

HB

495

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/1/04

FURTHER:

REPORTED OUT
MAY 10 2004
SENATE FINANCE
COMMITTEE

DATE TURNED IN TO OFFICE: 10 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 495(FIN)

HB 495 4 DAM POOL JOINT ACTION AGENCY

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

and recommends:

- be replaced with 5 CS CS HB 495 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	5/1/04			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	

MAY 10 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 495(FIN)
(H) Publish Date: 3/3/04

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 ()						
------------------------	--	--	--	--	--	--

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

SENATE FINANCE
COMMITTEE

Adopted

Amendment Number: #1
Bill Number: HB 495
Sponsor: Stevens Date: 5/9/04
Logged In By: Robin

B. Stevens

AMENDMENT - HB495

As amended the section would read as follows:

Page 2, lines 17-19

(6) to use facilities, projects, and related assets owned, leased, or operated by the joint action agency as security **in accordance with applicable law.**

SENATE FINANCE COMMITTEE
 5 /10/ 2004 COMMITTEE ACTION

Bill Number	HB 495		
Amendment	#1		
Motion	to ADOPT		
<u>Motion by</u>	Stevens		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

Attention: Sheila

Of Senator Wilken's office

RE: S CS CS HB 495 (FIN)

Date: 5/10/04 Time: 12:50 pm

The attached Senate Finance CS incorporates the amendment(s) your boss sponsored. Please review and approve so the bill can be forwarded to the Senate Secretary.

*Senator Stevens' Amend #1
proof has been delivered to his office*

The CS is your copy.

Thanks,
Senate Finance Secretary
Mindy #4935

Robin #2618

Approved: _____
(please initial)

Return ASAP

*Looks Good
AP*

Attention: Plelan / Kristy
Of Senator Steven's office
RE: S CS CS HB 495 (FIN)
Date: 5/10/04 Time: 12:50pm

The attached Senate Finance CS incorporates the amendment(s) your boss sponsored. Please review and approve so the bill can be forwarded to the Senate Secretary.

The CS is your copy.

*Amend
#1*

Thanks,
Senate Finance Secretary

Mindy #4935

Robin #2618

Approved: CS FOR SENATOR STEVENS
(please initial)

Return ASAP

SENATE CS FOR CS FOR HOUSE BILL NO. 495(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILLIAMS, Foster, Ogg, Lynn

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 in accordance with applicable law. #1

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

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

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

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

30 (k) Notwithstanding (j) of this section, the project and related assets may be
 31 transferred in connection with a foreclosure or other enforcement of a lien or security

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

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

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

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



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 10 May 2004 TIME: 10:45 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

SCS CS HB 495 (FIN)

23-LS1681 \ I

Plus 1 amendment - attached

Call if any questions

The
Mundy

Alaska State Legislature

House Finance Committee



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE
BILL WILLIAMS

Co-Chair

(907) 465-3424

Fax: (907) 465-3793

INTERIM ADDRESS

50 Front Street, Suite 203

Ketchikan, Alaska 99901

(907) 247-4627

Fax: (907) 225-7157

REPRESENTATIVE
JOHN HARRIS

Co-Chair

(907) 465-4859

Fax: (907) 465-3799

INTERIM ADDRESS

State Capitol, Room 507

Juneau, AK 99801-1182

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.

The Four Dam Pool Power Agency

703 West Tudor Road, Suite 102
Anchorage, AK 99503-6650
907-258-2281 Fax: 907-258-2287

Representative Bill Williams
State Capitol, Room 515
Juneau, AK 99801-1182

Senator Gary Stevens
State Capitol, Room 417
Juneau, AK 99801-1182

Subject: HB495 and SB350 regarding Joint Action Agencies

Dear Representative Williams and Senator Stevens:

On behalf of the Cities of Petersburg, Wrangell, and Ketchikan, the Kodiak Electric Association, and the Copper Valley Electric Association, which constitute all of the members of the Four Dam Pool Power Agency (the "Agency"), I am writing to you to express the support of the members of the Agency for HB495 and SB350. By unanimous action, the Board of Directors of the Agency has directed me to send this letter of support.

HB495 (introduced by Representative Williams) and SB350 (introduced by Senator Stevens) provide certain technical corrections to earlier legislation authorizing the sale of the state's interest in four hydroelectric projects that constituted the Four Dam Pool Power Project to the Agency, a joint action agency formed by the above-listed members. The acquisition of these projects by the Agency was financed with a loan from AIDEA, at interest rates currently in excess of those available from other sources. This legislation:

- Clarifies the ability of the Agency to refinance the AIDEA debt and lower the cost of power for citizens of Alaska;
- Returns up to \$74 million to AIDEA
- Provides for the use of the hydroelectric resources as security for new debt; and
- Assures that the resources will continue to serve the members of the Agency, as intended by original authorizing legislation.

The members of the Agency urge your support in the passage of this important legislation.

Sincerely,



Thomas A. Lovas
Chief Executive Officer
The Four Dam Pool Power Agency

cc: Brian Bjorkquist, Esq., State of Alaska, Office of the Attorney General
Ron Miller, Executive Director, AIDEA



CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833

TELEPHONE (907) 772-4511

TELECOPIER (907) 772-3759

March 5, 2004

Senator Gary Stevens
Mail Stop 3100
State Capitol
Juneau, AK 99801-1182

Subject: HB495 and SB350 re: Joint Action Agencies

Dear Senator Stevens:

The City of Petersburg is writing in support for HB495 and SB350 and ask your continued support in passage of this proposed legislation.

HB495, introduced by Representative Bill Williams and SB350, introduced by yourself, provide certain technical corrections to earlier legislation authorizing the sale of the state's interest in four hydroelectric projects that constituted the Four Dam Pool Power to a joint action agency formed by the participants in the Pool. The City of Petersburg is a member of the agency, along with the cities of Wrangell and Ketchikan, the Kodiak Electric Association and the Copper Valley Electric Association. The acquisition was financed with a loan from AIDEA, at interest rates currently in excess of those available from other sources. This legislation:

- Clarifies the ability of the joint action agency to refinance the AIDEA debt and lower the cost of power for citizens of Alaska;
- Returns up to \$74 million to the State of Alaska;
- Provides for the use of the hydroelectric resources as security for new debt; and
- Assures that the resources will continue to serve the members of the Pool, as intended by original authorizing legislation.

We urge your continued support in the passage of this important legislation.

Sincerely,

Theodore M. Smith, Mayor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 495-4 DAM POOL JOINT ACTION AGENCY

NAME: TOM LOVAS Subject/Bill No: _____

Co./Dept./Title: FOUR DAM POOL JAA Phone: 907 258-2281

Address: 703 W. TADPOLE RD STE 102 ANCHORAGE Zip: 99503

Do you wish to testify? Yes No Respond To Questions

NAME: TOM BARRY Subject/Bill No: _____

Co./Dept./Title: AIDE TO REP. WILLIAMS Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NOT HEARD

PRIOR TO RECESS OF 1:11 PM
SENATE FINANCE COMMITTEE

SIGN-IN

HB 495-4 DAM POOL JOINT ACTION AGENCY

NAME: TOM LOUAS Subject/Bill No: HB 495
Co./Dept./Title: FOUR DAM POOL - CEO Phone: 807-258-2281
Address: 703 W. TUDOR RD. STE 102 ANCH. Zip: 99503
Do you wish to testify? Yes No Respond To Questions

NAME: TIM BARRY Subject/Bill No: _____
Co./Dept./Title: AIDE TO REP. WILLIAMS Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions