

HB

495

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 16, 2004

FURTHER REFERRALS:

Date of Committee Action: 3-2-04

The FINANCE Committee considered:

HB 495

HOUSE BILL NO. 495

4 DAM POOL JOINT ACTION AGENCY

"An Act relating to the four dam pool joint action agency; and providing for an effective date."

Recommends it be replaced with [] HCS or [] CS for HB 495 (FIN)
 For Senate Bills with new title: [] Technical Title [] New Title: HCR _____ [] Same Title [] New Title

- [] attach amendments
- [] add new referral to _____ Committee
- [] Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
DCED				✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Hawken	✓			
<i>[Signature]</i>	STOLTZ			✓	
<i>[Signature]</i>	Jacob	-			
<i>[Signature]</i>	CROFT	✓			
<i>[Signature]</i>	Meyer	✓			
<i>[Signature]</i>	MOSES			✓	
<i>[Signature]</i>	Fabr			✓	
<i>[Signature]</i>	FOSTER	X			
Chair: <i>[Signature]</i>	Harns	✓			
Chair: <i>[Signature]</i>	Williams	X			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 495
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Four Dam Pool Joint Action Agency RDU AIDEA (125)
Component AIDEA
Sponsor Representative Williams
Requester House Finance Component No. 1234

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

On January 31, 2002, AIDEA loaned \$77.1 million to the Four Dam Pool Power Joint Action Agency (the "Agency") for the purchase, closing costs and initial funding of reserves related to the Agency's acquisition of the Four Dam Pool Project. This bill has no general fund impact and no fiscal impact to AIDEA.

This bill clarifies that a joint action agency's assets (including the Agency's) may be mortgaged for future financing by the joint action agency. In addition, the bill states that the joint action agency's assets may be transferred in connection with a foreclosure without legislative approval; however, this provision does not supercede the legislative approval required in the Memorandum of Understanding between the purchasing utilities and the Alaska Energy Authority adopted by reference in 2000 SLA Ch 60.

Prepared by: Ron Miller, Executive Director Phone (907) 269-4623
Division AIDEA/AEA Date/Time 3/1/04 2:24 PM
Approved by: Edgar Blatchford, Commissioner Date 3/1/2004
Agency Department of Community & Economic Development

adopted 3-2-04

23-LS1681\H
Craver
3/2/04

CS FOR HOUSE BILL NO. 495()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE WILLIAMS

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing a joint action agency to encumber property interests for security
2 purposes; declaring certain joint action agencies to be political subdivisions for certain
3 purposes; restricting the sale of property of the joint action agency; allowing the joint
4 action agency to transfer property to security interest holders under a security interest
5 or to other parties without legislative approval; and providing for an effective date."

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

7 * Section 1. AS 42.45.310(c) is amended to read:

8 (c) The agency is a body corporate and politic and an instrumentality of the
9 public utilities that form the agency, but has a separate and independent legal
10 existence from the public utilities. A debt, obligation, or liability of the agency does
11 not constitute a debt, obligation, or liability of a public utility or the state. A liability
12 incurred by the agency shall be satisfied exclusively from the assets or revenue of the
13 agency, and a creditor of the agency or any other person does not have any right of

1 action or claim against a public utility or the state, because of a debt, obligation, or
2 liability of the agency. The agency has the powers of a public utility under AS 42.05
3 and the immunities of a public utility. In addition to the powers granted to the agency
4 under AS 42.45.300 and this section, the agency has the power

5 (1) to adopt bylaws of the agency;

6 (2) to sue and be sued;

7 (3) to carry out the authorized purposes of the agency;

8 (4) subject to (e) of this section, to issue revenue bonds and other
9 obligations that are not obligations of either the state or the public utilities that are
10 parties to the agency agreement to provide financing to carry out the authorized
11 purposes of the agency; [AND]

12 (5) in addition to the powers of eminent domain in AS 42.05.631, to
13 exercise the powers of eminent domain and a declaration of taking to acquire land or
14 materials within the boundaries of the power project purchased by the agency from the
15 Alaska Energy Authority under the procedures set out in AS 09.55.240 - 09.55.460 to
16 carry out the authorized purposes of a joint action agency; and

17 (6) to use facilities, projects, and related assets owned, leased, or
18 operated by the joint action agency as security for bonds, notes, mortgages, credit
19 enhancement devices, or other obligations.

20 * Sec. 2. AS 42.45.310(h) is amended to read:

21 (h) An agency formed by, and that continues to include, one or more
22 municipal public utilities is a political subdivision for purposes of AS 38.05.810, and
23 functions as a political subdivision in the acquisition and ownership of the power
24 project under the agreement authorized by this section. Except as provided in
25 this subsection, the agency is not a political subdivision of the state.

26 * Sec. 3. AS 42.45.310 is amended by adding new subsections to read:

27 (j) The agency may not sell a project owned by the agency to any purchaser
28 without the approval of the legislature in advance of the effective date of the sale,
29 except that a sale made to a public utility that is a party to the agreement does not
30 require legislative approval.

31 (k) Notwithstanding (j) of this section, the project and related assets may be

1 transferred in connection with a foreclosure or other enforcement of a lien or security
 2 interest to a party holding a lien or security interest acquired under (c)(6) of this
 3 section or to another party without legislative approval. A party obtaining a property
 4 interest under this subsection may transfer that interest without legislative approval.

5 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
 6 read:

7 LEGISLATIVE AUTHORIZATION TO AMEND MEMORANDUM OF
 8 UNDERSTANDING REGARDING SALE OF FOUR DAM POOL HYDROELECTRIC
 9 PROJECT. Notwithstanding the restriction imposed by sec. 15(a), ch. 60, SLA 2000, the
 10 memorandum of understanding that authorizes the sale of the four dam pool hydroelectric
 11 project may be amended consistent with the provisions of AS 42.45.310(j) and (k), added by
 12 sec. 3 of this Act, if sec. 3 of this Act becomes effective.

13 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

House Finance Committee

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Sponsor Statement

House Bill 495

“An Act relating to the four dam pool joint action agency; and providing for an effective date.”

The main purpose of this legislation is to allow the Four Dam Pool Power Agency (FDPPA), the first agency formed under the statute allowing joint action agencies (JAA's), to refinance their approximately \$73 million loan owed to the Alaska Industrial Development and Export Authority (AIDEA).

HB 495 clarifies existing JAA statute to state explicitly that joint action agencies are political subdivisions of the state *for the purposes of securities law*. This is necessary if the FDPPA is to avoid certain expensive and damaging hurdles having to do with registration of securities under some bond sale circumstances.

Further, the legislation allows the agency to mortgage the four dam pool assets. Such a mortgage will likely be necessary in order to sell the bonds as contemplated. The assets are presently mortgaged to AIDEA, just as they would be mortgaged to the new lenders.

The legislation re-states the important principal established by the legislature that the Four Dam Pool assets may not be sold to a party outside the FDPPA without legislative approval. However, it makes it clear that mortgaging the assets- or a foreclosure under the terms of that mortgage- does not constitute a sale under this restriction, providing that certain requirements are met.

When this refinancing occurs and the AIDEA loan is retired, the state and consumers in a large part of Alaska will benefit by:

- Allowing the FDPPA to return approximately \$73 million to AIDEA for other uses
- Helping consumers of Four Dam Pool power by lowering interest rates and administrative costs associated with the acquisition

I urge your favorable consideration of this important legislation.