bank authority to collect rates, charges, and other fees and to collect interest and amortization payments on municipal bonds and notes held by it adequate to carry out an agreement as to, or pledge of, the rates, charges, and other fees and of the interest and amortization payments, and to require the bond bank authority to carry out any other agreements with the holders of the notes or bonds and to perform its duties under this chapter;

(2) bring a civil action upon the notes or bonds;

(3) by civil action require the bond bank authority to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(4) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds;

(5) declare all the notes or bonds due and payable, and if all defaults are made good, then with the consent of the holders of 25 per cent of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences;

(6) the trustee, in addition to the foregoing, has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

ENFORCEMENT BY BONDOWNERS

§ 44.85.330

ALASKA STATUTES

§ 44.85.350

(b) Before declaring the principal of notes or bonds due and payable, the trustee must first give 30 days' notice in writing to the governor, the bond bank authority, the commissioner of community and regional affairs, and the attorney general of the state. (§ 1 ch 79 SLA 1975)

Revisor's notes. — Formerly AS
44.59.320. Renumbered in 1980.

Sec. 44.85.330. Personal liability. Neither a member of the bond bank authority nor a person executing bonds or notes issued under this chapter is liable personally on the bonds or notes. (§ 1 ch 79 SLA 1975)

Revisor's notes. — Formerly AS
44.58.330. Renumbered in 1980.

Sec. 44.85.340. Exemption from execution and sale. All property of the bond bank authority is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the bond bank authority may not be a charge or lien upon its property; however, nothing in this section applies to or limits the rights of the holder of bonds or notes to pursue a remedy for the enforcement of a pledge or lien given by the bond bank authority on its revenues or other money. (§ 1 ch 79 SLA 1975)

Revisor's notes. — Formerly AS
44.59.340. Renumbered in 1980.

Sec. 44.85.350. Lien of pledge. A pledge of revenues or other money made by the bond bank authority is binding from the time the pledge is made. Revenues or other money so pledged and thereafter received by the bond bank authority are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the bond bank authority, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the bond bank authority. (§ 1 ch 79 SLA 1975)

Revisor's notes. — Formerly AS
44.58.350. Renumbered in 1980.

ing educational, civic, and research organizations, colleges, universities, institutes, and foundations;

(6) at reasonable times enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation that may be adopted under AS 46.03.020 — 46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;

(7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena;

(8) advise and cooperate with municipal, regional, and other local agencies and officials in the state, to carry out the purposes of this chapter;

(9) act as the official agency of the state in all matters affecting the purposes of the department under federal laws now or hereafter enacted;

(10) adopt regulations necessary to effectuate the purposes of this chapter, including, by way of example and not limitation, regulations providing for

(A) control, prevention, and abatement of air, water, or land or subsurface land pollution;

(B) safeguard standards for petroleum and natural gas pipeline construction, operation, modification, or alteration;

(C) protection of public water supplies by establishing minimum drinking water standards, and standards for the construction, improvement, and maintenance of public water supply systems;

(D) collection and disposal of sewage and industrial waste;

(E) collection and disposal of garbage, refuse, and other discarded solid materials from industrial, commercial, agricultural, and community activities or operations;

(F) *[Repealed, § 12 ch 172 SLA 1978.]*

(G) control of pesticides;

(H) other purposes as may be required for the implementation of the policy declared in AS 46.03.010;

(I) handling, transportation, treatment, storage, and disposal of hazardous wastes;

(11) after consultation with other state agencies and local government officials, identify and propose for addition or deletion, by regulation, other licenses, permits, or authorizations for which the provisions of AS 46.35 are applicable;

(12) *[Repealed, § 92 ch 36 SLA 1990.]*

(13) inspect the premises of sellers and suppliers of paint, vessels, and marine and boating supplies, and take other actions necessary to enforce AS 46.03.715.

(b) Notwithstanding another provision of law to the contrary, when adopting a regulation relating to the control, prevention, and abatement of air, water, or land or subsurface land pollution, the department shall give special attention to public comments concerning the cost of compliance with the regulation and to alternate practical methods of complying with the statute being interpreted or implemented by the regulation. (§ 3 ch 120 SLA 1971; am § 1 ch 220 SLA 1976; am § 2 ch 60 SLA 1977; am § 12 ch 172 SLA 1978; am § 8 ch 95 SLA 1981; am § 86 ch 138 SLA 1986; am § 1 ch 67 SLA 1987; am § 92 ch 36 SLA 1990; am § 30 ch 126 SLA 1994; § 10 ch 64 SLA 1995)

Revisor's notes. — Enacted as AS 46.03.020(b). Renumbered in 1995.

Cross references. — For status of certain enforcement and inspection employees of the department as peace officers, see AS 46.03.890(b); for provisions relating to coordination of environmental permits and procedures, see AS 46.35; for fees for department services, see AS 44.46.025.

Effect of amendments. — The 1994 amendment, effective July 1, 1994, in

paragraph (11), deleted ", and report annually to the legislature the permits that have been included or deleted" at the end and made a minor stylistic change.

The 1995 amendment, effective September 3, 1995, added subsection (b).

Editor's notes. — Under § 11, ch. 64 SLA 1995, this section "does not apply to the adoption, amendment, or repeal of regulation unless the adoption, amendment, or repeal is first noticed under AS 44.62.200 on or after September 3, 1995."

NOTES TO DECISIONS

Approval of subdivision plans. — Department of environmental conservation can validly require its approval of potential subdivision plans as a prerequisite to the recording and sale of any lots in the

subdivision. *State v. Anderson*, 749 P.2d 1342 (Alaska 1988).

Cited in *Colville Envtl. Servs., Inc. v. North Slope Borough*, 831 P.2d 34 (Alaska 1992).

Sec. 46.03.025. Accounting and disposition of fees. [Repealed, § 9 ch 36 SLA 1990. For current provisions, see AS 37.05.142 - 37.05.146.]

Sec. 46.03.030. Water quality enhancement, water supply, sewage, and solid waste facilities grants. (a) [Repealed, § 19 ch 220 SLA 1976.]

(b) The department may grant to a municipality, as funds are available, a grant for any of the following:

- (1) a water quality enhancement project;
- (2) a public water supply, treatment, or distribution system;
- (3) a wastewater collection, treatment, or discharge system;
- (4) a solid waste processing, disposal, or resource recovery system

(c) There is a water quality enhancement program and water supply, wastewater, and solid waste systems fund created in the department to carry out the purposes of this section.

(d) The department shall, by regulation, identify those costs that are eligible costs for the purposes of this section. Eligible costs do not

include interest and financing and right-of-way acquisition, or costs that are related to the operation, maintenance, or repair of a system.

(e) A grant under this section to a municipality for a project funded by an appropriation made by the legislature

(1) before July 1, 1994, may not exceed 50 percent of the eligible costs of the project;

(2) after July 1, 1994, may not exceed

(A) 85 percent of the eligible costs for a municipality with a population of 1,000 persons or less;

(B) 70 percent of the eligible costs for a municipality with a population of 1,001 to 5,000 persons; and

(C) 50 percent of the eligible costs for a municipality with a population greater than 5,000 persons; however, if a municipality with a population greater than 5,000 persons seeks a grant for a project that relates to a solid waste processing or disposal system that incorporates resource recovery, the department may provide a grant for up to 60 percent of the eligible costs of the project.

(f) *[Repealed, § 14 ch 106 SLA 1994.]*

(g) The match required for grants made under this section may include

(1) federal funds; or

(2) state funds, other than those funds received under this section or AS 37.06.

(h) Construction of a project for which a grant is made under this section may commence only after the department has approved in writing the plans and specifications for the project. (§ 3 ch 120 SLA 1971; am §§ 2, 19 ch 220 SLA 1976; am §§ 30, 31 ch 168 SLA 1978; am §§ 1 — 4 ch 163 SLA 1980; am §§ 1, 2 ch 90 SLA 1986; am §§ 1 — 3 ch 40 SLA 1987; am §§ 1 — 5, 14 ch 106 SLA 1994)

Cross references. — For transitional provisions related to regulations adopted under this section before July 1, 1994, see § 15, ch. 106, SLA 1994 in the Temporary and Special Acts.

Effect of amendments. — The 1994 amendment, effective July 1, 1994, re-

wrote subsections (b) and (e); substituted "wastewater" for "sewage" and "systems" for "facilities" in subsection (c); rewrote the second sentence in subsection (d); repealed subsection (f), relating to water enhancement program grants; and added subsections (g) and (h).

Sec. 46.03.032. Alaska clean water fund. (a) There is established as a separate fund the Alaska clean water fund, which is distinct from any other money or fund in the treasury, and which consists of money appropriated by the legislature to meet federal matching requirements, federal capitalization grants, loan repayments, interest received from loan repayments, and interest received from investment of money in the clean water fund.

(b) The department shall administer the Alaska clean water fund.

(c) The department may accept and make use of all capitalization grants provided by the federal government under the federal Clean Water Act, as amended by P.L. 100-4.

(d) Except as otherwise limited by federal law, the Alaska clean water fund may be used for

(1) buying or refinancing the debt obligations of a municipality a public wastewater treatment system or a solid waste management system;

(2) planning, designing, building, constructing, and rehabilitating a solid waste management system or a public wastewater collection, treatment, and discharge system;

(3) collateral security for or purchasing insurance for a public agency debt obligation related to the construction of a solid waste management system or a public wastewater treatment system;

(4) developing and implementing a management program for controlling water pollution from nonpoint sources under 33 U.S.C. 1327 and

(5) developing and implementing an estuary conservation and management program under 33 U.S.C. 1330.

(e) Repayment of loans shall be secured in a manner that the department determines is feasible to assure prompt repayment under the loan agreement entered into with the borrower.

(f) The department may spend money from the Alaska clean water fund to pay the costs of administering the fund.

(g) A municipality wishing to borrow money from the Alaska clean water fund shall demonstrate to the satisfaction of the department that the municipality

(1) has sufficient legal authority to incur the debt for which it is applying; and

(2) will establish and maintain a dedicated source of revenue or other acceptable revenue source for repayment of the loan.

(h) Allocation of Alaska clean water fund loans shall be made in accordance with the priority list developed by the department, using the criteria specified in regulations adopted by the department.

(i) Before making a loan from the Alaska clean water fund, the department shall, by regulation, specify

(1) standards for the eligibility of borrowers and the type of projects to be financed with loans;

(2) loan term and interest rate policies for loans made from the fund;

(3) standards regarding the technical and economic viability and revenue self-sufficiency of eligible projects;

(4) collateral or other security required for loans;

(5) terms of loans; and

(6) other relevant criteria, standards, or procedures.

(j) A loan made by the department shall be made according to the standards, criteria, and procedures established by regulations under this section. In making a loan from the Alaska clean water fund for a solid waste management facility, the department shall give priority to a project that will alleviate severe health or environmental concerns in the community or region proposing the facility. In addition, the department may consider

(1) the extent of local or regional support for the proposed facility; and

(2) the extent to which the applicant can demonstrate that the full range of solid waste management options has been reasonably considered and that the proposed facility is consistent with the promotion of the solid and hazardous waste management practices in the following order of priority:

- (A) waste source reduction;
- (B) recycling of waste;
- (C) waste treatment; and
- (D) waste disposal.

(k) The department shall prepare reports required by the federal government in conjunction with federal capitalization grant award conditions. The department shall also prepare a biennial report on the Alaska clean water fund and notify the legislature that it is available on or before the first day of each first regular session of the legislature.

(l) Loan repayments and interest earned by loans from the Alaska clean water fund shall be deposited in the Alaska clean water fund.

(m) Annual principal payments shall commence within one year after project completion.

(n) [Repealed, § 14 ch 106 SLA 1994.]

(o) In this section, "solid waste management facility" includes capital improvements and equipment used for the purpose of solid and hazardous waste source reduction, recycling, treatment, or disposal. (§ 4 ch 40 SLA 1987; am §§ 1 — 3 ch 174 SLA 1990; am § 23 ch 90 SLA 1991; am §§ 6 — 10, 14 ch 106 SLA 1994; am § 31 ch 126 SLA 1994; am § 103 ch 21 SLA 1995)

Cross references. — For transitional provisions related to regulations adopted under this section before July 1, 1994, see § 15, ch. 106, SLA 1994 in the Temporary and Special Acts; for transitional provisions relating to the first report made under this section after July 1, 1994, see § 36, ch. 126, SLA 1994 in the Temporary and Special Acts.

Effect of amendments. — The 1991 amendment, effective July 3, 1991, in former subsection (n), deleted the former last sentence.

The first 1994 amendment, effective July 1, 1994, in subsection (d), rewrote paragraphs (1)-(4) and added paragraph (5); inserted "Alaska clean water" in subsections (d), (g), and (l); in subsection (g), added "that the municipality" to the end of the introductory language and made related stylistic changes throughout; substituted "loan" for "Except as provided in (n) of this section, loan" in subsection (l); deleted ", or within two years after the date the loan is made, whichever is earlier" from the end of subsection (m); and

repealed subsection (n), relating to state appropriations in excess of the amount required by the federal Clean Water Act.

The second 1994 amendment, effective July 1, 1994, in subsection (k), in the second sentence, substituted "a biennial report" for "an annual report" and "each first regular session of the legislature" for "each legislative session."

The 1995 amendment, effective August 8, 1995, in the second sentence in subsection (k), substituted "prepare" for "provide" the Alaska legislature with" and inserted "and notify the legislature that it is available."

Sec. 46.03.034. Alaska clean water account. (a) The Alaska clean water account is established as a separate account which is distinct from other money or funds in the treasury.

(b) The Alaska clean water account consists of state appropriation to the Alaska clean water fund in excess of that amount required as match for a federal capitalization grant under 33 U.S.C. 1381 — 138 (Clean Water Act).

(c) The department shall administer the Alaska clean water account.

(d) The Alaska clean water account may be used for purposes described in AS 46.03.032(d).

(e) Principal repayments received on loans from the Alaska clean water account shall be deposited in the Alaska clean water fund. Interest payments and earnings shall be deposited in the clean water account. (§ 11 ch 106 SLA 1994)

Sec. 46.03.036. Alaska drinking water fund. [See effective date note.] (a) The Alaska drinking water fund is established as separate fund which is distinct from other money or funds in the treasury. The Alaska drinking water fund consists of

- (1) federal capitalization grants;
- (2) money appropriated by the legislature to meet federal match requirements;
- (3) loan repayments; and
- (4) if required by federal law or by appropriation, interest received from loan repayments and interest received from investment of money in the Alaska drinking water fund.

(b) The department may adopt regulations necessary to ensure that the department administers and uses the Alaska drinking water fund in a manner consistent with federal law. (§ 12 ch 106 SLA 1994)

Effective dates. — Section 17, ch. 106, SLA 1994 makes this section effective upon the effective date of a federal law authorizing changes to the federal Safe

Drinking Water Act to allow the state participate in federal capitalization grants to finance projects related to drinking water.

Sec. 46.03.038. Alaska drinking water account. [See effective date note.] (a) The Alaska drinking water account is established as a separate account which is distinct from other money or funds in the state treasury.

(b) The Alaska drinking water account consists of state appropriations to the Alaska drinking water fund in excess of that amount required as a match for a federal capitalization grant.

(c) The department shall administer the Alaska drinking water account.

(d) The Alaska drinking water account may be used for any purpose for which the Alaska drinking water fund may be used.

(e) Principal repayments received on loans from the Alaska drinking water account shall be deposited in the Alaska drinking water fund. Interest payments on loans from the Alaska drinking water account and earnings on the Alaska drinking water account shall be deposited in the Alaska drinking water account. (§ 13 ch 106 SLA 1994)

Effective dates. — Section 17, ch. 106, SLA 1994 makes this section effective upon the effective date of a federal law authorizing changes to the federal Safe Drinking Water Act to allow the state to participate in federal capitalization grants to finance projects related to drinking water.

Sec. 46.03.040. Alaska environmental plan. (a) The department shall formulate and annually review and revise a statewide environmental plan for the management and protection of the quality of the environment and the natural resources of the state, in furtherance of the legislative policy and purposes expressed in this chapter.

(b) The department shall submit the first plan to the governor on or before January 1, 1972, and thereafter submit periodic revisions of the plan to the governor. The plan is effective upon approval by the governor and shall serve thereafter as a guide to the public, the state government and the political subdivisions of the state in the development of the environment and natural resources of the state.

(c) In formulating the plan and any revisions, the department may consult with persons, organizations, and groups, public or private, interested in or concerned with the environment of the state, and with a department, division, board, commission, or other agency of the state, with a political subdivision, or with any public authority as may be necessary to enable the department to carry out its responsibilities under this section. (§ 3 ch 120 SLA 1971)

Sec. 46.03.045. Public recognition of pollution prevention efforts. In addition to the school awards program under AS 46.11.070, the department may identify, document, and publicly acknowledge exemplary pollution prevention achievements by individuals, businesses, or government agencies in the state. (§ 2 ch 86 SLA 1991)

Cross references. — For legislative findings in connection with the enactment of this section, see § 1, ch. 86, SLA in the Temporary and Special Acts.

Article 3. Water Pollution Control and Waste Disposal.

Section	Section
50. Authority	100. Waste disposal permit
60. Water pollution control plan	110. Waste disposal permit procedure
70. Pollution standards	120. Termination or modification of disposal permit
80. Quality and purity standards	
90. Plans for pollution disposal	

Collateral references. — 61A Am. Jur. 2d, Pollution Control, §§ 134, 135, 211.

39A C.J.S., Health and Environment, §§ 125-128, 131; 93 C.J.S. Waters, §§ 43-57.

Pollution of stream by mining operations. 39 ALR 891.

Injunction against pollution of stream by private persons or corporations. 46 ALR 8.

Wrongful pollution of stream by municipality as creating single cause of action or successive causes of action. 75 ALR 529.

When statute of limitations commences to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

Tenant's remedy against stranger for wrongful pollution of waters. 12 ALR2d 1192.

Liability for pollution of stream by oil, water, or the like flowing from well. 19 ALR2d 1025.

Validity, construction, and effect of

statute, ordinance, or other measure involving chemical treatment of water supply. 43 ALR2d 453.

Measure and elements of damage pollution of stream. 49 ALR2d 253

Validity of prohibition of regulation bathing, swimming, boating, fishing the like, to protect public water supply. ALR2d 790.

Validity and construction of anti-pollution statutes and ordinance. ALR3d 215.

Landowner's right to relief against pollution of his water supply by industrial commercial waste. 39 ALR3d 910.

Validity and construction of state ordinances, or regulations controlling charge of industrial wastes into sewer. 47 ALR3d 1224.

Private landowner's disposal of waste on own property. 37 ALR4d

Construction and application of non exclusion clause in liability insurance policy. 39 ALR4th 1047.

Measure and elements of damage pollution of well or spring. 76 ALR 629.

Sec. 46.03.050. Authority. The department has jurisdiction to prevent and abate the pollution of the waters of the state. (§ 3 ch 120 SLA 1971)

Sec. 46.03.060. Water pollution control plan. The department shall develop comprehensive plans for water pollution control in the state and conduct investigations it considers advisable and necessary for the discharge of its duties. (§ 3 ch 120 SLA 1971)

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To DEB	From ROSS
Co.	Co.
Dept.	Phone # 465-3669
Fax # 465-4779	Fax # 465-2389

01/

SI MGR

002

Handwritten: [7 DEB Tim Rogers Evans]

MUNICIPALITY OF ANCHORAGE

Anchorage Water and Wastewater Utility

MEMORANDUM

DATE: January 29, 1996

TO: Tim Rogers, Executive Assistant

THRU: *[Signature]* Mark Premo, P.E., General Manager, AWWU

FROM: *[Signature]* Diana Bennett, CPA, Finance Manager, AWWU

SUBJECT: Suggested Revisions to House ~~Bill 401~~ *SB 207*

Listed below are suggested changes to the bills having to do with the issuance of revenue bonds to fund water quality improvements. AWWU fully supports the concept of this bill, or a revision of the bill, and would like to provide testimony in support of whatever bill comes before the legislature this session.

Page 1: Change title to read

"An Act authorizing the issuance, sale, security and payment of revenue bonds to fund public water quality improvements; and amending Alaska Rule of Civil Procedure 3."

Page 1: Section 1. line 13, add:

"These water quality improvements include wastewater systems and nonpoint source water pollution control projects such as solid waste management systems."

Page 2. line 5, delete:

"and state agencies"

Page 5, line 6, delete:

entire Sec. 37.15.575. STATE AID INTERCEPT

Page 6, line 6:

Following "required in", insert "the current fiscal year and"

Page 8, line 12:

Following "letters", insert "and lines"

Tim Rogers
Revisions to HB401
January 29, 1996

925
375

1300

Page 9, line 8:
Following "constructing," insert "purchasing."

Page 9, line 12:
Following "constructing," insert "purchasing."

Page 9.
Delete lines 14 and 15

Page 9, line 18:
Delete "and state agencies"

Page 9, line 20:
Delete

Page 9, line 22:
Delete "or state agency"

Page 10, line 11:
Delete "or state agency"

Page 10, lines 17 and 18
Delete "and sufficient reserves for the loan as may be necessary."

Page 10, lines 23 and 24
Delete "A loan made from the Alaska clean water fund may be subject to the state aid Intercept provisions of AS 37.15.575."

Please let me know if you need additional information or assistance.

AMENDMENT

OFFERED IN THE SENATE

TO: SB 207

Page 6, line 6:

Following "required in":

Insert "the current fiscal year and"

Page 8, line 12:

Following "letters":

Insert "and lines"

STATE OF ALASKA
DEPARTMENT OF REVENUE
TREASURY DIVISION
P.O. BOX 110405
JUNEAU, AK 99811-0405

FACSIMILE TRANSMISSION COVER SHEET

DATE: January 8, 1996
FAX NUMBER: 6735 / 5177
TO: LAWY DEC
ATTENTION: Marie Sansone / Mike Burns
FROM: Forrest R. Browne

NUMBER OF PAGES FOLLOWING THIS TRANSMISSION: 2

If this transmission is incomplete, please call this office at the following number:

PHONE NUMBER: (907) 465-3750

FAX NUMBER: (907) 465-2394

COMMENTS: Chester & I have reviewed the January 4th, Clean Water legislation and have the following suggested changes: Page 6 still needs "the current fiscal year and" inserted. Interest (and perhaps principal) payments start six months after closing, which may be in the same fiscal year as the closing. On page 8, suggest adding "and lines" of credit. This is apparently a new and less costly method of credit enhancement which is sometimes being used to obtain a AAA rating on revenue bonds.

**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.

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						
Sitka	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

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.

LEVERAGING THE CLEAN WATER FUND

FEDERAL CAPITALIZATION GRANTS
STATE APPROPRIATIONS



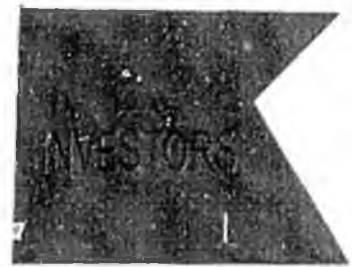
loans

repayments



1 bond issuance costs
2 annual bond payments

bond proceeds



1 issue bonds

2 annual bond payments





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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Ms. Michele Brown
The State Bond Committee
January 18, 1996
Page 2

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 Committee
January 18, 1996
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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
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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 \$2.8 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 balance. 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.

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.

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.

January 23, 1996

SENATE BILL 207
HOUSE BILL 401

SECTIONAL ANALYSIS

Introduction

Senate Bill 207 (the bill) and its counterpart, 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 state agencies 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.

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. 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 in that year 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 next fiscal year.

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. 37.15.600. STATUTORY CONSTRUCTION - The statute is to be liberally construed to give effect to the public purpose of providing for the financing and construction of public water pollution control projects.

Sec. 37.15.605. REGULATIONS - The committee can adopt regulations to implement this program.

Sec. 37.15.605. Definitions - This sections 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 provisions of the Alaska clean water fund statute are to be given liberal interpretation to further their purpose of providing financing for the construction of water pollution control projects. 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 authorizes 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 money from the fund to administer the bond program.

Section 8. AS 46.03.032(g) - The existing statute is amended to allow a state agency to receive loans from the fund. Currently, only municipalities may do this. Nationwide it has been recognized that the state environmental agencies that normally run the clean water funds don't always have authority over all environmental situations. This is especially true for nonpoint source pollution problems that affect plant and animal populations that would normally be considered part of the jurisdiction of the Departments of Natural Resources or Fish and Game. Allowing DEC to make loans to other state agencies will provide a tool to enable these organizations to cooperatively address these interagency 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 "state agency."

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.