

LEG. FINANCE - BILLS 1975 - 1976 470

HB 779 cont., thru CSHB 779

470

1 the fund at any average minimum level of \$25 million.

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APR 01 1976

Box 2340
Anchorage, Alaska 99510

March 29, 1976

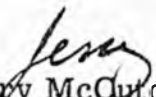
Representative Hugh Malone
House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Hugh:

Would you please have the enclosed testimony on Devil's Canyon Dam inserted in the record?

Hugh, you are aware of the financial problems that Alaska faces after the oil begins to flow. I believe it is incumbent upon you to tell the Alaska public the facts. The majority of the public believe that Alaska is going to have a surplus of over a billion dollars a year. You and I both know that under the current taxes and the energy plan, Alaska will be lucky to stay afloat.

Sincerely,


Jerry McCutcheon

Jerry McCutcheon
Box 2340
Anchorage, Alaska 99510

March 29, 1976

**SUBJECT: DEVIL CANYON DAM
TESTIMONY OF JERRY McCUTCHEON**

The original philosophy of the Devil Canyon Dam was the substitution of hydroelectric power for gas powered generation and later for coal power generation. Thus, the hydroelectric to the degree substituted would make gas and coal available to the South 48 States. This would allow the Federal Government to substitute a renewable resource for a non-renewable resource.

It is important to note the Federal Government is not doing Alaska a favor but is extending the U.S. supply of fossil fuels--particularly natural gas.

Devil Canyon is not cheap power. At best Devil Canyon-Watana were hoped to be medium cost power at some future date. It has never been believed that the dams would be able to compete with current power generation but would set some upper limit to the cost of power as the price of gas escalates and the price of coal finally rises. There will be a considerable period of time after the dam is completed that electricity from the dam would have to be sold at a loss in order to be competitive. Remember, you will already have an installed capacity greater than the dam(s) when the dam(s) come on line and not a simple substitution of power. One must consider what the cost is not to use the existing power generation facilities. It is more complex than simply turning off the then existing generating capacity. Thus the dam(s) are liable to be losers for the rest of this century.

The U. S. Government gains the gas that would otherwise be used in electrical generation and some day the coal that it would replace. Alaska obtains an upper limit on power costs in the railbelt area at some future date. It should be remembered that the dam(s) will not be able to supply all the power needed and the stop-lost effect will only be in relationship to the dam(s) power as to the total market power demand.

Again, the cost of power must be subsidized to the point where it is cheaper for the current power companies not to use their own existing facilities and to take power from the dam(s). That difference must include the bond indebtedness on the existing equipment and/or paid for value of the equipment.

STATE PURCHASE OF THE DAM(S):

Those of us who were in from the beginning wanted the State to be able to buy the dam at sometime convenient to the State. Second--purchase of the

dam was dependent upon a free market for oil and the legislature having enough guts to place an additional substantial tax on oil.

Neither of these facts are present. The State, contrary to popular opinion, is not going to get billions. The State is broke today and will be running more deficits in the next decade unless the State increases the oil taxes now. Thus, the State has no money to invest in a good project, let alone one which places an even greater drain on the State Treasury. The dam investment would be considerably worse than the State investment in the stock market--only on a gigantic scale.

We once looked at the dam as a method of keeping the State political bureaucracy's hands off of our surplus revenues; better a dam that is a loser for a few decades than the bungling bureaucracy which would leave nothing.

We don't have those extra funds--we don't even have enough revenue to pay our future bills.

SUPPOSE WE HAD THE FUNDS:

Let's look at the project. The Corps of Engineers estimates the cost at \$1.5 billion with a 20% allowance for cost over-run, which would produce power at 21 mills, 2.1 cents. If we adjust the price to the minimum expected cost over-run, 200%, Library of Congress, for a project of this size, the cost is \$2.4 billion and the power rate is 34 mills. Compare this with the current cost of 9.5 mills for Anchorage power generation. A 200% increase in the price of gas means an 85% increase in the cost of power generation; thus, the price of gas must increase 8 times before a power company can consider not using their own equipment. State ownership of the dam(s) only makes sense if we have cash which we are trying to sugar bowl away from ourselves and pass on past the end of this century and for use through the next century.

The dam(s) are an admission that the State administration and legislature are incompetent.

The Gravel proposal calls for power cost averaging for the whole State. We will end up with all kinds of wild schemes for generating power--for nobody will really be responsible for any of the proposals. This puts the very bureaucracy from which we were trying to sugar bowl the money back in control making a political grab bag of the dam(s). Each project should be considered on its own merit.

For the above reasons I find myself in opposition to the Gravel proposal. Further, I fear any legislation which you will write will do little more than be political consumption for the home folks. While you may or may not dutifully protect Alaska, it will not be something that Congress will buy. I

fear Congress will look at the package of a half-commercial venture with Congress getting stuck for the cost over-run and Alaska getting the dam and will then throw both the current Corps of Engineers proposal and the State of Alaska's proposal in the ash can. You will have killed the proposed dam. It may look good to the home folks but it is liable to kill our dam(s).

I believe there should be a simple statement to Congress that the State of Alaska believes the dam(s) are in the best interest of the Nation for the long run conservation of the fossil fuels, particularly gas, even though the dam(s) may not be immediately financially feasible. Further, the State of Alaska would like the authorization for the dam(s) to contain permission for the State to purchase the dam(s) when and if the State of Alaska ever gets its financial problems resolved and accumulates enough money for the purchase. I believe Alaska would get much further telling Congress the truth than trying to rely on a fast hustle.

I believe the prospects are good that Congress will appropriate funds for the dam(s) in view of the energy problem. Previous Congresses and administrations did not appropriate money because the dam(s) could not compete against cheap gas and oil. It is now recognized that we are going to run out of gas and oil. Those days of wasteful abundance are gone--alternate energy forms are in.

While I welcome Senator Gravel's belated attention to Devil Canyon, I believe it is badly misdirected and overlooks the fact that the President of the United States has asked Congress for \$100 billion for energy development.

Further, I believe Gravel's 'share of Federal fund theory' falls apart when we take out the military. Isn't that for the whole nation? Then let's remove that portion of the FAA that has to do with international air traffic; spread BLM according to the amount of Federal land we have vs. the other States; subtract the BIA (it's not our fault the Government has had 80 years of mismanagement). The objective of the BIA was to put itself out of business. If we subtract all those things that occur in Alaska which are Federally funded and not for the State's benefit, Alaska gets far less than its fair share. This is the largest State in the Union with the smallest population. How about spreading the amount of Federal funds per acre of Federal lands? How about the fact that Alaska is losing \$1 million a day in taxes that it could be taking from the oil industry if it were not for price control? And \$120,000 a day that we lose on our own royalty oil? Just how many sacrifices does Senator Gravel think the State of Alaska should make? The signing of the Energy Act which Gravel told the President when he made the trip with the President to Alaska, would not make much difference to the State of Alaska, is killing us.

Gentlemen, please do not jeopardize the Devil Canyon Dam, which we cannot afford, by proposing a half-commercial venture by the State of Alaska. There will be a strong movement forward on all energy fields. We still have only a mess in Anchorage--not a Federal building. There is no reason for Alaska to get into the act other than to support the dam.



STATE OF ALASKA
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
JUNEAU

March 23, 1976

Dear Mike:

I have attached a redraft of the Corps drafted bill regarding the "Hydroelectric Power Development Act of 1976." The redraft was as a result of the meeting held with you, Bob Mitchell, Jim Rhodes from Legislative Affairs, Representative Duncan, Sterling Gallagher, Eric Wohlforth and myself. Subsequent to our Saturday morning meeting, Wohlforth, Gallagher, Rhodes, Duncan and I met for two hours to finalize those points we all discussed. The product I think you will find in the attached redraft.

You will find that we used the traditional legislative method of putting deletions in brackets, and new insertions underlined. Further, I think we all recognize that this is a very quick first look at this proposed bill. I am sure that there more than likely will be further refinements as we go along, but I think it is fair to state that we have addressed most of the major points.

I will be looking forward to your comments.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Langhorne A. Motley".

Langhorne A. Motley
Commissioner

cc: Ann Garrabrant
Sterling Gallagher
Jim Rhodes
Representative Duncan ✓
Eric Wohlforth
Bob Mitchell

A BILL

To facilitate and expedite the provision of hydroelectric power at water resources development projects to be constructed by the Department of the Army, Corps of Engineers.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress Assembled, that this Act
3 may be cited as the "Hydroelectric Power Development Act of 1975"
4 and is to be administered by the Secretary of the Army, acting
5 through the Chief of Engineers, to facilitate and expedite the
6 construction of water resources development projects to be con-
7 structed by the Corps of Engineers with hydroelectric power
8 generation as a project purpose which the Chief of Engineers
9 estimates, prior to the commencement of construction of the
10 project, will yield 50 per centum or more of the benefits to be
11 attributable to the project when it is fully operational.

12 SEC. 2 /In connection with water resources development projects
13 which meet the criteria established by section 1 of this Act and
14 which are to be constructed by the Corps of Engineers in accord-
15 ance with an authorization occurring on or subsequent to the date
16 of enactment of this act/or which have been authorized for con-
17 struction previous to the date of enactment of this Act if their
18 construction has not commenced as of the date of enactment of
19 this Act, the Secretary of the Army, acting through the Chief of
20 Engineers (hereafter referred to in this Act as the "Secretary")
21 is authorized to construct such projects including any activities
22 for engineering and designing, land acquisition, site development
23 and off-site improvement necessary for the authorized construction
24 by making expenditures from the Hydroelectric Power Development
25 Fund established in section 6 of this act and from payments of
26 non-Federal funds as provided for in this and other pertinent
27 Acts as well as from appropriated Federal funds for the project
28 in accordance with its authorization.

29 SEC. 3 As a condition of the Secretary making any expendi-
30 tures from the Hydroelectric Power Development Fund for a project
31 as authorized in section 2 of this Act and prior to his making
32 any such expenditures, an appropriate non-Federal public

authority(ies), [approved by the Secretary,] shall agree with the Secretary, in writing, to pay the Secretary for all the separable and joint costs of preparing for the construction and constructing the project attributed by the Chief of Engineers to the provision of hydroelectric power generation and to assume ownership of the project and responsibility for performing and paying for its operation and maintenance as well as necessary replacements.

SEC. 4(a). Non-Federal obligation[s] for payment of the hydroelectric construction costs of a project in accordance with section 3 of this Act shall include repayment to the Secretary without interest, for any expenditures the Secretary makes to defray such costs from the Hydroelectric Power Development Fund established in section 6 of this Act or from any other source of Federal funding as well as payment for any other such costs prior to their occurrence or as they occur which the Secretary determines are not to be initially funded from a Federal source. This total non-Federal obligation[s] shall be completely discharged on or prior to the date the Chief of Engineers estimates, in the agreement to be entered into as provided in section 3 of this Act, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project. The Secretary shall require the non-Federal obligor[s] to make installment payments to the Secretary, in accordance with the agreement and during its term, scheduled to insure complete payment by this deadline as well as to serve the best interests of the program authorized by this Act and the project and non-Federal obligor[s] concerned. The agreement shall provide for an initial determination of feasibility and compliance of the project with law and a further determination if the requirements of feasibility and compliance with law are met to construct the project.

(b) In consideration of the obligations to be assumed by

1 non-Federal public authorities under the provisions of this.
2 section and this Act and in recognition of the substantial in-
3 vestments which will be made in and by those authorities in
4 reliance on the program established by this Act, the United
5 States shall assume the responsibility for paying for all in-
6 creased costs over the estimates fixed in the agreement of any
7 non-Federal public authorities, under agreement with the Secre-
8 tary in accordance with this Act, if such costs are occasioned by
9 any delay in the availability of the project concerned for actual
10 generation of all or a substantial portion of the authorized
11 hydroelectric power of the project beyond the date estimated by
12 the Chief of Engineers in accordance with subsection (a) of this
13 section or are attributable to any cause other than the action
14 or inaction of the public non-Federal authority, its agents or
15 assignees. The Secretary, pursuant to the agreement, may singly
16 or in combination extend affected payment schedules, forgive pay-
17 ments due him, in whole or in part, or pay the expenses of
18 authorities and the obligations due their investors as [he deems
19 advisable to discharge this responsibility] may be fixed pursuant
20 to the agreement. A determination [by the Secretary at any time
21 subsequent to entering into an agreement] pursuant to the agree-
22 ment in accordance with this Act that the project concerned will
23 not be [constructed to generate] available for actual generation
24 of all or a substantial portion of its authorized hydroelectric
25 power will result in discharging non-Federal public authorities
26 from any further obligations under such agreement. In connection
27 with such a determination, the Secretary shall pursuant to the
28 agreement take such actions and make such payments to the autho-
29 rities or their investors as [he finds] are necessary to defray
30 or prevent any losses to the authorities and their investors for
31 their obligations and investments made in reliance upon the agree-
32 ment.

1 (c) Notwithstanding the provisions of subsection (b) of
2 this section, the United States shall not assume any responsibility
3 for paying for any increased costs or defraying or preventing
4 the expense or any losses of any non-Federal public authority
5 (or its investors) under agreement with the Secretary in accord-
6 ance with this Act if and to the extent that such costs or losses
7 are attributable to delays in construction of or failure to
8 construct a project occasioned by the action or inaction of the
9 non-Federal public authority, its agents, or assignees.

10 SEC. 5. The Secretary is authorized pursuant to the
11 agreement to convey all title, rights, and interests of the
12 United States to any project, its lands and water areas, and
13 appurtenant facilities to any non-Federal public authority[ies]
14 which is obliged to assume ownership of the project and re-
15 sponsibility for performing and paying for its operation and
16 maintenance as well as necessary replacements in accordance
17 with section 3 of this Act. Such conveyance shall, pursuant
18 to the agreement, to the maximum extent possible, occur prior
19 to or at the time the project concerned is available for actual
20 generation of all or a substantial portion of the authorized
21 hydroelectric power of the project and shall include such Federal
22 requirements, reservations, and provisions for access rights to
23 the project and its records as the Secretary finds advisable to
24 complete any portion of project construction remaining at the
25 time of conveyance and protect the Federal interest and invest-
26 ment in the project over the life of the project and insure that
27 it will be operated and maintained in a responsible and safe
28 manner to accomplish, as nearly as may be possible, all of the
29 authorized purposes of the project including, but not restricted
30 to, hydroelectric power generation. Any non-Federal obligations
31 to pay the Federal government under the provisions of this
32 or any other Act for work, services, or facilities at a project

1 at the time of its conveyance under the provisions of this Act
2 shall remain as obligations to the Federal government unaffected
3 by the conveyance.

4 SEC. 6. There is hereby established in the Treasury of
5 the United States a Hydroelectric Power Development Fund (here-
6 after referred to in this Act as the "fund") to be and remain
7 available for use by the Secretary to make the expenditures he is
8 authorized to make by section 2 of this Act. The fund shall
9 consist of (1) all receipts and collections by the Secretary of
10 repayments to the Secretary by non-Federal public authorities for
11 the Secretary's expenditures from the fund or from any other
12 source of Federal funding for hydroelectric construction costs
13 of projects in accordance with this Act and which the Secretary
14 is hereby directed to deposit in the fund as they are received
15 and (2) any appropriations made by the Congress for the fund.

16 SEC. 7 (a) If the Secretary determines that moneys in the
17 fund are in excess of current needs, he may request the invest-
18 ment of such amounts as he deems advisable by the Secretary of
19 the Treasury in direct, general obligations of, or obligations
20 guaranteed as to both principal and interest by, the United
21 States.

22 (b) With the approval of the Secretary of the Treasury,
23 the Secretary may deposit moneys of the fund in any Federal Re-
24 serve bank or other depository for funds of the United States,
25 or in such other banks and financial institutions and under such
26 terms and conditions as the Secretary and the Secretary of the
27 Treasury may mutually agree.

28 SEC. 8. There is authorized to be appropriated to the
29 Secretary for deposit in the fund established by section 6 of this
30 Act for expenditures by the Secretary as authorized by this Act,
31 the sum of \$25 million and such sums, if any, after this initial
32 appropriation that the Secretary may annually require to maintain

1 the fund at any average minimum level of \$25 million.

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Alaska State Legislature
House

JUNEAU ALAB..A

13 April 1976

Mr. Eric E. Wohlforth
Wohlforth & Flint
Attorneys at Law
645 G Street
Anchorage, AK 99501

Dear Eric:

As we discussed on the phone, I enclose the comments of Mr. Ted Swick of White, Weld & Co., New York, on the power authority bill, together with some notes.

A., pg. 1: The Committee made a policy decision to limit the authority's initial efforts to technology that is proven in Alaska.

D., pg. 3: I believe the members involved with the bill will be receptive to language permitting joint projects.

4., pg. 8: I quote from a conversation with Mr. Swick, taped with his consent:

". . . This, in effect, is a moral obligation type of make-up, recognizing the intent, I think, of the legislation and the various options that the authority chooses to leave open, in terms of how it is actually going to raise or provide funds. I would have to comment that any provision that is a close relative, if you will, of the moral obligation concept, which has become so badly thought of in today's market place, mainly because of New York's problems, may be a severe detriment in being able to market bonds at all. The language, of course, in this proposed legislation, does use the words 'the legislature may'. In the New York deals, that word is 'shall' even though, as your act provides, it is not an actual obligation or covenant to make up anything. It is strictly a legislative option. The word 'may' is certainly more palatable than the word 'shall', but the whole idea in today's market place could work to the detriment of any revenue bonds. I'm not suggesting that it be completely stricken, but I wanted to comment on the implications of the moral obligation, which this language clearly is."

'Later, Mr. Swick agreed that the sum of his position was that

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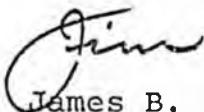
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this section ". . . is not going to materially help and could possibly cause serious marketing problems . . ."

2., 3., pg. 9: Perhaps the legislature's concerns can be reconciled with Mr. Swick's by language that would require approval of initial estimates ". . . provided, however, the directors of the authority may issue other bonds necessary to complete a project." On the other hand, could this power be stated in the authorization itself?

It seems the other suggestions are technical matters that you may wish to advise us about by phone.

Sincerely,



James B. Rhode
AA to Rep. Malone, Chairman
House Finance Committee

Encl

cc: Rep. Jim Duncan
Commissioner Sterling Gallagher,
Department of Revenue

JBR/jb



University of Alaska

3211 Providence Drive
Anchorage, Alaska 99504

April 22, 1976

Mr. Jim Rhode
House Finance Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Jim:

I have received a copy of Tom Stahr's letter to you expressing his concern over the treatment of the Corps' Susitna project in the Electric Power Study. I have had several conversations with Mr. Stahr regarding his feeling that the study is biased against hydro and we have finally agreed to disagree on this point.

There are a couple of points raised in his letter to which I would like to respond briefly.

First, the cost per kilowatt figures on page 1-5 are not really wrong. They are the cost per prime kilowatt of power, while Mr. Stahr would like to see the lower figure--cost per installed kilowatt of power--in its place. The total project cost is, of course, the same in either case. The cost per kilowatt figure using prime power was chosen to make it compatible with the bulk of the analysis of other hydro sites in the report but in the final draft, to avoid further confusion, the cost per installed kilowatt will be used.

Second, with regard to the 86 percent of firm energy figure, this was taken directly from the Corps' report and was used by them to determine their mill rate. Secondary energy was not calculated for any hydro project and so was not included for Susitna.

Third, depending upon how it is financed, coverage may or may not be necessary. Calculation of the cost under different assumptions merely points out the price sensitivity of the project to financing mode.

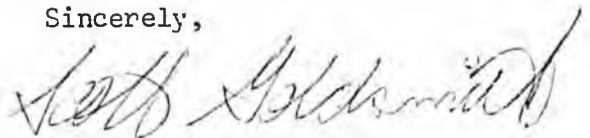
UNIVERSITY OF ALASKA

Mr. Jim Rhode
April 22, 1976
Page Two

Mr. Stahr interprets these points as a bias against hydro as in his mind, this shows hydro to be much more expensive than fossil plants. However, page 1-5 does not compare systems of generation, but rather individual units coming on line in 1985, and in the case of Watana 1987. At those points in time, costs will be as stated; but it does not follow necessarily from this that the Corps' project will be the most expensive alternative over its lifetime.

Obviously, a complete system analysis would have examined not only alternative hydroelectric designs (Kaiser, etc.) but also would include the fact that fossil plants coming on line before 1985 would be less expensive than those shown on page 1-5. This, however, is a task properly for the newly created Alaska Power Authority.

Sincerely,



Oliver Scott Goldsmith

OSG/ds

MAY 03 1976



STEFANO - MESPLAY & ASSOCIATES, INC.

CONSULTING ENGINEERS

RALPH R. STEFANO
PRESIDENT
MECHANICAL, P.E.

JAY K. MESPLAY
VICE PRESIDENT
MECHANICAL, P.E.

ROBERT H. SHIPLEY
ELECTRICAL, P.E.

G. L. HENDERSON
CHEMICAL, P.E.

April 30, 1976

Representative Hugh Malone
Chairman House Finance Committee
Pouch "V"
Juneau, Alaska 99801

Dear Hugh:

In accordance with my telephone conversation with Jim Rhode regarding costs, definitions, construction time, and future Railbelt Electric loads, the following may clarify our letter to you of April 2, 1976.

In order to clearly present a comparison of hydroelectric vs. coal fired steam turbine generation, the first thing that is necessary is definitions associated with each generation system.

Definitions:

Firm Power: Firm Power is defined as the amount of power available with the largest unit out of service.

For example, in a power plant having 3 generators of 100, 200 and 300 KW capacity totalling 600 KW, its firm power is 300 KW (loss of the largest unit). The use of this term "firm power" is generally associated with fossil fuel plants and is generally confused with the term "prime power" or "prime capacity" that is associated with hydro plants. However, when there is a series of generators in a hydroelectric plant, firm power remains as defined, "the loss of the largest unit installed".

Installed Capacity: Installed Capacity is defined as the sum of the Name-Plate capacity of all the generators installed in the plant. In the above example for "firm power", 600 KW is the "installed capacity".

Prime Power: Prime Power is defined as the maximum potential power constantly available for transformation into electrical energy. Transformation of potential energy may be chemical, mechanical or hydraulic; however, the term in practice considers hydroelectric installation, and is related to minimum water flow due to run-off and reservoir capacity.

Representative Hugh Malone
Page 2
April 30, 1976

Perhaps you noted in the ISEGR Study, the use of the terms "Prime Capacity" and "Prime KW" as noted under the Regional Hydroelectric Resources section, page 5-15. These terms may have been used when in effect discussion was about "Prime Energy" which is megawatt hours, (MWH). The correlations of terms meaning the same thing for fossil or hydro plants is as follows:

FOSSIL FUEL PLANT

Installed Capacity
Firm Power

HYDRO PLANT

Installed Capacity
Prime Capacity or Prime Power

Comparison #1 - Cost Basis

For the hydroelectric plant, we will use the cost shown in table 5-2 of the ISEGR Report, page 5-20, as follows:

1976 dollars, 1568 MW installed capacity, prime capacity @ 699 MW @ a cost of \$2252/KW.

For the coal fired steam plant, we will use the cost of \$968/KW, 1300 MW installed capacity @ 1976 dollars. This cost is actual for the 650 MW coal fired steam plant at Centralia, Washington, completed in 1973.

	<u>Centralia Plant Installed Cost</u>	
	1973	\$354
15% escalation	1974	\$407
"	1975	\$468
"	1976	\$538

Alaska factor = 1.8 times 1976 dollars in Alaska - $1.8 \times \$538 = \$968/\text{KW}$.

Our letter of April 2, 1976, indicated 1985 dollars of \$5052/KW for hydroelectric taken from page 1-5, table 1-2, of the ISEGR Report. A later issue of the report quotes this cost for hydro as 1990 dollars with completion of the project in 1992. \$1500/KW for the coal fired steam plant was used escalating 1973 prices and applying an Alaska factor.

Since prime power in the hydro plant is equated to the firm power of a coal plant and is determined generally by the least amount of water in the reservoir, we assumed the construction cost for hydroelectric based on prime power of 699 MW taken from table 5-1 of the ISEGR Report page 5-21. This calculation is reproduced here as follows:

Representative Hugh Malone
April 30, 1976
Page 3

1985 dollars: Susitna Hydroelectric Plant
Prime Capacity = $\$5052/\text{KW} \times 699 \text{ MW} = \$3,531,348,000$.

If the installed capacity were calculated for the project cost, it would be as follows:

1985 dollars: $\$5052/\text{KW} \times 1568 \text{ MW} = \$7,921,536,000$.
This is the true cost of the project in 1985 dollars.

However, let's assume 1976 dollars so we can compare with coal in the same time frame, then, for 1976 dollars:

Prime Capacity, Hydro: $\$2252/\text{KW} \times 699 \text{ MW} = \$1,574,148,000$
Installed Capacity, Hydro: $\$2252/\text{KW} \times 1568 \text{ MW} = \$3,531,136,000$
Installed Capacity, Coal: $\$968/\text{KW} \times 1300 \text{ MW} = \$1,258,400,000$

From the above, it's easy to see how 1.5 billion was quoted for the hydroelectric plant. It was probably due to misunderstanding of prime power as defined and related to installed capacity for hydro plants. The relationship between firm power, and installed capacity for coal plants, does not permit a calculation of cost for firm power which is defined as the loss of the largest unit; consequently, to calculate the cost of a coal fired plant, this must be based on the installed capacity times the dollar per KW cost.

As is noted above, using 1976 dollars, if the calculation is applied to the Susitna Project, its cost will be 3.5 billion. Also from the above, it is difficult, if not impossible, to compare a hydroelectric project with a coal fired installation on a dollar for dollar or year for year basis.

Comparison #2 - Time Basis

Consider the actual dates both systems can be constructed and on line producing power, starting in 1976.

	<u>On Line</u>	<u>Lead Time Needed</u>
Susitna Hydro	1992	16 years
Coal Plant	1982	6 years

This comparison shows minimum lead times. A coal plant could be producing power for 10 years before the hydro comes on line; therefore, the construction cost for coal will in reality be accomplished with 1980 dollars and the hydro plant cost will be escalated using 1990 dollars.

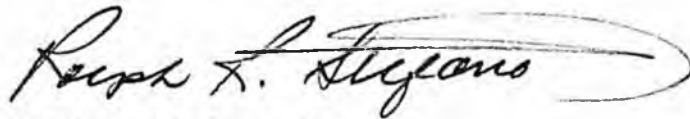
Representative Hugh Malone
April 30, 1976
Page 4

We have worked on this comparison dilligently to try and show as simply as possible that you can build a coal fired plant in Alaska for the interest on the Susitna Power Project in its first six years.

If you require a more detailed information, please let me know at your earliest convenience.

Very truly yours,

STEFANO/MESPLAY & ASSOCIATES, INC.
CONSULTING ENGINEERS

A handwritten signature in cursive script that reads "Ralph R. Stefano". The signature is written in dark ink and is enclosed within a large, horizontal, oval-shaped flourish.

Ralph R. Stefano, P.E.

RRS:cf



RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

2/6/90
Date

COMMITTEE REPORT

SENATE

5/25/76

5/27/76 Date

Mr. President:

The Committee on WAYS & FINANCE has had CSHB 779
creating the Alaska Power Authority
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation *with attached amendments*
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<u>Bill King</u>	<u>NO REC</u>	_____
_____	_____	_____
<u>Donna Blanche</u>	<u>NO REC</u>	_____
<u>Raymond</u>	<u>NO REC</u>	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

<u>Donna Blanche</u>	recommends:	<u>NO PASS</u>
<u>Raymond</u>	recommends:	<u>NO PASS</u>
_____	recommends:	_____

Bill King
Chairman

A M E N D M E N T

Offered in the SENATE

By FINANCE

To: _____ SENATE BILL NO. _____

SCS 03 HOUSE BILL NO. 773

AMENDMENT: Page 13 Line 27

Add the following new material:

(c) The authority may make loans from the fund, at such interest rates as it determines, to cities, boroughs, village corporations, village councils and nonprofit marketing cooperatives for purposes of constructing, equipping, and the initial filling of fuel storage facilities, and for other energy requirements, including but not limited to electrical utilities, geothermal, solar, hydroelectric, or wind-power energy production, or for natural gas line construction.

Repeal the following subsections accordingly.

AMENDMENT

In the Senate

By: _____

Amendment to SCS for CS for HB 779

Page 13, Line 27 add the following new material:

"(e) The authority may make loans from the fund, at such interest rates as it determines, to cities, boroughs, village corporations, village councils and nonprofit marketing cooperatives for purposes of constructing, equipping, and the initial filling of fuel storage facilities, and for other energy requirements, including but not limited to electrical utilities, geothermal, solar, hydroelectric, or wind-power energy production, or for natural gas line construct."

Remember the following ^{sub.} sections
accordingly;

ALASKA POWER AUTHORITY

HB 779

	Range/ Units	Annual Cost	
Personal Services			
Executive Director	24	42.5	
Civil Engineer I	19	29.5	
Civil Engineer II	20	31.8	
Power Production/Transmission Administrator	20	31.8	
Secretary I	10	15.7	
Clerk-typist	8	13.9	
Clerk-typist	8	13.9	179.1
Travel:		40.0	40.0
Contractual:			
Communications		6.5	
Printing & Advertising		10.0	
Rents & Utilities. 1500 s.f./\$1.50		27.0	
Transportation of things		6.0	
Equipment Rentals		3.5	
Professional Fees & Services			
Other		5.0	58.0
Commodities:		3.0	3.0
Equipment:			
7 desks @ 250		1.8	
7 chairs @ 100		.7	
Conf. Room \$800		.8	
4 calculators @ 300		1.2	
2 typewriters @ 800		1.6	
4 file cabinets @ 250		1.0	
Misc @ \$100/employee		.7	
Dictation 4 @ \$900		3.6	11.4
Total excluding consultant fees & construction			\$291.5

I. If the Alaska Power Authority eventually operates some of the plants it constructs, power management personnel will become necessary only just prior to the plants coming on line, and it is, therefore, unnecessary that they be included in this initial fiscal estimate.

II. Construction personnel can be segregated into three categories: technical; administrative; and financial.

- A. Technical. These individuals, engineers, would be charged with identifying and cataloging projects on the basis of their technical feasibility. Since project planning, design and cost estimation would be farmed out, these individuals would be employed to evaluate consultant reports and translate technical information for other personnel.

Three people would fill the needs of this category.

- 1) Engineer/dam construction experience
- 2) Geologist/dam location and hydrologic experience
- 3) Transmission technology expert.

- B. Administrative personnel would be necessary to coordinate in-house efforts, coordinate state, federal and local activities, and oversee the operations of the Alaska Power Authority. One person with a background in power and energy development would be sufficient here.

- C. In the financial category, the financial analyst would have responsibility for what are called marketing studies and financial feasibility analysis; the former has to do with demand projections, the latter is an activity designed to provide some assurance that a project will be financially viable. Given that the Federal Alaska Power Administration conducts marketing studies, the responsibilities in this area will not be extensive. One individual could perform these functions; a strong economics background would be essential.

So, five people, plus the normal core of secretaries, would in my estimation be sufficient to perform the activities vaguely outlined in the bill.

Obviously, ninety percent of the planning and design work necessary to evaluate a project would be conducted by consultants. This reality may add phenomenally to the actual budget, however, hiring consultants will undoubtedly be less costly than acquiring permanent in-house expertise. In addition, workloads could be significantly minimized if demand projection information and preliminary site identification information were extracted from existing Alaskan Power Administration files. In fact, if APA generates this sort of information the expediency of duplicating their efforts is somewhat questionable.

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HB 779

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Original sponsors: Duncan and Swanson

Offered: 5/25/76
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

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

8 * Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is
16 necessary to supply lower cost power to the state's municipal electric,
17 rural electric, cooperative electric, and private electric utilities,
18 and regional electric authorities, and thereby to the consumers of the
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power
21 costs and long-term economic growth and of establishing, operating and
22 developing power projects in the state will be accelerated and facili-
23 tated by the creation of an instrumentality of the state with powers to
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests
26 of promoting the general welfare of all the people of the state, and
27 public purposes, to reduce consumer power costs and otherwise to en-
28 courage the long-term economic growth of the state, including the
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the
4 Alaska Power Authority. The authority is a public corporation of the
5 state in the Department of Commerce and Economic Development but with
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-
8 sists of the commissioner of commerce and economic development and four
9 public members appointed by the governor. The appointment of each
10 director other than the commissioner of commerce and economic develop-
11 ment is subject to confirmation by the legislature. The directors must
12 be residents of the state and qualified voters at the time of appoint-
13 ment and shall comply with the requirements of AS 39.50 (conflict of
14 interest). The term of office of each director appointed by the gover-
15 nor is four years except that the directors first appointed shall have
16 terms of one, two, three, and four years, respectively. A vacancy in a
17 directorship occurring other than by expiration of term shall be filled
18 in the same manner as the original appointment but for the unexpired
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect
21 one of the public members as chairman and other officers they determine
22 desirable. The powers of the authority are vested in the directors, and
23 three directors of the authority constitute a quorum. Action may be
24 taken and motions and resolutions adopted by the authority at a meeting
25 by the affirmative vote of at least three directors. The directors of
26 the authority serve without compensation, but they shall receive the
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-
2 ployees, the authority may contract for and engage the services of the
3 bond counsel, consultants, experts, and financial advisors the authority
4 considers necessary for the purpose of developing information, or con-
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the
8 authority is to promote, develop and advance the general prosperity and
9 economic welfare of the people of Alaska by providing a means of con-
10 structing, acquiring, financing and operating hydroelectric and fossil
11 fuel generating projects.

12 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its
13 corporate purposes, the authority has the following powers in addition
14 to its other powers:

- 15 (1) to sue and be sued;
- 16 (2) to have a seal and alter it at pleasure;
- 17 (3) to make and alter bylaws for its organization and inter-
18 nal management;
- 19 (4) to make rules and regulations governing the exercise of
20 its corporate powers;
- 21 (5) to acquire, whether by construction, purchase, gift or
22 lease, and to improve, equip and operate power projects;
- 23 (6) to issue bonds to carry out any of its corporate pur-
24 poses and powers, including the acquisition or construction of a pro-
25 ject to be owned or leased, as lessor or lessee, by the authority, or
26 the acquisition of any interest in it or any right to capacity of it,
27 the establishment or increase of reserves to secure or to pay the bonds
28 or interest on them, and the payment of all other costs or expenses of
29 the authority incident to and necessary or convenient to carry out its

1 corporate purposes and powers;

2 (7) to sell, lease as lessor or lessee, exchange, donate,
3 convey or encumber in any manner by mortgage or by creation of any other
4 security interest, real or personal property owned by it, or in which it
5 has an interest, when, in the judgment of the authority, the action is
6 in furtherance of its corporate purposes;

7 (8) to accept gifts, grants or loans from, and enter into
8 contracts or other transactions regarding them, with a federal agency or
9 an agency or instrumentality of the state, municipality, private organ-
10 ization or other source;

11 (9) to deposit or invest its funds, subject to agreements
12 with bondholders;

13 (10) to enter into contracts with the United States or any
14 person and, subject to the laws of the United States and subject to
15 concurrence of the legislature, with a foreign country or its agencies,
16 for the construction, acquisition, operation and maintenance of all or
17 any part of a power project, either inside or outside the state, and for
18 the sale or transmission of power from a project or any right to the
19 capacity of it or for the security of any bonds of the authority issued
20 or to be issued for the project;

21 (11) to enter into contracts for the purchase, sale, exchange,
22 transmission, or use of power generated by a project, or any right to
23 the capacity of it with any person and with the United States, and,
24 subject to the laws of the United States and subject to the concurrence
25 of the legislature, with a foreign country or its agencies;

26 (12) to apply to the appropriate agencies of the state, the
27 United States and to a foreign country and any other proper agency for
28 the permits, licenses, or approvals as may be necessary, and to con-
29 struct, maintain and operate power projects in accordance with the

1 licenses or permits, and to obtain, hold and use the licenses and per-
2 mits in the same manner as any other person or operating unit;

3 (13) to perform feasibility studies with respect to hydro-
4 electrical and fossil fuel power generating projects;

5 (14) to enter into contracts or agreements with respect to the
6 exercise of any of its powers, and do all things necessary or convenient
7 to carry out its corporate purposes and exercise the powers granted in
8 this chapter;

9 (15) to exercise the power of eminent domain in accordance
10 with AS 09.55.250 - 09.55.410.

11 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition
12 to other methods which it may find advantageous, provide that municipal
13 electric, rural electric, cooperative electric, or private electric
14 utilities and regional electric authorities or other persons authorized
15 by law to engage in the distribution of power may secure a reasonable
16 share of the power generated by a project, or any interest in it, or for
17 any right to the capacity of it and shall sell the power or cause the
18 power to be sold at prices representing cost of generation, plus capital
19 and operating charges, plus a fair cost of transmission, all as deter-
20 mined by the directors, and subject to conditions which assure the
21 resale of the power to retail consumers at the lowest possible price. A
22 contract for the sale, transmission and distribution of power generated
23 by a project or any right to the capacity of it shall provide

24 (1) for payment of all operating and maintenance expenses
25 of a project and costs of renewals, replacements and improvements of it;

26 (2) for interest on and amortization charges sufficient to
27 retire bonds of the authority issued for the project and reserves for
28 them, plus a debt service coverage factor as may be determined by the
29 authority to be necessary for the marketability of its bonds;

1 (3) for continuous control and operation of the project by
2 the authority or its agents;

3 (4) for full and complete disclosure to the authority of all
4 factors of cost in the transmission and distribution of power, so that
5 rates to any persons may be fixed initially in the contract and may be
6 adjusted from time to time on the basis of true cost data;

7 (5) for periodic revisions of the service and rates to per-
8 sons on the basis of accurate cost data obtained by the accounting
9 methods and systems approved by the directors and in furtherance and
10 effectuation of the policy declared in this chapter;

11 (6) for the cancellation and termination of a contract upon
12 violation of its terms by any person;

13 (7) for security for performance as the authority may con-
14 sider practicable and advisable, including provisions assuring the
15 continuance of the distribution and transmission of power generated by a
16 project, the use of their facilities for these purposes, and the con-
17 tinuance of an outlet and adequate market for the power generated by the
18 project;

19 (8) other terms not inconsistent with the provisions and
20 policy of this chapter as the authority may consider advisable.

21 ARTICLE 3. FINANCIAL PROVISIONS.

22 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may
23 borrow money and may issue bonds, including but not limited to bonds on
24 which the principal and interest are payable (1) exclusively from the
25 income and receipts or other money derived from the project financed
26 with the proceeds of the bonds; (2) exclusively from the income and
27 receipts or other money derived from designated projects whether or not
28 they are financed in whole or in part with the proceeds of the bonds;
29 (3) from its income and receipts or other assets generally, or a desig-

1 nated part or parts of them; or (4) from one or more revenue-producing
2 contracts including a contract providing for the security of the bonds
3 made by the authority with any person. The authority may issue bonds
4 to pay, fund or refund the principal of, or interest or redemption
5 premiums on, bonds issued by it, whether or not the bonds or interest to
6 be funded or refunded have become due.

7 (b) Bonds shall be authorized by resolution of the authority, and
8 shall be dated and shall mature as the resolution may provide, except
9 that no bond may mature more than 50 years from the date of its issue.
10 Bonds shall bear interest at the rates, be in the denominations, be in
11 the form, either coupon or registered, carry the registration privi-
12 leges, be executed in the manner, be payable in the medium of payment,
13 at the places, and be subject to the terms of redemption which the
14 resolution or a subsequent resolution may provide.

15 (c) All bonds, regardless of form or character, shall be negotia-
16 ble instruments for all the purposes of the Uniform Commercial Code.

17 (d) All bonds may be sold at public or private sale in the manner,
18 for the price or prices, and at the time or times which the authority
19 may determine.

20 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In
21 the discretion of the authority, an issue of bonds may be secured by a
22 trust indenture or trust agreement between the authority and a corporate
23 trustee (which may be a trust company, bank, or national banking associ-
24 ation, with corporate trust powers, located inside or outside the state)
25 or by a secured loan agreement or other instrument or under a resolution
26 giving powers to a corporate trustee by means of which the authority may

27 (1) make and enter into any and all the covenants and agree-
28 ments with the trustee or the holders of the bonds which the authority
29 may determine to be necessary or desirable, including, without limita-

1 tion, covenants, provisions, limitations and agreements as to

2 (A) the application, investment, deposit, use and dis-
3 position of the proceeds of bonds of the authority or of money or
4 other property of the authority or in which it has an interest;

5 (B) the fixing and collection of rentals, charges, fees
6 or other consideration for, and the other terms to be incorporated
7 in, contracts with respect to a project;

8 (C) the assignment by the authority of its rights in
9 contracts with respect to a project or in a mortgage or other
10 security interest created with respect to a project to a trustee
11 for the benefit of bondholders;

12 (D) the terms and conditions upon which additional bonds
13 of the authority may be issued;

14 (E) the vesting in a trustee of rights, powers, duties,
15 funds or property in trust for the benefit of bondholders, includ-
16 ing, without limitation, the right to enforce payment, performance,
17 and all other rights of the authority or of the bondholders, under
18 a lease, power of contract, contract of sale, mortgage, security
19 agreement, or trust agreement with respect to a project by mandamus
20 or other proceeding or by taking possession of by agent or other-
21 wise and operating a project and collecting rents or other consider-
22 ation and applying the same in accordance with the trust agreement;

23 (2) pledge, mortgage or assign money, leases, agreements,
24 property or other rights or assets of the authority either presently in
25 hand or to be received in the future, or both; and

26 (3) provide for any other matters of like or different
27 character which in any way affect the security or protection of the
28 bonds.

29 (b) Notwithstanding any other provisions of this chapter, the

1 trust agreement shall contain a covenant by the authority that it will
2 at all times maintain rates, fees or charges sufficient to pay, and that
3 a contract entered into by the authority for the sale, transmission or
4 distribution of power shall contain rates, fees or charges sufficient to
5 pay the costs of operation and maintenance of the project, the principal
6 of and interest on bonds issued under the trust agreement as the same
7 severally become due and payable, to provide for debt service coverage
8 as considered necessary by the authority for the marketing of its bonds
9 and to provide for renewals, replacements and improvements of the
10 project, and to maintain reserves required by the terms of the trust
11 agreement.

12 (c) For the purpose of securing any one or more issues of its
13 bonds, the authority may establish one or more special funds, called
14 "capital reserve funds", and shall pay into those capital reserve funds
15 the proceeds of the sale of its bonds and any other money which may be
16 made available to the authority for the purposes of those funds from any
17 other source. The funds shall be established only if the authority
18 determines that the establishment would enhance the marketability of
19 the bonds. All money held in a capital reserve fund, except as provided
20 in this section, shall be used as required, solely for (1) the payment
21 of the principal of, and interest on, bonds or of the sinking fund
22 payments with respect to those bonds, (2) the purchase or redemption of
23 bonds, or (3) the payment of a redemption premium required to be paid
24 when those bonds are redeemed before maturity; however, money in a fund
25 may not be withdrawn from it at any time in an amount which would reduce
26 the amount of that fund to less than the capital reserve requirement set
27 out in (2) of this subsection, except for the purpose of making, with
28 respect to those bonds, payment, when due, of principal, interest,
29 redemption premiums and the sinking fund payments for the payment of

1 which other money of the authority is not available. Income or interest
2 earned by, or increment to, a capital reserve fund, due to the invest-
3 ment of the fund or any other amounts in it, may be transferred by the
4 authority to other funds or accounts of the authority to the extent that
5 the transfer does not reduce the amount of the capital reserve fund
6 below the capital reserve fund requirement.

7 (d) If the authority decides to issue bonds secured by such a
8 capital reserve fund, the bonds may not be issued if the amount in the
9 capital reserve fund is less than such a per cent, not exceeding 10 per
10 cent of the principal amount of all of those bonds secured by that
11 capital reserve fund then to be issued and then outstanding in accor-
12 dance with their terms, as may be established by resolution of the
13 authority (called the "capital reserve fund requirement"), unless the
14 authority, at the time of issuance of the obligations, deposits in the
15 capital reserve fund from the proceeds of the obligations to be issued
16 or from other sources, an amount which, together with the amount then in
17 the fund, will not be less than the capital reserve fund requirement.

18 (e) In computing the amount of a capital reserve fund for the
19 purpose of this section, securities in which all or a portion of the
20 funds are invested shall be valued by some reasonable method established
21 by the authority by resolution. Valuation on a particular date shall
22 include the amount of any interest earned or accrued to that date.

23 (f) The chairman of the authority shall annually, no later than
24 January 2, make and deliver to the governor and the legislature his
25 certificate stating the sum, if any, required to restore any capital
26 reserve fund to the capital reserve fund requirement. The legislature
27 may appropriate such a sum, and all sums appropriated during the then
28 current fiscal year by the legislature for such restoration shall be
29 deposited by the authority in the proper capital reserve fund. Nothing

1 in this section creates a debt or liability of the state.

2 (g) When the authority has created and established a capital
3 reserve fund, the commissioner of revenue may lend surplus money in the
4 general fund to the authority for deposit in a capital reserve fund in
5 an amount equal to the capital reserve fund requirement. The loans
6 shall be made on such terms and conditions as may be agreed upon by the
7 commissioner of revenue and the authority, including without limitation
8 terms and conditions providing that the loans need not be repaid until
9 the obligations of the authority secured and to be secured by the
10 capital reserve fund are no longer outstanding.

11 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the
12 legislature that a pledge made in respect of bonds shall be valid and
13 binding from the time the pledge is made; that the money or property so
14 pledged and thereafter received by the authority shall immediately be
15 subject to the lien of the pledge without physical delivery or further
16 act; and that the lien of the pledge shall be valid and binding as
17 against all parties having claims of any kind in tort, contract or
18 otherwise against the authority irrespective of whether the parties have
19 notice. Neither the resolution, trust agreement nor any other instru-
20 ment by which a pledge is created need be recorded or filed under the
21 provisions of the Uniform Commercial Code to be valid, binding or effec-
22 tive against the parties.

23 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members
24 of the authority nor a person executing the bonds is liable personally
25 on the bonds or is subject to personal liability or accountability by
26 reason of the issuance of the bonds.

27 (b) The bonds issued by the authority do not constitute an in-
28 debtedness or other liability of the state or of a political subdivision
29 of the state, except the authority, but shall be payable solely from the

1 income and receipts or other funds or property of the authority. The
2 authority may not pledge the faith or credit of the state or of a
3 political subdivision of the state, except the authority, to the payment
4 of a bond and the issuance of a bond by the authority does not directly
5 or indirectly or contingently obligate the state or a political sub-
6 division of the state to apply money from, or levy or pledge any form of
7 taxation whatever to the payment of the bond.

8 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and
9 agrees with the holders of bonds issued under this chapter and with the
10 federal agency which loans or contributes funds in respect to a project,
11 that the state will not limit or alter the rights and powers vested in
12 the authority by this chapter to fulfill the terms of a contract made by
13 the authority with the holders or federal agency, or in any way impair
14 the rights and remedies of the holders until the bonds, together with
15 the interest on them with interest on unpaid installments of interest,
16 and all costs and expenses in connection with an action or proceeding by
17 or on behalf of the holders, are fully met and discharged. The author-
18 ity is authorized to include this pledge and agreement of the state,
19 insofar as it refers to holders of bonds of the authority, in a contract
20 with the holders, and insofar as it relates to a federal agency, in a
21 contract with the federal agency.

22 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is
23 public property devoted to an essential public and governmental function
24 and purpose and is exempt from all taxes of the state or a political
25 subdivision of the state. All bonds issued under this chapter are
26 issued by a body corporate and public of this state and for an essential
27 public and governmental purpose and the bonds and the interest and
28 income on and from the bonds and all income of the authority are exempt
29 from taxation except for transfer, inheritance and estate taxes.

1 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
2 bonds of the authority are securities in which all public officers and
3 bodies of the state and all municipalities and municipal subdivisions,
4 all insurance companies and associations and other persons carrying on
5 any insurance business, all banks, bankers, trust companies, savings
6 banks, savings associations, including savings and loan associations and
7 building and loan associations, investment companies and other persons
8 carrying on a banking business, all administrators, guardians, execu-
9 tors, trustees and other fiduciaries, and all other persons whatsoever
10 who are now or may hereafter be authorized to invest in bonds or other
11 obligations of the state, may properly and legally invest funds in-
12 cluding capital in their control or belonging to them. Notwithstanding
13 any other provisions of law, the bonds of the authority are also secur-
14 ities which may be deposited with and may be received by all public
15 officers and bodies of this state and all municipalities and municipal
16 subdivisions for any purpose for which the deposit of bonds or other
17 obligations of the state is now or may hereafter be authorized.

18 ARTICLE 4. POWER PROJECT REVOLVING FUND.

19 Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a
20 separate fund the power project revolving fund which shall be adminis-
21 tered by the authority as a trust fund separate and distinct from any
22 other money or funds of the authority.

23 (b) The authority may make loans from the fund, at such interest
24 rate or rates as it determines, to eligible borrowers to pay the costs
25 of feasibility studies, preconstruction engineering, design and con-
26 struction of hydroelectric and fossil fuel power projects.

27 (c) Repayment of the loans shall be secured in such manner as the
28 authority determines is feasible to assure repayment under a loan agree-
29 ment entered into with the borrower. Under a loan agreement repayment

1 may be deferred until the project with respect to which a loan is made
2 has achieved earnings from its operations sufficient to pay the loan.

3 (d) As used in this section an "eligible borrower" is a municipi-
4 pality or public utility as defined in AS 42.05.701(2)(A).

5 ARTICLE 5. GENERAL PROVISIONS.

6 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall
7 submit a statement outlining the general design, demonstration of finan-
8 cial feasibility, and maximum amount of bonds estimated to be necessary
9 for each new project to the legislature and the commissioner of commerce
10 and economic development, together with a statement that the authority
11 intends to design, acquire and construct the project itself or that it
12 intends that the project be designed, acquired or constructed by the
13 United States or another person under agreement with the authority
14 providing for ownership of all or a portion of the project by the author-
15 ity or of a right to the capacity of it. If the legislature adopts a
16 concurrent resolution approving the general design and maximum amount of
17 bonds, the authority shall, in accordance with the terms of the concu-
18 rent resolution, (1) proceed to design, acquire and construct the new
19 project, or (2) agree with the United States or other person for design,
20 acquisition and construction of the project by the United States, for
21 payments to the United States or other person for such design, acquisition
22 and construction, reimbursement by the United States or other person in
23 certain events, and otherwise on the terms and conditions as may be set
24 out in such agreement. If the new project is to be designed, acquired
25 and constructed by the authority, it shall be designed, acquired and
26 constructed as a public work of the state except that public bidding
27 shall not be required, if the authority so determines. For the purpose
28 of this section a new project does not include an addition or modifica-
29 tion to an existing project if the total cost of the addition or modifi-

1 cation does not exceed \$1,000,000, to any repair or reconstruction of a
2 project, or to any design, acquisition or construction necessary to
3 complete a project for which bonds previously authorized by the legisla-
4 ture have been issued. Any such addition, modification, repair, recon-
5 struction, design, acquisition or construction may be undertaken by the
6 authority without any of the approvals necessary for a new project.

7 Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-
8 cial records audited annually by a certified public accountant. The
9 legislative auditor may prescribe the form and content of the financial
10 records of the authority and shall have access to these records at any
11 time.

12 Sec. 44.62.200. ANNUAL REPORT. Before March 1 of each year, the
13 authority shall submit to the governor and the legislature a comprehen-
14 sive report describing operations, income and expenditures for the
15 preceding 12-month period.

16 Sec. 44.62.210. BUDGET AND APPROPRIATIONS. The authority shall
17 submit its annual budget to the legislature through the governor as
18 provided for state agencies by the Executive Budget Act (AS 37.07). It
19 may expend money directly appropriated by the legislature only as
20 authorized by the legislature.

21 Sec. 44.62.220. PUBLIC RECORDS; OPEN MEETINGS. The provisions of
22 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the
23 authority. The authority shall publish a proposed agenda of its meet-
24 ings and afford the public an opportunity to be heard in accordance with
25 AS 44.62.312.

26 Sec. 44.62.230. DEFINITIONS. In this chapter, unless the context
27 requires otherwise,

28 (1) "authority" means the Alaska Power Authority established
29 by this chapter;

1 (2) "bonds" means bonds, notes, or other obligations of the
2 authority issued under this chapter;

3 (3) "power" includes any and all electrical energy generated,
4 distributed, bought or sold for purposes of lighting, heating, power and
5 every other useful purpose;

6 (4) "power project" or "project" means a plant, works, system,
7 facility, water rights, fuel deposits or sources, and real estate and
8 personal property of any nature whatsoever, together with all facilities
9 and appurtenances related to them or necessary for the purposes of them,
10 used or useful in the generation by means of water or fossil fuel of
11 electric power and the production, transmission, purchase, sale, exchange
12 and interchange of electric power, and shall include any interest in
13 them, whether divided or undivided, or any right to the capacity of
14 them.

15 (5) "public agency" means any city or other municipal corpora-
16 tion, political subdivision, governmental unit, or public corporation
17 created by or under the laws of this state or of another state of the
18 United States, and any state or the United States, and any person, board
19 or other body declared by the laws of any state or the United States to
20 be a department, agency, or instrumentality of them.

21 Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the
22 Alaska Power Authority Act.
23
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25
26
27
28
29

Original sponsors: Duncan and Swanson

Offered: 5/25/76
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

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

8 * Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is
16 necessary to supply lower cost power to the state's municipal electric,
17 rural electric, cooperative electric, and private electric utilities,
18 and regional electric authorities, and thereby to the consumers of the
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power
21 costs and long-term economic growth and of establishing, operating and
22 developing power projects in the state will be accelerated and facili-
23 tated by the creation of an instrumentality of the state with powers to
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests
26 of promoting the general welfare of all the people of the state, and
27 public purposes, to reduce consumer power costs and otherwise to en-
28 courage the long-term economic growth of the state, including the
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the
4 Alaska Power Authority. The authority is a public corporation of the
5 state in the Department of Commerce and Economic Development but with
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-
8 sists of the commissioner of commerce and economic development and four
9 public members appointed by the governor. The appointment of each
10 director other than the commissioner of commerce and economic develop-
11 ment is subject to confirmation by the legislature. The directors must
12 be residents of the state and qualified voters at the time of appoint-
13 ment and shall comply with the requirements of AS 39.50 (conflict of
14 interest). The term of office of each director appointed by the gover-
15 nor is four years except that the directors first appointed shall have
16 terms of one, two, three, and four years, respectively. A vacancy in a
17 directorship occurring other than by expiration of term shall be filled
18 in the same manner as the original appointment but for the unexpired
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect
21 one of the public members as chairman and other officers they determine
22 desirable. The powers of the authority are vested in the directors, and
23 three directors of the authority constitute a quorum. Action may be
24 taken and motions and resolutions adopted by the authority at a meeting
25 by the affirmative vote of at least three directors. The directors of
26 the authority serve without compensation, but they shall receive the
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-
2 ployees, the authority may contract for and engage the services of the
3 bond counsel, consultants, experts, and financial advisors the authority
4 considers necessary for the purpose of developing information, or con-
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the
8 authority is to promote, develop and advance the general prosperity and
9 economic welfare of the people of Alaska by providing a means of con-
10 structing, acquiring, financing and operating hydroelectric and fossil
11 fuel generating projects.

12 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its
13 corporate purposes, the authority has the following powers in addition
14 to its other powers:

- 15 (1) to sue and be sued;
- 16 (2) to have a seal and alter it at pleasure;
- 17 (3) to make and alter bylaws for its organization and inter-
18 nal management;
- 19 (4) to make rules and regulations governing the exercise of
20 its corporate powers;
- 21 (5) to acquire, whether by construction, purchase, gift or
22 lease, and to improve, equip and operate power projects;
- 23 (6) to issue bonds to carry out any of its corporate pur-
24 poses and powers, including the acquisition or construction of a pro-
25 ject to be owned or leased, as lessor or lessee, by the authority, or
26 the acquisition of any interest in it or any right to capacity of it,
27 the establishment or increase of reserves to secure or to pay the bonds
28 or interest on them, and the payment of all other costs or expenses of
29 the authority incident to and necessary or convenient to carry out its

1 corporate purposes and powers;

2 (7) to sell, lease as lessor or lessee, exchange, donate,
3 convey or encumber in any manner by mortgage or by creation of any other
4 security interest, real or personal property owned by it, or in which it
5 has an interest, when, in the judgment of the authority, the action is
6 in furtherance of its corporate purposes;

7 (8) to accept gifts, grants or loans from, and enter into
8 contracts or other transactions regarding them, with a federal agency or
9 an agency or instrumentality of the state, municipality, private organ-
10 ization or other source;

11 (9) to deposit or invest its funds, subject to agreements
12 with bondholders;

13 (10) to enter into contracts with the United States or any
14 person and, subject to the laws of the United States and subject to
15 concurrence of the legislature, with a foreign country or its agencies,
16 for the construction, acquisition, operation and maintenance of all or
17 any part of a power project, either inside or outside the state, and for
18 the sale or transmission of power from a project or any right to the
19 capacity of it or for the security of any bonds of the authority issued
20 or to be issued for the project;

21 (11) to enter into contracts for the purchase, sale, exchange,
22 transmission, or use of power generated by a project, or any right to
23 the capacity of it with any person and with the United States, and,
24 subject to the laws of the United States and subject to the concurrence
25 of the legislature, with a foreign country or its agencies;

26 (12) to apply to the appropriate agencies of the state, the
27 United States and to a foreign country and any other proper agency for
28 the permits, licenses, or approvals as may be necessary, and to con-
29 struct, maintain and operate power projects in accordance with the

1 licenses or permits, and to obtain, hold and use the licenses and per-
2 mits in the same manner as any other person or operating unit;

3 (13) to perform feasibility studies with respect to hydro-
4 electrical and fossil fuel power generating projects;

5 (14) to enter into contracts or agreements with respect to the
6 exercise of any of its powers, and do all things necessary or convenient
7 to carry out its corporate purposes and exercise the powers granted in
8 this chapter;

9 (15) to exercise the power of eminent domain in accordance
10 with AS 09.55.250 - 09.55.410.

11 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition
12 to other methods which it may find advantageous, provide that municipal
13 electric, rural electric, cooperative electric, or private electric
14 utilities and regional electric authorities or other persons authorized
15 by law to engage in the distribution of power may secure a reasonable
16 share of the power generated by a project, or any interest in it, or for
17 any right to the capacity of it and shall sell the power or cause the
18 power to be sold at prices representing cost of generation, plus capital
19 and operating charges, plus a fair cost of transmission, all as deter-
20 mined by the directors, and subject to conditions which assure the
21 resale of the power to retail consumers at the lowest possible price. A
22 contract for the sale, transmission and distribution of power generated
23 by a project or any right to the capacity of it shall provide

24 (1) for payment of all operating and maintenance expenses
25 of a project and costs of renewals, replacements and improvements of it;

26 (2) for interest on and amortization charges sufficient to
27 retire bonds of the authority issued for the project and reserves for
28 them, plus a debt service coverage factor as may be determined by the
29 authority to be necessary for the marketability of its bonds;

1 (3) for continuous control and operation of the project by
2 the authority or its agents;

3 (4) for full and complete disclosure to the authority of all
4 factors of cost in the transmission and distribution of power, so that
5 rates to any persons may be fixed initially in the contract and may be
6 adjusted from time to time on the basis of true cost data;

7 (5) for periodic revisions of the service and rates to per-
8 sons on the basis of accurate cost data obtained by the accounting
9 methods and systems approved by the directors and in furtherance and
10 effectuation of the policy declared in this chapter;

11 (6) for the cancellation and termination of a contract upon
12 violation of its terms by any person;

13 (7) for security for performance as the authority may con-
14 sider practicable and advisable, including provisions assuring the
15 continuance of the distribution and transmission of power generated by a
16 project, the use of their facilities for these purposes, and the con-
17 tinuance of an outlet and adequate market for the power generated by the
18 project;

19 (8) other terms not inconsistent with the provisions and
20 policy of this chapter as the authority may consider advisable.

21 ARTICLE 3. FINANCIAL PROVISIONS.

22 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may
23 borrow money and may issue bonds, including but not limited to bonds on
24 which the principal and interest are payable (1) exclusively from the
25 income and receipts or other money derived from the project financed
26 with the proceeds of the bonds; (2) exclusively from the income and
27 receipts or other money derived from designated projects whether or not
28 they are financed in whole or in part with the proceeds of the bonds;
29 (3) from its income and receipts or other assets generally, or a desig-

1 nated part or parts of them; or (4) from one or more revenue-producing
2 contracts including a contract providing for the security of the bonds
3 made by the authority with any person. The authority may issue bonds
4 to pay, fund or refund the principal of, or interest or redemption
5 premiums on, bonds issued by it, whether or not the bonds or interest to
6 be funded or refunded have become due.

7 (b) Bonds shall be authorized by resolution of the authority, and
8 shall be dated and shall mature as the resolution may provide, except
9 that no bond may mature more than 50 years from the date of its issue.
10 Bonds shall bear interest at the rates, be in the denominations, be in
11 the form, either coupon or registered, carry the registration privi-
12 leges, be executed in the manner, be payable in the medium of payment,
13 at the places, and be subject to the terms of redemption which the
14 resolution or a subsequent resolution may provide.

15 (c) All bonds, regardless of form or character, shall be negotia-
16 ble instruments for all the purposes of the Uniform Commercial Code.

17 (d) All bonds may be sold at public or private sale in the manner,
18 for the price or prices, and at the time or times which the authority
19 may determine.

20 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In
21 the discretion of the authority, an issue of bonds may be secured by a
22 trust indenture or trust agreement between the authority and a corporate
23 trustee (which may be a trust company, bank, or national banking associ-
24 ation, with corporate trust powers, located inside or outside the state)
25 or by a secured loan agreement or other instrument or under a resolution
26 giving powers to a corporate trustee by means of which the authority may

27 (1) make and enter into any and all the covenants and agree-
28 ments with the trustee or the holders of the bonds which the authority
29 may determine to be necessary or desirable, including, without limita-

1 tion, covenants, provisions, limitations and agreements as to

2 (A) the application, investment, deposit, use and dis-
3 position of the proceeds of bonds of the authority or of money or
4 other property of the authority or in which it has an interest;

5 (B) the fixing and collection of rentals, charges, fees
6 or other consideration for, and the other terms to be incorporated
7 in, contracts with respect to a project;

8 (C) the assignment by the authority of its rights in
9 contracts with respect to a project or in a mortgage or other
10 security interest created with respect to a project to a trustee
11 for the benefit of bondholders;

12 (D) the terms and conditions upon which additional bonds
13 of the authority may be issued;

14 (E) the vesting in a trustee of rights, powers, duties,
15 funds or property in trust for the benefit of bondholders, includ-
16 ing, without limitation, the right to enforce payment, performance,
17 and all other rights of the authority or of the bondholders, under
18 a lease, power of contract, contract of sale, mortgage, security
19 agreement, or trust agreement with respect to a project by mandamus
20 or other proceeding or by taking possession of by agent or other-
21 wise and operating a project and collecting rents or other consider-
22 ation and applying the same in accordance with the trust agreement;

23 (2) pledge, mortgage or assign money, leases, agreements,
24 property or other rights or assets of the authority either presently in
25 hand or to be received in the future, or both; and

26 (3) provide for any other matters of like or different
27 character which in any way affect the security or protection of the
28 bonds.

29 (b) Notwithstanding any other provisions of this chapter, the

1 trust agreement shall contain a covenant by the authority that it will
2 at all times maintain rates, fees or charges sufficient to pay, and that
3 a contract entered into by the authority for the sale, transmission or
4 distribution of power shall contain rates, fees or charges sufficient to
5 pay the costs of operation and maintenance of the project, the principal
6 of and interest on bonds issued under the trust agreement as the same
7 severally become due and payable, to provide for debt service coverage
8 as considered necessary by the authority for the marketing of its bonds
9 and to provide for renewals, replacements and improvements of the
10 project, and to maintain reserves required by the terms of the trust
11 agreement.

12 (c) For the purpose of securing any one or more issues of its
13 bonds, the authority may establish one or more special funds, called
14 "capital reserve funds", and shall pay into those capital reserve funds
15 the proceeds of the sale of its bonds and any other money which may be
16 made available to the authority for the purposes of those funds from any
17 other source. The funds shall be established only if the authority
18 determines that the establishment would enhance the marketability of
19 the bonds. All money held in a capital reserve fund, except as provided
20 in this section, shall be used as required, solely for (1) the payment
21 of the principal of, and interest on, bonds or of the sinking fund
22 payments with respect to those bonds, (2) the purchase or redemption of
23 bonds, or (3) the payment of a redemption premium required to be paid
24 when those bonds are redeemed before maturity; however, money in a fund
25 may not be withdrawn from it at any time in an amount which would reduce
26 the amount of that fund to less than the capital reserve requirement set
27 out in (2) of this subsection, except for the purpose of making, with
28 respect to those bonds, payment, when due, of principal, interest,
29 redemption premiums and the sinking fund payments for the payment of

1 which other money of the authority is not available. Income or interest
2 earned by, or increment to, a capital reserve fund, due to the invest-
3 ment of the fund or any other amounts in it, may be transferred by the
4 authority to other funds or accounts of the authority to the extent that
5 the transfer does not reduce the amount of the capital reserve fund
6 below the capital reserve fund requirement.

7 (d) If the authority decides to issue bonds secured by such a
8 capital reserve fund, the bonds may not be issued if the amount in the
9 capital reserve fund is less than such a per cent, not exceeding 10 per
10 cent of the principal amount of all of those bonds secured by that
11 capital reserve fund then to be issued and then outstanding in accor-
12 dance with their terms, as may be established by resolution of the
13 authority (called the "capital reserve fund requirement"), unless the
14 authority, at the time of issuance of the obligations, deposits in the
15 capital reserve fund from the proceeds of the obligations to be issued
16 or from other sources, an amount which, together with the amount then in
17 the fund, will not be less than the capital reserve fund requirement.

18 (e) In computing the amount of a capital reserve fund for the
19 purpose of this section, securities in which all or a portion of the
20 funds are invested shall be valued by some reasonable method established
21 by the authority by resolution. Valuation on a particular date shall
22 include the amount of any interest earned or accrued to that date.

23 (f) The chairman of the authority shall annually, no later than
24 January 2, make and deliver to the governor and the legislature his
25 certificate stating the sum, if any, required to restore any capital
26 reserve fund to the capital reserve fund requirement. The legislature
27 may appropriate such a sum, and all sums appropriated during the then
28 current fiscal year by the legislature for such restoration shall be
29 deposited by the authority in the proper capital reserve fund. Nothing

1 in this section creates a debt or liability of the state.

2 (g) When the authority has created and established a capital
3 reserve fund, the commissioner of revenue may lend surplus money in the
4 general fund to the authority for deposit in a capital reserve fund in
5 an amount equal to the capital reserve fund requirement. The loans
6 shall be made on such terms and conditions as may be agreed upon by the
7 commissioner of revenue and the authority, including without limitation
8 terms and conditions providing that the loans need not be repaid until
9 the obligations of the authority secured and to be secured by the
10 capital reserve fund are no longer outstanding.

11 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the
12 legislature that a pledge made in respect of bonds shall be valid and
13 binding from the time the pledge is made; that the money or property so
14 pledged and thereafter received by the authority shall immediately be
15 subject to the lien of the pledge without physical delivery or further
16 act; and that the lien of the pledge shall be valid and binding as
17 against all parties having claims of any kind in tort, contract or
18 otherwise against the authority irrespective of whether the parties have
19 notice. Neither the resolution, trust agreement nor any other instru-
20 ment by which a pledge is created need be recorded or filed under the
21 provisions of the Uniform Commercial Code to be valid, binding or effec-
22 tive against the parties.

23 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members
24 of the authority nor a person executing the bonds is liable personally
25 on the bonds or is subject to personal liability or accountability by
26 reason of the issuance of the bonds.

27 (b) The bonds issued by the authority do not constitute an in-
28 debtedness or other liability of the state or of a political subdivision
29 of the state, except the authority, but shall be payable solely from the

1 income and receipts or other funds or property of the authority. The
2 authority may not pledge the faith or credit of the state or of a
3 political subdivision of the state, except the authority, to the payment
4 of a bond and the issuance of a bond by the authority does not directly
5 or indirectly or contingently obligate the state or a political sub-
6 division of the state to apply money from, or levy or pledge any form of
7 taxation whatever to the payment of the bond.

8 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and
9 agrees with the holders of bonds issued under this chapter and with the
10 federal agency which loans or contributes funds in respect to a project,
11 that the state will not limit or alter the rights and powers vested in
12 the authority by this chapter to fulfill the terms of a contract made by
13 the authority with the holders or federal agency, or in any way impair
14 the rights and remedies of the holders until the bonds, together with
15 the interest on them with interest on unpaid installments of interest,
16 and all costs and expenses in connection with an action or proceeding by
17 or on behalf of the holders, are fully met and discharged. The author-
18 ity is authorized to include this pledge and agreement of the state,
19 insofar as it refers to holders of bonds of the authority, in a contract
20 with the holders, and insofar as it relates to a federal agency, in a
21 contract with the federal agency.

22 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is
23 public property devoted to an essential public and governmental function
24 and purpose and is exempt from all taxes of the state or a political
25 subdivision of the state. All bonds issued under this chapter are
26 issued by a body corporate and public of this state and for an essential
27 public and governmental purpose and the bonds and the interest and
28 income on and from the bonds and all income of the authority are exempt
29 from taxation except for transfer, inheritance and estate taxes.

1 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
2 bonds of the authority are securities in which all public officers and
3 bodies of the state and all municipalities and municipal subdivisions,
4 all insurance companies and associations and other persons carrying on
5 any insurance business, all banks, bankers, trust companies, savings
6 banks, savings associations, including savings and loan associations and
7 building and loan associations, investment companies and other persons
8 carrying on a banking business, all administrators, guardians, execu-
9 tors, trustees and other fiduciaries, and all other persons whatsoever
10 who are now or may hereafter be authorized to invest in bonds or other
11 obligations of the state, may properly and legally invest funds in-
12 cluding capital in their control or belonging to them. Notwithstanding
13 any other provisions of law, the bonds of the authority are also secur-
14 ities which may be deposited with and may be received by all public
15 officers and bodies of this state and all municipalities and municipal
16 subdivisions for any purpose for which the deposit of bonds or other
17 obligations of the state is now or may hereafter be authorized.

18 ARTICLE 4. POWER PROJECT REVOLVING FUND.

19 Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a
20 separate fund the power project revolving fund which shall be adminis-
21 tered by the authority as a trust fund separate and distinct from any
22 other money or funds of the authority.

23 (b) The authority may make loans from the fund, at such interest
24 rate or rates as it determines, to eligible borrowers to pay the costs
25 of feasibility studies, preconstruction engineering, design and con-
26 struction of hydroelectric and fossil fuel power projects.

27 (c) Repayment of the loans shall be secured in such manner as the
28 authority determines is feasible to assure repayment under a loan agree-
29 ment entered into with the borrower. Under a loan agreement repayment

1 may be deferred until the project with respect to which a loan is made
2 has achieved earnings from its operations sufficient to pay the loan.

3 (d) As used in this section an "eligible borrower" is a municipi-
4 pality or public utility as defined in AS 42.05.701(2)(A).

5 ARTICLE 5. GENERAL PROVISIONS.

6 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall
7 submit a statement outlining the general design, demonstration of finan-
8 cial feasibility, and maximum amount of bonds estimated to be necessary
9 for each new project to the legislature and the commissioner of commerce
10 and economic development, together with a statement that the authority
11 intends to design, acquire and construct the project itself or that it
12 intends that the project be designed, acquired or constructed by the
13 United States or another person under agreement with the authority
14 providing for ownership of all or a portion of the project by the author-
15 ity or of a right to the capacity of it. If the legislature adopts a
16 concurrent resolution approving the general design and maximum amount of
17 bonds, the authority shall, in accordance with the terms of the concu-
18 rent resolution, (1) proceed to design, acquire and construct the new
19 project, or (2) agree with the United States or other person for design,
20 acquisition and construction of the project by the United States, for
21 payments to the United States or other person for such design, acquisition
22 and construction, reimbursement by the United States or other person in
23 certain events, and otherwise on the terms and conditions as may be set
24 out in such agreement. If the new project is to be designed, acquired
25 and constructed by the authority, it shall be designed, acquired and
26 constructed as a public work of the state except that public bidding
27 shall not be required, if the authority so determines. For the purpose
28 of this section a new project does not include an addition or modifica-
29 tion to an existing project if the total cost of the addition or modifi-

1 cation does not exceed \$1,000,000, to any repair or reconstruction of a
2 project, or to any design, acquisition or construction necessary to
3 complete a project for which bonds previously authorized by the legisla-
4 ture have been issued. Any such addition, modification, repair, recon-
5 struction, design, acquisition or construction may be undertaken by the
6 authority without any of the approvals necessary for a new project.

7 Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-
8 cial records audited annually by a certified public accountant. The
9 legislative auditor may prescribe the form and content of the financial
10 records of the authority and shall have access to these records at any
11 time.

12 Sec. 44.62.200. ANNUAL REPORT. Before March 1 of each year, the
13 authority shall submit to the governor and the legislature a comprehen-
14 sive report describing operations, income and expenditures for the
15 preceding 12-month period.

16 Sec. 44.62.210. BUDGET AND APPROPRIATIONS. The authority shall
17 submit its annual budget to the legislature through the governor as
18 provided for state agencies by the Executive Budget Act (AS 37.07). It
19 may expend money directly appropriated by the legislature only as
20 authorized by the legislature.

21 Sec. 44.62.220. PUBLIC RECORDS; OPEN MEETINGS. The provisions of
22 AS 09.25.110 - 09.25.120 and AS 44.62.310 - 44.62.312 apply to the
23 authority. The authority shall publish a proposed agenda of its meet-
24 ings and afford the public an opportunity to be heard in accordance with
25 AS 44.62.312.

26 Sec. 44.62.230. DEFINITIONS. In this chapter, unless the context
27 requires otherwise,

28 (1) "authority" means the Alaska Power Authority established
29 by this chapter;

1 (2) "bonds" means bonds, notes, or other obligations of the
2 authority issued under this chapter;

3 (3) "power" includes any and all electrical energy generated,
4 distributed, bought or sold for purposes of lighting, heating, power and
5 every other useful purpose;

6 (4) "power project" or "project" means a plant, works, system
7 facility, water rights, fuel deposits or sources, and real estate and
8 personal property of any nature whatsoever, together with all facilities
9 and appurtenances related to them or necessary for the purposes of them,
10 used or useful in the generation by means of water or fossil fuel of
11 electric power and the production, transmission, purchase, sale, exchange
12 and interchange of electric power, and shall include any interest in
13 them, whether divided or undivided, or any right to the capacity of
14 them.

15 (5) "public agency" means any city or other municipal corpora-
16 tion, political subdivision, governmental unit, or public corporation
17 created by or under the laws of this state or of another state of the
18 United States, and any state or the United States, and any person, board
19 or other body declared by the laws of any state or the United States to
20 be a department, agency, or instrumentality of them.

21 Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the
22 Alaska Power Authority Act.
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25
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27
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29

Original sponsors: Duncan and Swanson

Offered: 4/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 779

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Power Authority."

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

8 * Section 1. AS 44 is amended by adding a new chapter to read:

9 CHAPTER 56. ALASKA POWER AUTHORITY.

10 ARTICLE 1. CREATION AND ORGANIZATION.

11 Sec. 44.56.010. LEGISLATIVE FINDING AND POLICY. (a) The legis-
12 lature finds, determines and declares that

13 (1) there exist numerous potential hydroelectric and fossil
14 fuel generating sites in the state;

15 (2) the establishment of power projects at these sites is
16 necessary to supply lower cost power to the state's municipal electric,
17 rural electric, cooperative electric, and private electric utilities,
18 and regional electric authorities, and thereby to the consumers of the
19 state, as well as to supply existing or future industrial needs;

20 (3) the achievement of the goals of lower consumer power
21 costs and long-term economic growth and of establishing, operating and
22 developing power projects in the state will be accelerated and facili-
23 tated by the creation of an instrumentality of the state with powers to
24 incur debt for constructing, and with powers to operate, power projects.

25 (b) It is declared to be the policy of the state, in the interests
26 of promoting the general welfare of all the people of the state, and
27 public purposes, to reduce consumer power costs and otherwise to en-
28 courage the long-term economic growth of the state, including the
29 development of its natural resources, through the establishment of

1 power projects by creating the public corporation with powers, duties
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the
4 Alaska Power Authority. The authority is a public corporation of the
5 state in the Department of Commerce and Economic Development but with
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-
8 sists of the commissioner of commerce and economic development and four
9 public members appointed by the governor. The appointment of each
10 director other than the commissioner of commerce and economic develop-
11 ment is subject to confirmation by the legislature. The directors must
12 be residents of the state and qualified voters at the time of appoint-
13 ment and shall comply with the requirements of AS 39.50 (conflict of
14 interest). The term of office of each director appointed by the gover-
15 nor is four years except that the directors first appointed shall have
16 terms of one, two, three, and four years, respectively. A vacancy in a
17 directorship occurring other than by expiration of term shall be filled
18 in the same manner as the original appointment but for the unexpired
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect
21 one of the public members as chairman and other officers they determine
22 desirable. The powers of the authority are vested in the directors, and
23 three directors of the authority constitute a quorum. Action may be
24 taken and motions and resolutions adopted by the authority at a meeting
25 by the affirmative vote of at least three directors. The directors of
26 the authority serve without compensation, but they shall receive the
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-
2 ployees, the authority may contract for and engage the services of the
3 bond counsel, consultants, experts, and financial advisors the authority
4 considers necessary for the purpose of developing information, or con-
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the
8 authority is to promote, develop and advance the general prosperity and
9 economic welfare of the people of Alaska by providing a means of finan-
10 cing and operating hydroelectric and fossil fuel generating projects.

11 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its
12 corporate purposes, the authority has the following powers in addition
13 to its other powers:

- 14 (1) to sue and be sued;
- 15 (2) to have a seal and alter it at pleasure;
- 16 (3) to make and alter bylaws for its organization and inter-
17 nal management;
- 18 (4) to make rules and regulations governing the exercise of
19 its corporate powers;
- 20 (5) to acquire, whether by construction, purchase, gift or
21 lease, and to improve, equip and operate power projects;
- 22 (6) to issue bonds to pay the cost of acquiring by construc-
23 tion, or improving and equipping, a power project and to secure payment
24 of the bonds as provided in this chapter;
- 25 (7) to sell, exchange, donate, convey or encumber in any
26 manner by mortgage or by creation of any other security interest, real
27 or personal property owned by it, or in which it has an interest, when,
28 in the judgment of the authority, the action is in furtherance of its
29 corporate purposes;

1 (8) to accept gifts, grants or loans from, and enter into
2 contracts or other transactions regarding them, with a federal agency or
3 an agency or instrumentality of the state, municipality, private organ-
4 ization or other source;

5 (9) to deposit or invest its funds, subject to agreements
6 with bondholders;

7 (10) to enter into contracts with the United States or any of
8 its agencies or with any political subdivision of this state, and sub-
9 ject to the laws of the United States and subject to concurrence of the
10 legislature, with a foreign country or its agencies, for the construc-
11 tion, acquisition, operation and maintenance of all or any part of a
12 power project, either inside or outside the state, and for the marketing
13 of the power produced from it;

14 (11) to enter into contracts for the purchase, sale, exchange,
15 transmission, or use of power or falling water with any person, firm or
16 corporation, and with the United States or any of its agencies, with any
17 political subdivision of this state, and subject to the laws of the
18 United States and subject to the concurrence of the legislature, with a
19 foreign country or its agencies;

20 (12) to apply to the appropriate agencies of the state, the
21 United States and to a foreign country and any other proper agency for
22 the permits, licenses, or approvals as may be necessary, and to con-
23 struct, maintain and operate power projects in accordance with the
24 licenses or permits, and to obtain, hold and use the licenses and per-
25 mits in the same manner as any other person or operating unit;

26 (13) to perform feasibility studies with respect to hydro-
27 electrical and fossil fuel power generating projects;

28 (14) to enter into contracts or agreements with respect to the
29 exercise of any of its powers, and do all things necessary or convenient

1 to carry out its corporate purposes and exercise the powers granted in
2 this chapter;

3 (15) to exercise the power of eminent domain in accordance
4 with AS 09.55.250 - 09.55.410.

5 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition
6 to other methods which it may find advantageous, provide that municipal
7 electric, rural electric, cooperative electric, or private electric
8 utilities and regional electric authorities authorized by law to engage
9 in the distribution of electric power may secure a reasonable share of
10 the power generated by a project, and shall sell the power or cause the
11 power to be sold at prices representing cost of generation, plus capital
12 and operating charges, plus a fair cost of transmission, all as deter-
13 mined by the directors, and subject to conditions which assure the
14 resale of the power to domestic and rural consumers at the lowest
15 possible price. A contract for the sale, transmission and distribution
16 of power generated by a project shall provide

17 (1) for continuous control and operation of the project by
18 the authority;

19 (2) for full and complete disclosure to the authority of all
20 factors of cost in the transmission and distribution of power, so that
21 rates to consumers may be fixed initially in the contract and may be
22 adjusted from time to time on the basis of true cost data;

23 (3) for periodic revisions of the service and rates to con-
24 sumers on the basis of accurate cost data obtained by the accounting
25 methods and systems approved by the directors and in furtherance and
26 effectuation of the policy declared in this paragraph;

27 (4) for the cancellation and termination of a contract upon
28 violation of its terms by the power distributor or company, or its
29 subsidiary or associate;

1 (5) for such security for performance as the authority may
2 consider practicable and advisable, including provisions assuring the
3 continuance of service by the power distributors or companies, the use
4 of their facilities for the service, and the continuance of an outlet
5 and adequate market for the power generated by the project;

6 (6) other terms not inconsistent with the provisions and
7 policy of this chapter as the authority may consider advisable.

8 ARTICLE 3. FINANCIAL PROVISIONS.

9 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may
10 borrow money and may issue bonds, including but not limited to bonds on
11 which the principal and interest are payable (1) exclusively from the
12 income and receipts or other money derived from the project financed
13 with the proceeds of the bonds; (2) exclusively from the income and
14 receipts or other money derived from designated projects whether or not
15 they are financed in whole or in part with the proceeds of the bonds; or
16 (3) from its income and receipts or other assets generally, or a desig-
17 nated part or parts of them. The authority may issue bonds to pay, fund
18 or refund the principal of, or interest or redemption premiums on, bonds
19 issued by it, whether or not the bonds or interest to be funded or
20 refunded have become due.

21 (b) Bonds shall be authorized by resolution of the authority, and
22 shall be dated and shall mature as the resolution may provide, except
23 that no bond may mature more than 50 years from the date of its issue.
24 Bonds shall bear interest at the rates, be in the denominations, be in
25 the form, either coupon or registered, carry the registration privi-
26 leges, be executed in the manner, be payable in the medium of payment,
27 at the places, and be subject to the terms of redemption which the
28 resolution or a subsequent resolution may provide.

29 (c) All bonds, regardless of form or character, shall be negotia-

1 ble instruments for all the purposes of the Uniform Commercial Code.

2 (d) All bonds may be sold at public or private sale in the manner,
3 for the price or prices, and at the time or times which the authority
4 may determine.

5 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In
6 the discretion of the authority, an issue of bonds may be secured by a
7 trust indenture or trust agreement between the authority and a corporate
8 trustee (which may be a trust company, bank, or national banking associ-
9 ation, with corporate trust powers, located inside or outside the state)
10 or by a secured loan agreement or other instrument or under a resolution
11 giving powers to a corporate trustee by means of which the authority may

12 (1) make and enter into any and all the covenants and agree-
13 ments with the trustee or the holders of the bonds which the authority
14 may determine to be necessary or desirable, including, without limita-
15 tion, covenants, provisions, limitations and agreements as to

16 (A) the application, investment, deposit, use and dis-
17 position of the proceeds of bonds of the authority or of money or
18 other property of the authority or in which it has an interest;

19 (B) the fixing and collection of rentals, fees or other
20 consideration for, and the other terms to be incorporated in,
21 contracts with respect to a project;

22 (C) the assignment by the authority of its rights in
23 contracts with respect to a project or in a mortgage or other
24 security interest created with respect to a project to a trustee
25 for the benefit of bondholders;

26 (D) the terms and conditions upon which additional bonds
27 of the authority may be issued;

28 (E) the vesting in a trustee of rights, powers, duties,
29 funds or property in trust for the benefit of bondholders, includ-

1 ing, without limitation, the right to enforce payment, performance,
2 and all other rights of the authority or of the bondholders, under
3 a lease, contract of sale, mortgage, security agreement, or trust
4 agreement with respect to a project by mandamus or other proceeding
5 or by taking possession of by agent or otherwise and operating a
6 project and collecting rents or other consideration and applying
7 the same in accordance with the trust agreement;

8 (2) pledge, mortgage or assign money, leases, agreements,
9 property or other assets of the authority either presently in hand or to
10 be received in the future, or both; and

11 (3) provide for any other matters of like or different
12 character which in any way affect the security or protection of the
13 bonds.

14 (b) Notwithstanding any other provisions of this chapter, the
15 trust agreement shall contain a covenant by the authority that it will
16 at all times maintain rates, fees or charges sufficient to pay, and that
17 a contract entered into by the authority for the sale, transmission or
18 distribution of power shall contain rates, fees or charges sufficient to
19 pay the costs of operation and maintenance of the project, the principal
20 of and interest on bonds issued under the trust agreement as the same
21 severally become due and payable, and to maintain reserves required by
22 the terms of the trust agreement.

23 (c) For the purpose of securing any one or more issues of its
24 bonds, the authority may establish one or more special funds, called
25 "capital reserve funds", and shall pay into those capital reserve funds
26 the proceeds of the sale of its bonds and any other money which may be
27 made available to the authority for the purposes of those funds from
28 any other source. All money held in a capital reserve fund, except as
29 provided in this section, shall be used as required, solely for (1) the

1 payment of the principal of, and interest on, bonds or of the sinking
2 fund payments with respect to those bonds, (2) the purchase or redemp-
3 tion of bonds, or (3) the payment of a redemption premium required to be
4 paid when those bonds are redeemed before maturity; however, money in a
5 fund may not be withdrawn from it at any time in an amount which would
6 reduce the amount of that fund to less than the capital reserve require-
7 ment set out in (2) of this subsection, except for the purpose of making,
8 with respect to those bonds, payment, when due, of principal, interest,
9 redemption premiums and the sinking fund payments for the payment of
10 which other money of the corporation is not available. Income or inter-
11 est earned by, or increment to, a capital reserve fund, due to the
12 investment of the fund or any other amounts in it, may be transferred by
13 the authority to other funds or accounts of the authority to the extent
14 that the transfer does not reduce the amount of the capital reserve fund
15 below the capital reserve fund requirement.

16 (d) If the authority decides to issue bonds secured by such a
17 capital reserve fund, the bonds may not be issued if the amount in the
18 capital reserve fund is less than such a per cent, not exceeding 10 per
19 cent of the principal amount of all of those bonds secured by that
20 capital reserve fund then to be issued and then outstanding in accor-
21 dance with their terms, as may be established by resolution of the
22 authority (called the "capital reserve fund requirement"), unless the
23 authority, at the time of issuance of the obligations, deposits in the
24 capital reserve fund from the proceeds of the obligations to be issued
25 or from other sources, an amount which, together with the amount then in
26 the fund, will not be less than the capital reserve fund requirement.

27 (e) In computing the amount of a capital reserve fund for the
28 purpose of this section, securities in which all or a portion of the
29 funds are invested shall be valued by some reasonable method established

1 by the authority by resolution. Valuation on a particular date shall
2 include the amount of any interest earned or accrued to that date.

3 (f) The chairman of the authority shall annually, no later than
4 January 2, make and deliver to the governor and the legislature his
5 certificate stating the sum, if any, required to restore any capital
6 reserve fund to the capital reserve fund requirement. The legislature
7 may appropriate such a sum, and all sums appropriated during the then
8 current fiscal year by the legislature for such restoration shall be
9 deposited by the authority in the proper capital reserve fund. Nothing
10 in this section creates a debt or liability of the state.

11 (g) When the authority has created and established a capital
12 reserve fund, the commissioner of revenue may lend surplus money in the
13 general fund to the authority for deposit in a capital reserve fund in
14 an amount equal to the capital reserve fund requirement. The loans
15 shall be made on such terms and conditions as may be agreed upon by the
16 commissioner of revenue and the authority, including without limitation
17 terms and conditions providing that the loans need not be repaid until
18 the obligations of the authority secured and to be secured by the
19 capital reserve fund are no longer outstanding.

20 Sec. 44.62.120. VALIDITY OF PLEDGE. It is the intention of the
21 legislature that a pledge made in respect of bonds shall be valid and
22 binding from the time the pledge is made; that the money or property so
23 pledged and thereafter received by the authority shall immediately be
24 subject to the lien of the pledge without physical delivery or further
25 act; and that the lien of the pledge shall be valid and binding as
26 against all parties having claims of any kind in tort, contract or
27 otherwise against the authority irrespective of whether the parties have
28 notice. Neither the resolution, trust agreement nor any other instru-
29 ment by which a pledge is created need be recorded or filed under the

1 provisions of the Uniform Commercial Code to be valid, binding or effec-
2 tive against the parties.

3 Sec. 44.62.130. NONLIABILITY ON BONDS. (a) Neither the members
4 of the authority nor a person executing the bonds is liable personally
5 on the bonds or is subject to personal liability or accountability by
6 reason of the issuance of the bonds.

7 (b) The bonds issued by the authority do not constitute an in-
8 debtedness or other liability of the state or of a political subdivision
9 of the state, except the authority, but shall be payable solely from the
10 income and receipts or other funds or property of the authority. The
11 au'hority may not pledge the faith or credit of the state or of a
12 political subdivision of the state, except the authority, to the payment
13 of a bond and the issuance of a bond by the authority does not directly
14 or indirectly or contingently obligate the state or a political sub-
15 division of the state to apply money from, or levy or pledge any form of
16 taxation whatever to the payment of the bond.

17 Sec. 44.62.140. PLEDGE OF THE STATE. The state pledges to and
18 agrees with the holders of bonds issued under this chapter and with the
19 federal agency which loans or contributes funds in respect to a project,
20 that the state will not limit or alter the rights and powers vested in
21 the authority by this chapter to fulfill the terms of a contract made by
22 the authority with the holders or federal agency, or in any way impair
23 the rights and remedies of the holders until the bonds, together with
24 the interest on them with interest on unpaid installments of interest,
25 and all costs and expenses in connection with an action or proceeding by
26 or on behalf of the holders, are fully met and discharged. The author-
27 ity is authorized to include this pledge and agreement of the state,
28 insofar as it refers to holders of bonds of the authority, in a contract
29 with the holders, and insofar as it relates to a federal agency, in a

1 contract with the federal agency.

2 Sec. 44.62.150. TAX EXEMPTION. All property of the authority is
3 public property devoted to an essential public and governmental function
4 and purpose and is exempt from all taxes of the state or a political
5 subdivision of the state. All bonds or notes issued under this chapter
6 are issued by a body corporate and public of this state and for an
7 essential public and governmental purpose and the bonds and notes, and
8 the interest and income on and from the bonds and notes, and all income
9 of the authority are exempt from taxation except for transfer, inheri-
10 tance and estate taxes.

11 Sec. 44.62.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
12 bonds of the authority are securities in which all public officers and
13 bodies of the state and all municipalities and municipal subdivisions,
14 all insurance companies and associations and other persons carrying on
15 any insurance business, all banks, bankers, trust companies, savings
16 banks, savings associations, including savings and loan associations and
17 building and loan associations, investment companies and other persons
18 carrying on a banking business, all administrators, guardians, execu-
19 tors, trustees and other fiduciaries, and all other persons whatsoever
20 who are now or may hereafter be authorized to invest in bonds or other
21 obligations of the state, may properly and legally invest funds in-
22 cluding capital in their control or belonging to them. Notwithstanding
23 any other provisions of law, the bonds of the authority are also secur-
24 ities which may be deposited with and may be received by all public
25 officers and bodies of this state and all municipalities and municipal
26 subdivisions for any purpose for which the deposit of bonds or other
27 obligations of the state is now or may hereafter be authorized.

28 ARTICLE 4. POWER PROJECT REVOLVING FUND.

29 Sec. 44.62.170. FUND ESTABLISHED. (a) There is established as a

1 separate fund the power project revolving fund which shall be adminis-
2 tered by the authority as a trust fund separate and distinct from any
3 other money or funds of the authority.

4 (b) The authority may make loans from the fund, at such interest
5 rate or rates as it determines, to eligible borrowers to pay the costs
6 of feasibility studies, preconstruction engineering, design and con-
7 struction of hydroelectric and fossil fuel power projects.

8 (c) Repayment of the loans shall be secured in such manner as the
9 authority determines is feasible to assure repayment under a loan agree-
10 ment entered into with the borrower. Under a loan agreement repayment
11 may be deferred until the project with respect to which a loan is made
12 has achieved earnings from its operations sufficient to pay the loan.

13 (d) As used in this section an "eligible borrower" is a municipi-
14 pality or public utility as defined in AS 42.05.701(2)(A).

15 ARTICLE 5. GENERAL PROVISIONS.

16 Sec. 44.62.180. CONSTRUCTION OF PROJECTS. The authority shall
17 submit a statement outlining the general design, demonstration of finan-
18 cial feasibility, and maximum amount of bonds estimated to be necessary
19 for each new project to the legislature and the commissioner of commerce
20 and economic development together with a statement that the authority
21 intends to design, acquire and construct the project itself or that it
22 intends that the project be designed, acquired or constructed by the
23 United States under agreement with the authority providing for ownership
24 of the project by the authority on completion. If the legislature
25 adopts a concurrent resolution approving the general design and maximum
26 amount of bonds, the authority shall, in accordance with the terms of
27 the concurrent resolution, (1) proceed to design, acquire and construct
28 the new project, or (2) agree with the United States for design, acqui-
29 sition and construction of the project by the United States, for pay-

1 ments to the United States for such design, acquisition and construc-
2 tion, reimbursement by the United States in certain events, and other-
3 wise on the terms and conditions as may be set out in such agreement.
4 If the new project is to be designed, acquired and constructed by the
5 authority, it shall be designed, acquired and constructed as a public
6 work of the state except that public bidding shall not be required, if
7 the authority so determines. For the purpose of this section a new
8 project does not include an addition or modification to an existing
9 project if the total cost of the addition or modification does not
10 exceed \$1,000,000 or to any repair of a project. An addition or mo'i-
11 fication or repair may be undertaken by the authority without any of the
12 approvals necessary for a new project.

13 Sec. 44.62.190. ANNUAL AUDIT. The authority shall have its finan-
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6 by this chapter;

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8 authority issued under this chapter;

9 (3) "power" includes any and all electrical energy generated,
10 distributed, bought or sold for purposes of lighting, heating, power and
11 every other useful purpose;

12 (4) "power project" or "project" includes any and all real or
13 personal property or any interest in it including, with no limitation,
14 dams, powerhouses, and transmission lines owned, used or operated, or
15 useful for operation, in the generation by means of water or fossil fuel
16 power, and the transmission of electrical power and also including
17 channels, locks, canals, and other navigational, reclamation, flood
18 control and fisheries facilities and environmental protective measures
19 as may be necessary or desirable in connection with it.

20 Sec. 44.62.240. SHORT TITLE. This chapter may be cited as the
21 Alaska Power Authority Act.

Original sponsors: Duncan and Swanson

Offered: 4/6/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 779

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

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A BILL

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(2) the establishment of power projects at these sites is
necessary to supply lower cost power to the state's municipal electric,
rural electric, cooperative electric, and private electric utilities,
and regional electric authorities, and thereby to the consumers of the
state, as well as to supply existing or future industrial needs;

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(3) the achievement of the goals of lower consumer power
costs and long-term economic growth and of establishing, operating and
developing power projects in the state will be accelerated and facili-
tated by the creation of an instrumentality of the state with powers to
incur debt for constructing, and with powers to operate, power projects.

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(b) It is declared to be the policy of the state, in the interests
of promoting the general welfare of all the people of the state, and
public purposes, to reduce consumer power costs and otherwise to en-
courage the long-term economic growth of the state, including the
development of its natural resources, through the establishment of

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1 power projects by creating the public corporation with powers, duties
2 and functions as provided in this chapter.

3 Sec. 44.56.020. CREATION OF AUTHORITY. There is created the
4 Alaska Power Authority. The authority is a public corporation of the
5 state in the Department of Commerce and Economic Development but with
6 separate and independent legal existence.

7 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. The authority con-
8 sists of the commissioner of commerce and economic development and four
9 public members appointed by the governor. The appointment of each
10 director other than the commissioner of commerce and economic develop-
11 ment is subject to confirmation by the legislature. The directors must
12 be residents of the state and qualified voters at the time of appoint-
13 ment and shall comply with the requirements of AS 39.50 (conflict of
14 interest). The term of office of each director appointed by the gover-
15 nor is four years except that the directors first appointed shall have
16 terms of one, two, three, and four years, respectively. A vacancy in a
17 directorship occurring other than by expiration of term shall be filled
18 in the same manner as the original appointment but for the unexpired
19 term only.

20 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect
21 one of the public members as chairman and other officers they determine
22 desirable. The powers of the authority are vested in the directors, and
23 three directors of the authority constitute a quorum. Action may be
24 taken and motions and resolutions adopted by the authority at a meeting
25 by the affirmative vote of at least three directors. The directors of
26 the authority serve without compensation, but they shall receive the
27 same travel pay and per diem as provided by law for board members.

28 Sec. 44.56.050. STAFF. The authority shall employ an executive
29 director who may with the approval of the authority select and employ

1 additional staff as necessary. In addition to its staff of regular em-
2 ployees, the authority may contract for and engage the services of the
3 bond counsel, consultants, experts, and financial advisors the authority
4 considers necessary for the purpose of developing information, or con-
5 ducting studies, investigations, hearings, or other proceedings.

6 ARTICLE 2. PURPOSE AND POWERS.

7 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the
8 authority is to promote, develop and advance the general prosperity and
9 economic welfare of the people of Alaska by providing a means of finan-
10 cing and operating hydroelectric and fossil fuel generating projects.

11 Sec. 44.56.080. POWERS OF THE AUTHORITY. In furtherance of its
12 corporate purposes, the authority has the following powers in addition
13 to its other powers:

- 14 (1) to sue and be sued;
- 15 (2) to have a seal and alter it at pleasure;
- 16 (3) to make and alter bylaws for its organization and inter-
17 nal management;
- 18 (4) to make rules and regulations governing the exercise of
19 its corporate powers;
- 20 (5) to acquire, whether by construction, purchase, gift or
21 lease, and to improve, equip and operate power projects;
- 22 (6) to issue bonds to pay the cost of acquiring by construc-
23 tion, or improving and equipping, a power project and to secure payment
24 of the bonds as provided in this chapter;
- 25 (7) to sell, exchange, donate, convey or encumber in any
26 manner by mortgage or by creation of any other security interest, real
27 or personal property owned by it, or in which it has an interest, when,
28 in the judgment of the authority, the action is in furtherance of its
29 corporate purposes;

1 (8) to accept gifts, grants or loans from, and enter into
2 contracts or other transactions regarding them, with a federal agency or
3 an agency or instrumentality of the state, municipality, private organ-
4 ization or other source;

5 (9) to deposit or invest its funds, subject to agreements
6 with bondholders;

7 (10) to enter into contracts with the United States or any of
8 its agencies or with any political subdivision of this state, and sub-
9 ject to the laws of the United States and subject to concurrence of the
10 legislature, with a foreign country or its agencies, for the construc-
11 tion, acquisition, operation and maintenance of all or any part of a
12 power project, either inside or outside the state, and for the marketing
13 of the power produced from it;

14 (11) to enter into contracts for the purchase, sale, exchange,
15 transmission, or use of power or falling water with any person, firm or
16 corporation, and with the United States or any of its agencies, with any
17 political subdivision of this state, and subject to the laws of the
18 United States and subject to the concurrence of the legislature, with a
19 foreign country or its agencies;

20 (12) to apply to the appropriate agencies of the state, the
21 United States and to a foreign country and any other proper agency for
22 the permits, licenses, or approvals as may be necessary, and to con-
23 struct, maintain and operate power projects in accordance with the
24 licenses or permits, and to obtain, hold and use the licenses and per-
25 mits in the same manner as any other person or operating unit;

26 (13) to perform feasibility studies with respect to hydro-
27 electrical and fossil fuel power generating projects;

28 (14) to enter into contracts or agreements with respect to the
29 exercise of any of its powers, and do all things necessary or convenient

1 to carry out its corporate purposes and exercise the powers granted in
2 this chapter;

3 (15) to exercise the power of eminent domain in accordance
4 with AS 09.55.250 - 09.55.410.

5 Sec. 44.62.090. POWER CONTRACTS. The authority shall, in addition
6 to other methods which it may find advantageous, provide that municipal
7 electric, rural electric, cooperative electric, or private electric
8 utilities and regional electric authorities authorized by law to engage
9 in the distribution of electric power may secure a reasonable share of
10 the power generated by a project, and shall sell the power or cause the
11 power to be sold at prices representing cost of generation, plus capital
12 and operating charges, plus a fair cost of transmission, all as deter-
13 mined by the directors, and subject to conditions which assure the
14 resale of the power to domestic and rural consumers at the lowest
15 possible price. A contract for the sale, transmission and distribution
16 of power generated by a project shall provide

17 (1) for continuous control and operation of the project by
18 the authority;

19 (2) for full and complete disclosure to the authority of all
20 factors of cost in the transmission and distribution of power, so that
21 rates to consumers may be fixed initially in the contract and may be
22 adjusted from time to time on the basis of true cost data;

23 (3) for periodic revisions of the service and rates to con-
24 sumers on the basis of accurate cost data obtained by the accounting
25 methods and systems approved by the directors and in furtherance and
26 effectuation of the policy declared in this paragraph;

27 (4) for the cancellation and termination of a contract upon
28 violation of its terms by the power distributor or company, or its
29 subsidiary or associate;

1 (5) for such security for performance as the authority may
2 consider practicable and advisable, including provisions assuring the
3 continuance of service by the power distributors or companies, the use
4 of their facilities for the service, and the continuance of an outlet
5 and adequate market for the power generated by the project;

6 (6) other terms not inconsistent with the provisions and
7 policy of this chapter as the authority may consider advisable.

8 ARTICLE 3. FINANCIAL PROVISIONS.

9 Sec. 44.62.100. BONDS OF THE AUTHORITY. (a) The authority may
10 borrow money and may issue bonds, including but not limited to bonds on
11 which the principal and interest are payable (1) exclusively from the
12 income and receipts or other money derived from the project financed
13 with the proceeds of the bonds; (2) exclusively from the income and
14 receipts or other money derived from designated projects whether or not
15 they are financed in whole or in part with the proceeds of the bonds; or
16 (3) from its income and receipts or other assets generally, or a desig-
17 nated part or parts of them. The authority may issue bonds to pay, fund
18 or refund the principal of, or interest or redemption premiums on, bonds
19 issued by it, whether or not the bonds or interest to be funded or
20 refunded have become due.

21 (b) Bonds shall be authorized by resolution of the authority, and
22 shall be dated and shall mature as the resolution may provide, except
23 that no bond may mature more than 50 years from the date of its issue.
24 Bonds shall bear interest at the rates, be in the denominations, be in
25 the form, whether coupon or registered, carry the registration privi-
26 leges, be executed in the manner, be payable in the medium of payment,
27 at the places, and be subject to the terms of redemption which the
28 resolution or a subsequent resolution may provide.

29 (c) All bonds, regardless of form or character, shall be negotia-

1 ble instruments for all the purposes of the Uniform Commercial Code.

2 (d) All bonds may be sold at public or private sale in the manner,
3 for the price or prices, and at the time or times which the authority
4 may determine.

5 Sec. 44.62.110. TRUST INDENTURES AND TRUST AGREEMENTS. (a) In
6 the discretion of the authority, an issue of bonds may be secured by a
7 trust indenture or trust agreement between the authority and a corporate
8 trustee (which may be a trust company, bank, or national banking associ-
9 ation, with corporate trust powers, located inside or outside the state)
10 or by a secured loan agreement or other instrument or under a resolution
11 giving powers to a corporate trustee by means of which the authority may

12 (1) make and enter into any and all the covenants and agree-
13 ments with the trustee or the holders of the bonds which the authority
14 may determine to be necessary or desirable, including, without limita-
15 tion, covenants, provisions, limitations and agreements as to

16 (A) the application, investment, deposit, use and dis-
17 position of the proceeds of bonds of the authority or of money or
18 other property of the authority or in which it has an interest;

19 (B) the fixing and collection of rentals, fees or other
20 consideration for, and the other terms to be incorporated in,
21 contracts with respect to a project;

22 (C) the assignment by the authority of its rights in
23 contracts with respect to a project or in a mortgage or other
24 security interest created with respect to a project to a trustee
25 for the benefit of bondholders;

26 (D) the terms and conditions upon which additional bonds
27 of the authority may be issued;

28 (E) the vesting in a trustee of rights, powers, duties,
29 funds or property in trust for the benefit of bondholders, includ-