

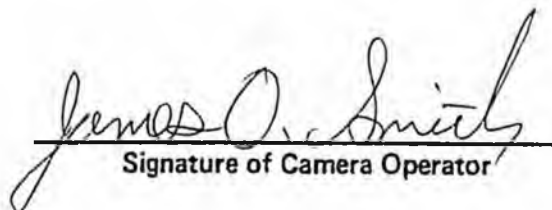
LEG. FINANCE - BILLS 1977 - 1978 726  
SHB 442

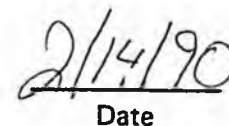


# RECORDS CERTIFICATION



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Signature of Camera Operator

  
Date



Original sponsor: Rules Committee by  
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 442

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 44.56.010(a)(2) and (3) are amended to read:

10 (2) the establishment of power projects at these sites is  
11 necessary to supply [LOWER COST] power at the lowest reasonable cost to  
12 the state's municipal electric, rural electric, cooperative electric,  
13 and private electric utilities, and regional electric authorities, and  
14 thereby to the consumers of the state, as well as to supply existing or  
15 future industrial needs;

16 (3) the achievement of the goals of lowest reasonable [LOWER]  
17 consumer power costs and beneficial long-term economic growth and of  
18 establishing, operating and developing power projects in the state will  
19 be accelerated and facilitated by the creation of an instrumentality of  
20 the state with powers to construct, acquire, finance, and [INCUR DEBT  
21 FOR CONSTRUCTING, AND WITH POWERS TO] operate[,] power projects.

22 \* Sec. 2. AS 44.56.030 is repealed and re-enacted to read:

23 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. (a) The authority  
24 shall consist of the following directors:

25 (1) four directors at large to be appointed by the governor  
26 and confirmed by the legislature;

27 (2) the commissioner of commerce and economic development.

28 (b) The commissioners of community and regional affairs, natural  
29 resources, transportation and public facilities, and revenue shall have

1 the rights and privileges of directors except for the right to vote and  
2 may not be considered for purposes of quorum or voting.

3 \* Sec. 3. AS 44.56.040 is amended to read:

4 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
5 one of the directors at large [PUBLIC MEMBERS] as chairman and other  
6 officers they determine desirable. The powers of the authority are  
7 vested in the directors, and three directors of the authority constitute  
8 a quorum. Action may be taken and motions and resolutions adopted by  
9 the authority at a meeting by the affirmative vote of at least three  
10 directors. The directors of the authority serve without compensation,  
11 but they shall receive the same travel pay and per diem as provided by  
12 law for board members.

13 \* Sec. 4. AS 44.56 is amended by adding a new section to read:

14 Sec. 44.56.045. QUALIFICATIONS, POWERS, AND DUTIES OF OFFICERS AND  
15 DIRECTORS. (a) The directors at large must be residents and qualified  
16 voters of Alaska and shall comply with the requirements of AS 39.50  
17 (conflict of interests). The directors at large shall serve four-year  
18 terms. The four original directors at large have terms of one, two,  
19 three, and four years, respectively.

20 (b) A vacancy in a directorship occurring other than by expiration  
21 of a term shall be filled in the same manner as the original appoint-  
22 ment, but for the unexpired portion of the term only.

23 (c) The authority shall employ an executive director who may, with  
24 the approval of the authority, employ additional staff as necessary. In  
25 addition to its staff of regular employees, the authority may contract  
26 for and engage the services of legal and bond counsel, consultants,  
27 experts, and financial and technical advisors the authority considers  
28 necessary for the purpose of conducting studies, investigations, hear-  
29 ings, or other proceedings. The board of directors shall establish the

1 compensation of the executive director. The executive director of the  
2 authority is subject to the provisions of AS 39.25.

3 \* Sec. 5. AS 44.56.070 is amended to read:

4 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
5 authority is to promote, develop and advance the general prosperity and  
6 economic welfare of the people of Alaska by providing a means of con-  
7 structing, acquiring, financing and operating power production facil-  
8 ities limited to fossil fuel, wind power, tidal, geothermal, hydro-  
9 electric, or solar energy production and waste energy conservation  
10 facilities [HYDROELECTRIC AND FOSSIL FUEL GENERATING PROJECTS].

11 \* Sec. 6. AS 44.56.080(5) is amended to read:

12 (5) to acquire, whether by construction, purchase, gift or  
13 lease, and to improve, equip, [AND] operate, and maintain power pro-  
14 jects;

15 \* Sec. 7. AS 44.56.080(6) is amended to read:

16 (6) to issue bonds to carry out any of its corporate purposes  
17 and powers, including the acquisition or construction of a project to be  
18 owned or leased, as lessor or lessee, by the authority, or by another  
19 person, or the acquisition of any interest in a project [IT] or any  
20 right to capacity of a project [IT], the establishment or increase of  
21 reserves to secure or to pay the bonds or interest on them, and the  
22 payment of all other costs or expenses of the authority incident to and  
23 necessary or convenient to carry out its corporate purposes and powers;

24 \* Sec. 8. AS 44.56.080(8) is amended to read:

25 (8) to accept gifts, grants or loans from, and enter into  
26 contracts or other transactions regarding them, with any person [A  
27 FEDERAL AGENCY OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, MUNICIPA-  
28 LITY, PRIVATE ORGANIZATION OR OTHER SOURCE];

29 \* Sec. 9. AS 44.56.080(10) is amended to read:

1 (10) to enter into contracts with the United States or any  
2 person and, subject to the laws of the United States and subject to  
3 concurrence of the legislature, with a foreign country or its agencies,  
4 for the financing, construction, acquisition, operation and maintenance  
5 of all or any part of a power project, either inside or outside the  
6 state, and for the sale or transmission of power from a project or any  
7 right to the capacity of it or for the security of any bonds of the  
8 authority issued or to be issued for the project;

9 \* Sec. 10. AS 44.56.080(11) is amended to read:

10 (11) to enter into contracts [FOR THE PURCHASE, SALE, EX-  
11 CHANGE, TRANSMISSION, OR USE OF POWER GENERATED BY A PROJECT, OR ANY  
12 RIGHT TO THE CAPACITY OF IT] with any person and with the United States,  
13 and, subject to the laws of the United States and subject to the con-  
14 currence of the legislature, with a foreign country or its agencies for  
15 the purchase, sale, exchange, transmission, or use of power from a  
16 project, or any right to the capacity of it;

17 \* Sec. 11. AS 44.56.080(13) is amended to read:

18 (13) to perform reconnaissance studies with respect to [HY-  
19 DROELECTRICAL AND FOSSIL FUEL] power [GENERATING] projects;

20 \* Sec. 12. AS 44.56.090 is repealed and re-enacted to read:

21 Sec. 44.56.090. POWER CONTRACTS AND THE ALASKA PUBLIC UTILITIES  
22 COMMISSION. (a) The authority shall, in addition to the other methods  
23 which it may find advantageous, provide a method by which municipal  
24 electric, rural electric, cooperative electric, or private electric  
25 utilities and regional electric authorities, or other persons authorized  
26 by law to engage in the distribution of electricity may secure a  
27 reasonable share of the power generated by a project, or any interest in  
28 a project, or for any right to the power and shall sell the power or  
29 cause the power to be sold at the lowest reasonable prices which cover

1 the full cost of the electricity or services, including capital and  
2 operating costs, debt coverage as considered appropriate by the autho-  
3 rity, and other charges that may be authorized by this chapter. A  
4 contract for the sale, transmission and distribution of power generated  
5 by a project or any right to the capacity of it shall provide:

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

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

12 (3) for monitoring of the project by the authority or its  
13 agents;

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

18 (5) for periodic revisions of the service and rates to persons  
19 on the basis of accurate cost data obtained by the accounting methods and  
20 systems approved by the directors and in furtherance and effectuation  
21 of the policy declared in this chapter;

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

24 (7) for security for performance as the authority may consider  
25 practicable and advisable, including provisions assuring the continuance  
26 of the distribution and transmission of power generated by a project and  
27 the use of its facilities for these purposes; and

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

1 (b) The authority is not subject to the jurisdiction of the Alaska  
2 Public Utilities Commission. Nothing in this chapter grants the autho-  
3 rity any jurisdiction over the services or rates of any public utility  
4 or diminishes or otherwise alters the jurisdiction of the Alaska Public  
5 Utilities Commission with respect to any public utility, including any  
6 right the commission may have to review and approve or disapprove con-  
7 tracts for the purchase of electricity by a public utility.

8 \* Sec. 13. AS 44.56.110(a)(1) is amended to read:

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

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

16 (B) the fixing and collection of rentals, charges, fees  
17 or other consideration for, and the other terms to be incorporated  
18 in, contracts with respect to a project or to generated power;

19 (C) the assignment by the authority of its rights in  
20 contracts with respect to a project or to generated power or in a  
21 mortgage or other security interest created with respect to a  
22 project or generated power to a trustee for the benefit of bond-  
23 holders;

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

26 (E) the vesting in a trustee of rights, powers, duties,  
27 funds or property in trust for the benefit of bondholders, in-  
28 cluding, without limitation, the right to enforce payment, perfor-  
29 mance, and all other rights of the authority or of the bondholders,

1 under a lease, power of contract, contract of sale, mortgage,  
2 security agreement, or trust agreement with respect to a project by  
3 injunction [MANDAMUS] or other proceeding or by taking possession  
4 of by agent or otherwise and operating a project and collecting  
5 rents or other consideration and applying the same in accordance  
6 with the trust agreement;

7 \* Sec. 14. AS 44.56.110(d) is amended to read:

8 (d) If the authority decides to issue bonds secured by such a  
9 capital reserve fund, the bonds may not be issued if the amount in the  
10 capital reserve fund is less than such an amount [A PER CENT, NOT EX-  
11 CEEEDING 10 PER CENT OF THE PRINCIPAL AMOUNT OF ALL OF THOSE BONDS SE-  
12 CURED BY THAT CAPITAL RESERVE FUND THEN TO BE ISSUED AND THEN OUT-  
13 STANDING IN ACCORDANCE WITH THEIR TERMS,] as may be established by  
14 resolution of the authority (called the "capital reserve fund require-  
15 ment"), unless the authority, at the time of issuance of the obliga-  
16 tions, deposits in the capital reserve fund from the proceeds of the  
17 obligations to be issued or from other sources, an amount which, to-  
18 gether with the amount then in the fund, will not be less than the  
19 capital reserve fund requirement.

20 \* Sec. 15. AS 44.56.150 is amended to read:

21 Sec. 44.56.150. TAX EXEMPTION. All property of the authority is  
22 public property devoted to an essential public and governmental function  
23 and purpose and is exempt from all taxes of the state or a political  
24 subdivision of the state; however, the authority may make payments in  
25 place of taxes in amounts equal to the real and personal property taxes  
26 which would be assessed on its real and personal property by each poli-  
27 tical subdivision in which its property is located to the same extent as  
28 if that property were private property and the authority were a non-  
29 public corporation. All bonds issued under this chapter are issued by a  
body corporate and public of this state and for an essential public and

1 governmental purpose and the bonds and the interest and income on and  
2 from the bonds and all income of the authority are exempt from taxation  
3 except for transfer, inheritance and estate taxes.

4 \* Sec. 16. AS 44.56.170 is repealed and re-enacted to read:

5 Sec. 44.56.170. FUND ESTABLISHED; LOANS. (a) There is estab-  
6 lished as a separate fund the power project revolving fund which shall  
7 be administered by the authority as a trust fund separate and distinct  
8 from any other money or funds of the authority, and which shall be com-  
9 posed of appropriated funds and interest earned on loans by the fund.

10 (b) The authority may make loans from the fund to electric utili-  
11 ties, regional electric authorities, cities, boroughs, regional and  
12 village corporations, village councils, and nonprofit marketing coopera-  
13 tives to pay the costs of

14 (1) feasibility studies, preconstruction engineering, and  
15 design of any power projects;

16 (2) constructing, equipping, modifying, and expanding small-  
17 scale power production facilities or conservation facilities, limited to  
18 fossil fuel, wind power, tidal, geothermal, hydroelectric, or solar  
19 energy production and waste energy conservation facilities; and

20 (3) reconnaissance studies, preconstruction engineering,  
21 design, construction, equipping, modification, and expansion of potable  
22 water supply including surface storage and groundwater sources and  
23 transmission of water from surface storage to existing distribution  
24 systems.

25 (c) Before making any loans, except loans made under (f) of this  
26 section, from the power project revolving fund, the authority shall by  
27 regulation specify the standards for those loans with respect to the  
28 following:

29 (1) criteria regarding the eligibility of borrowers and of

1 types of projects;

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

4 (3) interest rates and other terms and conditions, and col-  
5 lateral or any other security required for loans; and

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

7 (d) Any loan made by the authority must be made according to the  
8 standards, criteria, and procedures established by regulation under this  
9 section.

10 (e) Repayment of the loans shall be secured in such manner as the  
11 authority determines is feasible to assure prompt repayment under a loan  
12 agreement entered into with the borrower. The authority may forgive re-  
13 payment of loans made for reconnaissance studies if the study shows that  
14 a project is not feasible. Under a loan agreement, repayment may be  
15 deferred for 10 years or until the project for which the loan is made  
16 has achieved earnings from its operations sufficient to pay the loan,  
17 whichever is earlier.

18 (f) Projects for which loans are outstanding from the water re-  
19 sources revolving loan fund (AS 45.86) on the effective date of this Act  
20 may receive additional funding from the power project revolving loan  
21 fund for a term not exceeding 50 years and at an interest rate of not  
22 less than three nor more than five per cent a year on the unpaid balance.  
23 Repayment of loan principal and interest shall commence on the date of  
24 commercial operation of the project funded by the loan or 10 years from  
25 the date the loan is granted, whichever is earlier.

26 \* Sec. 17. AS 44.56.180 is amended to read:

27 Sec. 44.56.180. ASSESSMENT, PROPOSAL, AND CONSTRUCTION OF PRO-  
28 JECTS. (a) The authority shall, for each new project, determine the  
29 most appropriate means by which to finance a project which may include,

1 but is not limited to,

2 (1) the issuance of revenue bonds;

3 (2) a guarantee of indebtedness by the Alaska Permanent Fund  
4 Corporation in accordance with AS 37.13.200;

5 (3) an appropriation from the general fund; or

6 (4) any combination of (1), (2), and (3) of this subsection.

7 (b) Upon completion of the reconnaissance study, the authority  
8 shall submit to the governor and the legislature a statement of its  
9 recommendations for financing each new project. The financing plan may  
10 include a recommendation for a guarantee of indebtedness or a general  
11 fund appropriation only when necessary to supplement private financing  
12 in order to make a project financially feasible. If the recommended  
13 financing for the project includes a guarantee of indebtedness by the  
14 permanent fund or an appropriation from the general fund, the legisla-  
15 ture must first give its approval by joint resolution before the autho-  
16 rity may proceed with the engineering or design phase of the project.  
17 The legislative approval required in this subsection may not be con-  
18 sidered the approval required under AS 37.13.230 for granting of a  
19 permanent fund guarantee.

20 (c) The authority shall submit a statement outlining the general  
21 design, demonstration of financial feasibility, and maximum amount of  
22 bonds and appropriations estimated to be necessary for each new project  
23 to the governor and the legislature [AND THE COMMISSIONER OF COMMERCE  
24 AND ECONOMIC DEVELOPMENT], together with a statement that the authority  
25 intends to design, acquire, [AND] construct or finance the project  
26 itself or that it intends that the project be designed, acquired, [OR]  
27 constructed or financed by the United States or another person under  
28 agreement with the authority which may provide [PROVIDING] for ownership  
29 of all or a portion of the project by the authority or of a right to the

1 capacity of it. If the legislature adopts a joint resolution approving  
2 the general design and maximum amount of bonds, the authority shall, in  
3 accordance with the terms of the joint resolution, (1) proceed to de-  
4 sign, acquire and construct the new project, or (2) agree with the  
5 United States or other person for design, acquisition and construction  
6 of the project by the United States, for payments to the United States  
7 or other person for such design, acquisition and construction, reim-  
8 bursement by the United States or other person in certain events, and  
9 otherwise on the terms and conditions as may be set out in such agree-  
10 ment.

11 (d) If the new project is to be designed, acquired and constructed  
12 by the authority, it shall be designed, acquired and constructed as a  
13 public work of the state [EXCEPT THAT PUBLIC BIDDING SHALL NOT BE RE-  
14 QUIRED, IF THE AUTHORITY SO DETERMINES ON PROJECTS IN EXCESS OF  
15 \$50,000,000]. For the purpose of this section a new project does not  
16 include (1) an addition or modification to an existing project if the  
17 total cost of the addition or modification does not exceed \$1,000,000;  
18 (2) [, TO] any repair or reconstruction of a project; [,] or (3) [TO]  
19 any design, acquisition or construction necessary to complete a project  
20 for which bonds previously authorized by the legislature have been  
21 issued. Any such addition, modification, repair, reconstruction, de-  
22 sign, acquisition or construction may be undertaken by the authority  
23 without any of the approvals necessary for a new project.

24 \* Sec. 18. AS 44.56.180 is amended by adding a new subsection to read:

25 (e) Any power project proposal requiring approval by the legis-  
26 lature under this chapter, except on projects with a complete reconnais-  
27 sance study on the effective date of this Act, together with supporting  
28 data, analyses, and findings of the authority, shall be submitted to the  
29 governor for review. The governor shall make an evaluation of the

1 proposal which shall include, but not be limited to, an analysis of the  
2 balance of benefits and costs to Alaska, including environmental and  
3 social costs, and the ability of the project to generate sufficient  
4 revenues to be self-supporting. The governor shall submit the results  
5 of the evaluation, his recommendations, if any, and a statement as to  
6 whether the project is consistent with the long-term plan to the legis-  
7 lature.

8 \* Sec. 19. AS 44.56.210 is repealed and re-enacted to read:

9 Sec. 44.56.210. APPROPRIATIONS AND REPORTS. (a) Notwithstanding  
10 any other provision in this chapter, the authority is subject to the  
11 provisions of the Executive Budget Act (AS 37.07).

12 (b) The authority shall, by the 15th day of each regular legis-  
13 lative session, present to the legislature a report detailing project  
14 status, original costs and projected costs, particularly highlighting  
15 any costs in excess of the original cost estimates submitted for each  
16 project when that project was originally approved by the legislature.

17 \* Sec. 20. AS 44.56 is amended by adding a new section to read:

18 Sec. 44.56.224. LONG-TERM PLAN. The Department of Commerce and  
19 Economic Development, assisted by the authority, shall prepare, after  
20 public hearings, and, as appropriate, revise a long-term electrical  
21 power development plan for meeting projected electrical energy demand in  
22 Alaska at the lowest reasonable cost, including environmental and social  
23 costs, consistent with acceptable standards of reliability. The plan  
24 must include, but is not limited to, considerations specified in sec.  
25 180(e) of this chapter. The plan and any revision of it shall be sub-  
26 mitted to the governor for his approval and shall be reviewed by all  
27 appropriate state agencies. After approval by the governor the plan  
28 shall be submitted to the legislature.

29 \* Sec. 21. AS 44.56.230(4) is amended to read:

1 (4) "power project" or "project" means a plant, works, sys-  
2 tem, facility, water rights, fuel deposits or sources, and real estate  
3 and personal property of any nature whatsoever, together with all faci-  
4 lities and appurtenances related to them or necessary for the purposes  
5 of them used or useful in power production limited to fossil fuel, wind  
6 power, tidal, geothermal, hydroelectric, or solar energy production and  
7 waste energy conservation [THE GENERATION BY MEANS OF WATER OR FOSSIL  
8 FUEL OF ELECTRIC POWER] and the [PRODUCTION,] transmission, purchase,  
9 sale, exchange and interchange of [ELECTRIC] power, and shall include  
10 any interest in them, whether divided or undivided, or any right to the  
11 capacity of them; [.]

12 \* Sec. 22. AS 44.56.230 is amended by adding new paragraphs to read:

13 (6) "person" includes a public agency in addition to the en-  
14 tities set out in AS 01.10.060(7);

15 (7) "reconnaissance study" means a study conducted for the  
16 purpose of establishing, with reasonable certainty, the economic merit  
17 of developing a certain project and includes, without relying on costly  
18 data collection, an environmental assessment so as to insure that no  
19 adverse environmental impacts exist of such magnitude as to render the  
20 project inadvisable, an assessment of a community's present economy and  
21 power needs, an estimate of the community's future economy and power  
22 needs, a determination of alternative energy costs, and an estimate of  
23 the project cost.

24 \* Sec. 23. AS 44.56.050 is repealed.

25 \* Sec. 24. The requirements of AS 44.56.180(e), enacted in sec. 18 of  
26 this Act, do not apply to any project which the authority has determined to  
27 finance and in which it will not maintain an ownership interest upon comple-  
28 tion and for which the Tenth Legislature has adopted a joint resolution of  
29 approval.

1 \* Sec. 25. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
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Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/11/78  
For Today's Calendar

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 442 (2d Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

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13 and private electric utilities, and regional electric authorities, and  
14 thereby to the consumers of the state, as well as to supply existing or  
15 future industrial needs;

16 (3) the achievement of the goals of lowest reasonable [LOWER]  
17 consumer power costs and beneficial long-term economic growth and of  
18 establishing, operating and developing power projects in the state will  
19 be accelerated and facilitated by the creation of an instrumentality of  
20 the state with powers to construct, acquire, finance, and [INCUR DEBT  
21 FOR CONSTRUCTING, AND WITH POWERS TO] operate[, ] power projects.

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28 (b) The commissioners of community and regional affairs, natural  
29 resources, transportation and public facilities, and revenue shall have

1 the rights and privileges of directors except for the right to vote and  
2 may not be considered for purposes of quorum or voting.

3 \* Sec. 3. AS 44.56.040 is amended to read:

4 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
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14 Sec. 44.56.045. QUALIFICATIONS, POWERS, AND DUTIES OF OFFICERS AND  
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19 three, and four years, respectively.

20 (b) A vacancy in a directorship occurring other than by expiration  
21 of a term shall be filled in the same manner as the original appoint-  
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24 the approval of the authority, employ additional staff as necessary. In  
25 addition to its staff of regular employees, the authority may contract  
26 for and engage the services of legal and bond counsel, consultants,  
27 experts, and financial and technical advisors the authority considers  
28 necessary for the purpose of conducting studies, investigations, hear-  
29 ings, or other proceedings. The board of directors shall establish the

1 compensation of the executive director. The executive director and  
2 other personnel of the authority are exempt from the provisions of AS  
3 39.25.

4 \* Sec. 5. AS 44.56.070 is amended to read:

5 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
6 authority is to promote, develop and advance the general prosperity and  
7 economic welfare of the people of Alaska by providing a means of con-  
8 structing, acquiring, financing and operating power production facil-  
9 ities limited to fossil fuel, wind power, tidal, geothermal, hydro-  
10 electric, or solar energy production and waste energy conservation  
11 facilities [HYDROELECTRIC AND FOSSIL FUEL GENERATING PROJECTS].

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13 (5) to acquire, whether by construction, purchase, gift or  
14 lease, and to improve, equip, [AND] operate, and maintain power pro-  
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16 \* Sec. 7. AS 44.56.080(6) is amended to read:

17 (6) to issue bonds to carry out any of its corporate purposes  
18 and powers, including the acquisition or construction of a project to be  
19 owned or leased, as lessor or lessee, by the authority, or by another  
20 person, or the acquisition of any interest in a project [IT] or any  
21 right to capacity of a project [IT], the establishment or increase of  
22 reserves to secure or to pay the bonds or interest on them, and the  
23 payment of all other costs or expenses of the authority incident to and  
24 necessary or convenient to carry out its corporate purposes and powers;

25 \* Sec. 8. AS 44.56.080(8) is amended to read:

26 (8) to accept gifts, grants or loans from, and enter into  
27 contracts or other transactions regarding them, with any person [A  
28 FEDERAL AGENCY OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, MUNICIPA-  
29 LITY, PRIVATE ORGANIZATION OR OTHER SOURCE];

1 \* Sec. 9. AS 44.56.080(10) is amended to read:

2 (10) to enter into contracts with the United States or any  
3 person and, subject to the laws of the United States and subject to  
4 concurrence of the legislature, with a foreign country or its agencies,  
5 for the financing, construction, acquisition, operation and maintenance  
6 of all or any part of a power project, either inside or outside the  
7 state, and for the sale or transmission of power from a project or any  
8 right to the capacity of it or for the security of any bonds of the  
9 authority issued or to be issued for the project;

10 \* Sec. 10. AS 44.56.080(11) is amended to read:

11 (11) to enter into contracts [FOR THE PURCHASE, SALE, EX-  
12 CHANGE, TRANSMISSION, OR USE OF POWER GENERATED BY A PROJECT, OR ANY  
13 RIGHT TO THE CAPACITY OF IT] with any person and with the United States,  
14 and, subject to the laws of the United States and subject to the con-  
15 currence of the legislature, with a foreign country or its agencies for  
16 the purchase, sale, exchange, transmission, or use of power from a  
17 project, or any right to the capacity of it;

18 \* Sec. 11. AS 44.56.080(13) is amended to read:

19 (13) to perform reconnaissance studies with respect to [HY-  
20 DROELECTRICAL AND FOSSIL FUEL] power [GENERATING] projects;

21 \* Sec. 12. AS 44.56.090 is repealed and re-enacted to read:

22 Sec. 44.56.090. POWER CONTRACTS AND THE ALASKA PUBLIC UTILITIES  
23 COMMISSION. (a) The authority shall, in addition to the other methods  
24 which it may find advantageous, provide a method by which municipal  
25 electric, rural electric, cooperative electric, or private electric  
26 utilities and regional electric authorities, or other persons authorized  
27 by law to engage in the distribution of electricity may secure a  
28 reasonable share of the power generated by a project, or any interest in  
29 a project, or for any right to the power and shall sell the power or

1 cause the power to be sold at the lowest reasonable prices which cover  
2 the full cost of the electricity or services, including capital and  
3 operating costs, debt coverage as considered appropriate by the autho-  
4 rity, and other charges that may be authorized by this chapter. A  
5 contract for the sale, transmission and distribution of power generated  
6 by a project or any right to the capacity of it shall provide for full  
7 and complete disclosure to the authority of all factors of cost in the  
8 transmission and distribution of power.

9 (b) The authority is not subject to the jurisdiction of the Alaska  
10 Public Utilities Commission. Nothing in this chapter grants the autho-  
11 rity any jurisdiction over the services or rates of any public utility  
12 or diminishes or otherwise alters the jurisdiction of the Alaska Public  
13 Utilities Commission with respect to any public utility, including any  
14 right the commission may have to review and approve or disapprove con-  
15 tracts for the purchase of electricity by a public utility.

16 \* Sec. 13. AS 44.56.110(a)(1) is amended to read:

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

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

24 (B) the fixing and collection of rentals, charges, fees  
25 or other consideration for, and the other terms to be incorporated  
26 in, contracts with respect to a project or to generated power;

27 (C) the assignment by the authority of its rights in  
28 contracts with respect to a project or to generated power or in a  
29 mortgage or other security interest created with respect to a

1 project or generated power to a trustee for the benefit of bond-  
2 holders;

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

5 (E) the vesting in a trustee of rights, powers, duties,  
6 funds or property in trust for the benefit of bondholders, in-  
7 cluding, without limitation, the right to enforce payment, perfor-  
8 mance, and all other rights of the authority or of the bondholders,  
9 under a lease, power of contract, contract of sale, mortgage,  
10 security agreement, or trust agreement with respect to a project by  
11 injunction [MANDAMUS] or other proceeding or by taking possession  
12 of by agent or otherwise and operating a project and collecting  
13 rents or other consideration and applying the same in accordance  
14 with the trust agreement;

15 \* Sec. 14. AS 44.56.110(d) is amended to read:

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 an amount [A PER CENT, NOT EX-  
19 CEEDING 10 PER CENT OF THE PRINCIPAL AMOUNT OF ALL OF THOSE BONDS SE-  
20 CURED BY THAT CAPITAL RESERVE FUND THEN TO BE ISSUED AND THEN OUT-  
21 STANDING IN ACCORDANCE WITH THEIR TERMS,] as may be established by  
22 resolution of the authority (called the "capital reserve fund require-  
23 ment"), unless the authority, at the time of issuance of the obliga-  
24 tions, deposits in the capital reserve fund from the proceeds of the  
25 obligations to be issued or from other sources, an amount which, to-  
26 gether with the amount then in the fund, will not be less than the  
27 capital reserve fund requirement.

28 \* Sec. 15. AS 44.56.150 is amended to read:

29 Sec. 44.56.150. TAX EXEMPTION. All property of the authority is

*Buttrick's Amendment.*

1 public property devoted to an essential public and governmental function  
2 and purpose and is exempt from all taxes of the state or a political  
3 subdivision of the state; however, the authority may make payments in  
4 place of taxes in amounts equal to the real and personal property taxes  
5 which would be assessed on its real and personal property by each poli-  
6 tical subdivision in which its property is located to the same extent as  
7 if that property were private property and the authority were a non-  
8 public corporation. All bonds issued under this chapter are issued by a  
9 body corporate and public of this state and for an essential public and  
10 governmental purpose and the bonds and the interest and income on and  
11 from the bonds and all income of the authority are exempt from taxation  
12 except for transfer, inheritance and estate taxes.

13 \* Sec. 16. AS 44.56.170 is repealed and re-enacted to read:

14 Sec. 44.56.170. FUND ESTABLISHED; LOANS. (a) There is estab-  
15 lished as a separate fund the power project revolving fund which shall  
16 be administered by the authority as a trust fund separate and distinct  
17 from any other money or funds of the authority, and which shall be com-  
18 posed of appropriated funds and interest earned on loans by the fund.

19 (b) The authority may make loans from the fund to electric utili-  
20 ties, regional electric authorities, cities, boroughs, regional and  
21 village corporations, village councils, and nonprofit marketing coopera-  
22 tives to pay the costs of

23 (1) reconnaissance studies, preconstruction engineering, and  
24 design of any power projects;

25 (2) constructing, equipping, modifying, and expanding small-  
26 scale power production facilities or conservation facilities, limited to  
27 fossil fuel, wind power, tidal, geothermal, hydroelectric, or solar  
28 energy production and waste energy conservation facilities; and

29 (3) reconnaissance studies, preconstruction engineering,

1 design, construction, equipping, modification, and expansion of potable  
2 water supply including surface storage and groundwater sources and  
3 transmission of water from surface storage to existing distribution  
4 systems.

5 (c) Before making any loans, except loans made under (f) of this  
6 section, from the power project revolving fund, the authority shall by  
7 regulation specify the standards for those loans with respect to the  
8 following:

9 (1) criteria regarding the eligibility of borrowers and of  
10 types of projects;

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

13 (3) interest rates and other terms and conditions, and col-  
14 lateral or any other security required for loans; and

15 (4) other relevant criteria, standards, or procedures.

16 (d) Any loan made by the authority must be made according to the  
17 standards, criteria, and procedures established by regulation under this  
18 section.

19 (e) Repayment of the loans shall be secured in such manner as the  
20 authority determines is feasible to assure repayment under a loan agree-  
21 ment entered into with the borrower. Under a loan agreement, repayment  
22 may be deferred until the project for which a loan is made has achieved  
23 earnings from its operations sufficient to pay the loan.

24 (f) Projects for which loans are outstanding from the water re-  
25 sources revolving loan fund (AS 45.86) on the effective date of this Act  
26 may receive additional funding from the power project revolving loan  
27 fund for a term not exceeding 50 years and at an interest rate of not  
28 less than three nor more than five per cent per year on the unpaid  
29 balance. Repayment of loan principal and interest shall commence on the

1 date of commercial operation of the project funded by the loan or 10  
2 years from the date the loan is granted, whichever is earlier.

3 \* Sec. 17. AS 44.56.180 is amended to read:

4 Sec. 44.56.180. ASSESSMENT, PROPOSAL, AND CONSTRUCTION OF PRO-  
5 JECTS. (a) The authority shall, for each new project, determine the  
6 most appropriate means by which to finance a project which may include,  
7 but is not limited to,

8 (1) the issuance of revenue bonds;

9 (2) a guarantee of indebtedness by the Alaska Permanent Fund  
10 Corporation in accordance with AS 37.13.200;

11 (3) an appropriation from the general fund; or

12 (4) any combination of (1), (2), and (3) of this subsection.

13 (b) Upon completion of the reconnaissance study, the authority  
14 shall submit to the governor and the legislature a statement of its  
15 recommendations for financing each new project. The financing plan may  
16 include a recommendation for a guarantee of indebtedness or a general  
17 fund appropriation only when necessary to supplement private financing  
18 in order to make a project financially feasible. If the recommended  
19 financing for the project includes a guarantee of indebtedness by the  
20 permanent fund or an appropriation from the general fund, the legisla-  
21 ture must first give its approval by joint resolution before the  
22 authority may proceed with the engineering or design phase of the pro-  
23 ject. The legislative approval required in this subsection may not be  
24 considered the approval required under AS 37.13.230 for granting of a  
25 permanent fund guarantee.

26 (c) The authority shall submit a statement outlining the general  
27 design, demonstration of financial feasibility, and maximum amount of  
28 bonds and appropriations estimated to be necessary for each new project  
29 for which the maximum estimated total cost is \$50,000,000 or greater

*Major changes*

1 to the governor and the legislature [AND THE COMMISSIONER OF COMMERCE  
2 AND ECONOMIC DEVELOPMENT], together with a statement that the authority  
3 intends to design, acquire, [AND] construct or finance the project  
4 itself or that it intends that the project be designed, acquired, [OR]  
5 constructed or financed by the United States or another person under  
6 agreement with the authority which may provide [PROVIDING] for ownership  
7 of all or a portion of the project by the authority or of a right to the  
8 capacity of it. if the legislature adopts a joint resolution approving  
9 the general design and maximum amount of bonds, the authority shall, in  
10 accordance with the terms of the joint resolution, (1) proceed to de-  
11 sign, acquire and construct the new project, or (2) agree with the  
12 United States or other person for design, acquisition and construction  
13 of the project by the United States, for payments to the United States  
14 or other person for such design, acquisition and construction, reimburse-  
15 ment by the United States or other person in certain events, and other-  
16 wise on the terms and conditions as may be set out in such agreement.

17 (d) If the new project is to be designed, acquired and constructed  
18 by the authority, it shall be designed, acquired and constructed as a  
19 public work of the state [EXCEPT THAT PUBLIC BIDDING SHALL NOT BE RE-  
20 QUIRED, IF THE AUTHORITY SO DETERMINES ON PROJECTS IN EXCESS OF  
21 \$50,000,000]. For the purpose of this section a new project does not  
22 include (1) an addition or modification to an existing project if the  
23 total cost of the addition or modification does not exceed \$1,000,000,  
24 (2) [, TO] any repair or reconstruction of a project, [,] or (3) [TO]  
25 any design, acquisition or construction necessary to complete a project  
26 for which bonds previously authorized by the legislature have been  
27 issued. Any such addition, modification, repair, reconstruction, de-  
28 sign, acquisition or construction may be undertaken by the authority  
29 without any of the approvals necessary for a new project.

1 \* Sec. 18. AS 44.56.180 is amended by adding a new subsection to read:

2 (e) Any power project proposal requiring approval by the legis-  
3 lature under this chapter, except on projects with a complete reconnais-  
4 sance study on the effective date of this Act, together with supporting  
5 data, analyses, and findings of the authority, shall be submitted to the  
6 governor for review. The governor shall make an evaluation of the  
7 proposal which shall include, but not be limited to, an analysis of the  
8 balance of benefits and costs to Alaska, including environmental and  
9 social costs, and the ability of the project to generate sufficient  
10 revenues to be self-supporting. The governor shall submit the results  
11 of the evaluation, his recommendations, if any, and a statement as to  
12 whether the project is consistent with the long-term plan to the legis-  
13 lature.

14 \* Sec. 19. AS 44.56.210 is repealed and re-enacted to read:

15 Sec. 44.56.210. APPROPRIATIONS AND REPORTS. (a) Notwithstanding  
16 any other provision in this chapter, the authority is subject to the  
17 provisions of the Executive Budget Act (AS 37.07).

18 (b) The authority shall, by the 15th day of each regular legis-  
19 lative session, present to the legislature a report detailing project  
20 status, original costs and projected costs, particularly highlighting  
21 any costs in excess of the original cost estimates submitted for each  
22 project when that project was originally approved by the legislature.

23 \* Sec. 20. AS 44.56 is amended by adding a new section to read:

24 Sec. 44.56.224. LONG-TERM PLAN. The Department of Commerce and  
25 Economic Development, assisted by the authority, shall prepare, after  
26 public hearings, and, as appropriate, revise a long-term electrical  
27 power development plan for meeting projected electrical energy demand in  
28 Alaska at the lowest reasonable cost, including environmental and social  
29 costs, consistent with acceptable standards of reliability. The plan

1 must include, but is not limited to, considerations specified in sec.  
2 180(e) of this chapter. The plan and any revision of it shall be sub-  
3 mitted to the governor for his approval and shall be reviewed by all  
4 appropriate state agencies. After approval by the governor the plan  
5 shall be submitted to the legislature.

6 \* Sec. 21. AS 44.56.230(4) is amended to read:

7 (4) "power project" or "project" means a plant, works, sys-  
8 tem, facility, water rights, fuel deposits or sources, and real estate  
9 and personal property of any nature whatsoever, together with all faci-  
10 lities and appurtenances related to them or necessary for the purposes  
11 of them used or useful in power production limited to fossil fuel, wind  
12 power, tidal, geothermal, hydroelectric, or solar energy production and  
13 waste energy conservation [THE GENERATION BY MEANS OF WATER OR FOSSIL  
14 FUEL OF ELECTRIC POWER] and the [PRODUCTION,] transmission, purchase,  
15 sale, exchange and interchange of [ELECTRIC] power, and shall include  
16 any interest in them, whether divided or undivided, or any right to the  
17 capacity of them; [.]

18 \* Sec. 22. AS 44.56.230 is amended by adding new paragraphs to read:

19 (6) "person" includes a public agency in addition to the en-  
20 tities set out in AS 01.10.060(7);

21 (7) "reconnaissance study" means a study conducted for the  
22 purpose of establishing, with reasonable certainty, the economic merit  
23 of developing a certain project and includes, without relying on costly  
24 data collection, an environmental assessment so as to insure that no  
25 adverse environmental impacts exist of such magnitude as to render the  
26 project inadvisable, an assessment of a community's present economy and  
27 power needs, an estimate of the community's future economy and power  
28 needs, a determination of alternative energy costs, and an estimate of  
29 the project cost.

1           \* Sec. 23. AS 44.56.050 is repealed.

2           \* Sec. 24. The requirements of AS 44.56.180(e), enacted in sec. 18 of  
3 this Act, do not apply to any project which the authority has determined to  
4 finance and in which it will not maintain an ownership interest upon comple-  
5 tion and for which the Tenth Legislature has adopted a joint resolution of  
6 approval.

7           \* Sec. 25. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

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Original sponsor: Rules Committee by  
request of the Governor

Offered: 4/20/78  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 442 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 44.56.010(a)(2) and (3) are amended to read:

10 (2) the establishment of power projects at these sites is  
11 necessary to supply [LOWER COST] power at the lowest reasonable cost to  
12 the state's municipal electric, rural electric, cooperative electric,  
13 and private electric utilities, and regional electric authorities, and  
14 thereby to the consumers of the state, as well as to supply existing or  
15 future industrial needs;

16 (3) the achievement of the goals of lowest reasonable [LOWER]  
17 consumer power costs and beneficial long-term economic growth and of  
18 establishing, operating and developing power projects in the state will  
19 be accelerated and facilitated by the creation of an instrumentality of  
20 the state with powers to construct, acquire, finance, and [INCUR DEBT  
21 FOR CONSTRUCTING, AND WITH POWERS TO] operate[, ] power projects.

22 \* Sec. 2. AS 44.56.030 is repealed and re-enacted to read:

23 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. (a) The authority  
24 shall consist of the following directors:

25 (1) four directors at large to be appointed by the governor  
26 and confirmed by the legislature;

27 (2) the commissioner of commerce and economic development.

28 (b) The commissioners of community and regional affairs, natural  
29 resources, transportation and public facilities, and revenue shall have

1 the rights and privileges of directors except for the right to vote and  
2 may not be considered for purposes of quorum or voting.

3 \* Sec. 3. AS 44.56.040 is amended to read:

4 Sec. 44.56.040. OFFICERS AND QUORUM. The directors shall elect  
5 one of the directors at large [PUBLIC MEMBERS] as chairman and other  
6 officers they determine desirable. The powers of the authority are  
7 vested in the directors, and three directors of the authority constitute  
8 a quorum. Action may be taken and motions and resolutions adopted by  
9 the authority at a meeting by the affirmative vote of at least three  
10 directors. The directors of the authority serve without compensation,  
11 but they shall receive the same travel pay and per diem as provided by  
12 law for board members.

13 \* Sec. 4. AS 44.56 is amended by adding a new section to read:

14 Sec. 44.56.045. QUALIFICATIONS, POWERS, AND DUTIES OF OFFICERS AND  
15 DIRECTORS. (a) The directors at large must be residents and qualified  
16 voters of Alaska and shall comply with the requirements of AS 39.50  
17 (conflict of interests). The directors at large shall serve four-year  
18 terms. The four original directors at large have terms of one, two,  
19 three, and four years, respectively.

20 (b) A vacancy in a directorship occurring other than by expiration  
21 of a term shall be filled in the same manner as the original appoint-  
22 ment, but for the unexpired portion of the term only.

23 (c) The authority shall employ an executive director who may, with  
24 the approval of the authority, employ additional staff as necessary. In  
25 addition to its staff of regular employees, the authority may contract  
26 for and engage the services of legal and bond counsel, consultants,  
27 experts, and financial and technical advisors the authority considers  
28 necessary for the purpose of conducting studies, investigations, hear-  
29 ings, or other proceedings. The board of directors shall establish the

1 compensation of the executive director. The executive director and  
2 other personnel of the authority are exempt from the provisions of AS  
3 39.25.

4 \* Sec. 5. AS 44.56.070 is amended to read:

5 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
6 authority is to promote, develop and advance the general prosperity and  
7 economic welfare of the people of Alaska by providing a means of con-  
8 structing, acquiring, financing and operating power production facil-  
9 ities limited to fossil fuel, wind power, tidal, geothermal, hydro-  
10 electric, or solar energy production and waste energy conservation  
11 facilities [HYDROELECTRIC AND FOSSIL FUEL GENERATING PROJECTS].

12 \* Sec. 6. AS 44.56.080(5) is amended to read:

13 (5) to acquire, whether by construction, purchase, gift or  
14 lease, and to improve, equip, [AND] operate, and maintain power pro-  
15 jects;

16 \* Sec. 7. AS 44.56.080(6) is amended to read:

17 (6) to issue bonds to carry out any of its corporate purposes  
18 and powers, including the acquisition or construction of a project to be  
19 owned or leased, as lessor or lessee, by the authority, or by another  
20 person, or the acquisition of any interest in a project [IT] or any  
21 right to capacity of a project [IT], the establishment or increase of  
22 reserves to secure or to pay the bonds or interest on them, and the  
23 payment of all other costs or expenses of the authority incident to and  
24 necessary or convenient to carry out its corporate purposes and powers;

25 \* Sec. 8. AS 44.56.080(8) is amended to read:

26 (8) to accept gifts, grants or loans from, and enter into  
27 contracts or other transactions regarding them, with any person [A  
28 FEDERAL AGENCY OR AN AGENCY OR INSTRUMENTALITY OF THE STATE, MUNICIPA-  
29 LITY, PRIVATE ORGANIZATION OR OTHER SOURCE];

1 \* Sec. 9. AS 44.56.080(10) is amended to read:

2 (10) to enter into contracts with the United States or any  
3 person and, subject to the laws of the United States and subject to  
4 concurrence of the legislature, with a foreign country or its agencies,  
5 for the financing, construction, acquisition, operation and maintenance  
6 of all or any part of a power project, either inside or outside the  
7 state, and for the sale or transmission of power from a project or any  
8 right to the capacity of it or for the security of any bonds of the  
9 authority issued or to be issued for the project;

10 \* Sec. 10. AS 44.56.080(11) is amended to read:

11 (11) to enter into contracts [FOR THE PURCHASE, SALE, EX-  
12 CHANGE, TRANSMISSION, OR USE OF POWER GENERATED BY A PROJECT, OR ANY  
13 RIGHT TO THE CAPACITY OF IT] with any person and with the United States,  
14 and, subject to the laws of the United States and subject to the con-  
15 currence of the legislature, with a foreign country or its agencies for  
16 the purchase, sale, exchange, transmission, or use of power from a  
17 project, or any right to the capacity of it;

18 \* Sec. 11. AS 44.56.080(13) is amended to read:

19 (13) to perform feasibility studies with respect to [HY-  
20 DROELECTRICAL AND FOSSIL FUEL] power [GENERATING] projects;

21 \* Sec. 12. AS 44.56.090 is repealed and re-enacted to read:

22 Sec. 44.56.090. POWER CONTRACTS AND THE ALASKA PUBLIC UTILITIES  
23 COMMISSION. (a) The authority shall, in addition to the other methods  
24 which it may find advantageous, provide a method by which municipal  
25 electric, rural electric, cooperative electric, or private electric  
26 utilities and regional electric authorities, or other persons authorized  
27 by law to engage in the distribution of electricity may secure a  
28 reasonable share of the power generated by a project, or any interest in  
29 a project, or for any right to the power and shall sell the power or

1 cause the power to be sold at the lowest reasonable prices which cover  
2 the full cost of the electricity or services, including capital and  
3 operating costs, debt coverage as considered appropriate by the autho-  
4 rity, and other charges that may be authorized by this chapter. A  
5 contract for the sale, transmission and distribution of power generated  
6 by a project or any right to the capacity of it shall provide for full  
7 and complete disclosure to the authority of all factors of cost in the  
8 transmission and distribution of power.

9 (b) The authority is not subject to the jurisdiction of the Alaska  
10 Public Utilities Commission. Nothing in this chapter grants the autho-  
11 rity any jurisdiction over the services or rates of any public utility  
12 or diminishes or otherwise alters the jurisdiction of the Alaska Public  
13 Utilities Commission with respect to any public utility, including any  
14 right the commission may have to review and approve or disapprove con-  
15 tracts for the purchase of electricity by a public utility.

16 \* Sec. 13. AS 44.56.110(a)(1) is amended to read:

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

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

24 (B) the fixing and collection of rentals, charges, fees  
25 or other consideration for, and the other terms to be incorporated  
26 in, contracts with respect to a project or to generated power;

27 (C) the assignment by the authority of its rights in  
28 contracts with respect to a project or to generated power or in a  
29 mortgage or other security interest created with respect to a

1 project or generated power to a trustee for the benefit of bond-  
2 holders;

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

5 (E) the vesting in a trustee of rights, powers, duties,  
6 funds or property in trust for the benefit of bondholders, in-  
7 cluding, without limitation, the right to enforce payment, perfor-  
8 mance, and all other rights of the authority or of the bondholders,  
9 under a lease, power of contract, contract of sale, mortgage,  
10 security agreement, or trust agreement with respect to a project by  
11 injunction [MANDAMUS] or other proceeding or by taking possession  
12 of by agent or otherwise and operating a project and collecting  
13 rents or other consideration and applying the same in accordance  
14 with the trust agreement;

15 \* Sec. 14. AS 44.56.110(d) is amended to read:

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 an amount [A PER CENT, NOT EX-  
19 CEEDING 10 PER CENT OF THE PRINCIPAL AMOUNT OF ALL OF THOSE BONDS SE-  
20 CURED BY THAT CAPITAL RESERVE FUND THEN TO BE ISSUED AND THEN OUT-  
21 STANDING IN ACCORDANCE WITH THEIR TERMS,] as may be established by  
22 resolution of the authority (called the "capital reserve fund require-  
23 ment"), unless the authority, at the time of issuance of the obliga-  
24 tions, deposits in the capital reserve fund from the proceeds of the  
25 obligations to be issued or from other sources, an amount which, to-  
26 gether with the amount then in the fund, will not be less than the  
27 capital reserve fund requirement.

28 \* Sec. 15. AS 44.56.150 is amended to read:

29 Sec. 44.56.150. TAX EXEMPTION. All property of the authority is

1 public property devoted to an essential public and governmental function  
2 and purpose and is exempt from all taxes of the state or a political  
3 subdivision of the state; however, the authority may make payments in  
4 place of taxes in amounts equal to the real and personal property taxes  
5 which would be assessed on its real and personal property by each poli-  
6 tical subdivision in which its property is located to the same extent as  
7 if that property were private property and the authority were a non-  
8 public corporation. All bonds issued under this chapter are issued by a  
9 body corporate and public of this state and for an essential public and  
10 governmental purpose and the bonds and the interest and income on and  
11 from the bonds and all income of the authority are exempt from taxation  
12 except for transfer, inheritance and estate taxes.

13 \* Sec. 16. AS 44.56.170 is repealed and re-enacted to read:

14 Sec. 44.56.170. FUND ESTABLISHED; LOANS. (a) There is estab-  
15 lished as a separate fund the power project revolving fund which shall  
16 be administered by the authority as a trust fund separate and distinct  
17 from any other money or funds of the authority, and which shall be com-  
18 posed of appropriated funds and interest earned on loans by the fund.

19 (b) The authority may make loans from the fund to electric utili-  
20 ties, regional electric authorities, cities, boroughs, regional and  
21 village corporations, village councils, and nonprofit marketing coopera-  
22 tives to pay the costs of

23 (1) feasibility studies, preconstruction engineering, and  
24 design of any power projects;

25 (2) constructing, equipping, modifying, and expanding small-  
26 scale power production facilities or conservation facilities, limited to  
27 fossil fuel, wind power, tidal, geothermal, hydroelectric, or solar  
28 energy production and waste energy conservation facilities; and

29 (3) feasibility studies, preconstruction engineering, design,

1 construction, equipping, modification, and expansion of potable water  
2 supply including surface storage and groundwater sources and transmis-  
3 sion of water from surface storage to existing distribution systems.

4 (c) Before making any loans, except loans made under (f) of this  
5 section, from the power project revolving fund, the authority shall by  
6 regulation specify the standards for those loans with respect to the  
7 following:

8 (1) criteria regarding the eligibility of borrowers and of  
9 types of projects;

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

12 (3) interest rates and other terms and conditions, and col-  
13 lateral or any other security required for loans; and

14 (4) other relevant criteria, standards, or procedures.

15 (d) Any loan made by the authority must be made according to the  
16 standards, criteria, and procedures established by regulation under this  
17 section.

18 (e) Repayment of the loans shall be secured in such manner as the  
19 authority determines is feasible to assure repayment under a loan agree-  
20 ment entered into with the borrower. Under a loan agreement, repayment  
21 may be deferred until the project for which a loan is made has achieved  
22 earnings from its operations sufficient to pay the loan.

23 (f) Projects for which loans are outstanding from the water re-  
24 sources revolving loan fund (AS 45.86) on the effective date of this Act  
25 may receive additional funding from the power project revolving loan  
26 fund for a term not exceeding 50 years and at an interest rate of not  
27 less than three nor more than five per cent per year on the unpaid  
28 balance. Repayment of loan principal and interest shall commence on the  
29 date of commercial operation of the project funded by the loan or 10

1 years from the date the loan is granted, whichever is earlier.

2 \* Sec. 17. AS 44.56.180 is amended to read:

3 Sec. 44.56.180. ASSESSMENT, PROPOSAL, AND CONSTRUCTION OF PRO-  
4 JECTS. (a) The authority shall, for each new project, determine the  
5 most appropriate means by which to finance a project which may include,  
6 but is not limited to,

7 (1) the issuance of revenue bonds;

8 (2) a guarantee of indebtedness by the Alaska Permanent Fund  
9 Corporation in accordance with AS 37.13.200;

10 (3) an appropriation from the general fund; or

11 (4) any combination of (1), (2), and (3) of this subsection.

12 (b) Upon completion of the reconnaissance study, the authority  
13 shall submit to the governor and the legislature a statement of its  
14 recommendations for financing each new project. The financing plan may  
15 include a recommendation for a guarantee of indebtedness or a general  
16 fund appropriation only when necessary to supplement private financing  
17 in order to make a project financially feasible. If the recommended  
18 financing for the project includes a guarantee of indebtedness by the  
19 permanent fund or an appropriation from the general fund, the legisla-  
20 ture must first give its approval by concurrent resolution before the  
21 authority may proceed with the engineering or design phase of the pro-  
22 ject. The legislative approval required in this subsection may not be  
23 considered the approval required under AS 37.13.230 for granting of a  
24 permanent fund guarantee.

25 (c) The authority shall submit a statement outlining the general  
26 design, demonstration of financial feasibility, and maximum amount of  
27 bonds and appropriations estimated to be necessary for each new project  
28 for which the maximum estimated total cost is \$50,000,000 or greater to  
29 the governor and the legislature [AND THE COMMISSIONER OF COMMERCE AND

1 ECONOMIC DEVELOPMENT], together with a statement that the authority  
2 intends to design, acquire, [AND] construct or finance the project  
3 itself or that it intends that the project be designed, acquired, [OR]  
4 constructed or financed by the United States or another person under  
5 agreement with the authority which may provide [PROVIDING] for ownership  
6 of all or a portion of the project by the authority or of a right to the  
7 capacity of it. If the legislature adopts a concurrent [JOINT] reso-  
8 lution approving the general design and maximum amount of bonds, the  
9 authority shall, in accordance with the terms of the concurrent [JOINT]  
10 resolution, (1) proceed to design, acquire and construct the new pro-  
11 ject, or (2) agree with the United States or other person for design,  
12 acquisition and construction of the project by the United States, for  
13 payments to the United States or other person for such design, acqui-  
14 sition and construction, reimbursement by the United States or other  
15 person in certain events, and otherwise on the terms and conditions as  
16 may be set out in such agreement.

17 (d) If the new project is to be designed, acquired and constructed  
18 by the authority, it shall be designed, acquired and constructed as a  
19 public work of the state [EXCEPT THAT PUBLIC BIDDING SHALL NOT BE RE-  
20 QUIRED, IF THE AUTHORITY SO DETERMINES ON PROJECTS IN EXCESS OF  
21 \$50,000,000]. For the purpose of this section a new project does not  
22 include (1) an addition or modification to an existing project if the  
23 total cost of the addition or modification does not exceed \$1,000,000;  
24 (2) [, TO] any repair or reconstruction of a project; [, ] or (3) [TO]  
25 any design, acquisition or construction necessary to complete a project  
26 for which bonds previously authorized by the legislature have been  
27 issued. Any such addition, modification, repair, reconstruction, de-  
28 sign, acquisition or construction may be undertaken by the authority  
29 without any of the approvals necessary for a new project.

1 \* Sec. 18. AS 44.56.180 is amended by adding a new subsection to read:

2 (e) Any power project proposal requiring approval by the legis-  
3 lature under this chapter, except on projects with a complete reconnais-  
4 sance study on the effective date of this Act, together with supporting  
5 data, analyses, and findings of the authority, shall be submitted to the  
6 governor for review. The governor shall make an evaluation of the  
7 proposal which shall include, but not be limited to, an analysis of the  
8 balance of benefits and costs to Alaska, including environmental and  
9 social costs, and the ability of the project to generate sufficient  
10 revenues to be self-supporting. The governor shall submit the results  
11 of the evaluation, his recommendations, if any, and a statement as to  
12 whether the project is consistent with the long-term plan to the legis-  
13 lature.

14 \* Sec. 19. AS 44.56.210 is repealed and re-enacted to read:

15 Sec. 44.56.210. APPROPRIATIONS AND REPORTS. (a) Notwithstanding  
16 any other provision in this chapter, the authority is subject to the  
17 provisions of the Executive Budget Act (AS 37.07).

18 (b) The authority shall, by the 15th day of each regular legis-  
19 lative session, present to the legislature a report detailing project  
20 status, original costs and projected costs, particularly highlighting  
21 any costs in excess of the original cost estimates submitted for each  
22 project when that project was originally approved by the legislature.

23 \* Sec. 20. AS 44.56 is amended by adding a new section to read:

24 Sec. 44.56.224. LONG-TERM PLAN. The Department of Commerce and  
25 Economic Development, assisted by the authority, shall prepare, after  
26 public hearings, and, as appropriate, revise a long-term electrical  
27 power development plan for meeting projected electrical energy demand in  
28 Alaska at the lowest reasonable cost, including environmental and social  
29 costs, consistent with acceptable standards of reliability. The plan

1 must include, but is not limited to, considerations specified in sec.  
2 180(e) of this chapter. The plan and any revision of it shall be sub-  
3 mitted to the governor for his approval and shall be reviewed by all  
4 appropriate state agencies. After approval by the governor the plan  
5 shall be submitted to the legislature.

6 \* Sec. 21. AS 44.56.230(4) is amended to read:

7 (4) "power project" or "project" means a plant, works, sys-  
8 tem, facility, water rights, fuel deposits or sources, and real estate  
9 and personal property of any nature whatsoever, together with all faci-  
10 lities and appurtenances related to them or necessary for the purposes  
11 of them used or useful in power production limited to fossil fuel, wind  
12 power, tidal, geothermal, hydroelectric, or solar energy production and  
13 waste energy conservation [THE GENERATION BY MEANS OF WATER OR FOSSIL  
14 FUEL OF ELECTRIC POWER] and the [PRODUCTION,] transmission, purchase,  
15 sale, exchange and interchange of [ELECTRIC] power, and shall include  
16 any interest in them, whether divided or undivided, or any right to the  
17 capacity of them; [.]

18 \* Sec. 22. AS 44.56.230 is amended by adding new paragraphs to read:

19 (6) "person" includes a public agency in addition to the en-  
20 tities set out in AS 01.10.060(7);

21 (7) "reconnaissance study" means a study conducted for the  
22 purpose of establishing, with reasonable certainty, the economic merit  
23 of developing a certain project and includes, without relying on costly  
24 data collection, an environmental assessment so as to insure that no  
25 adverse environmental impacts exist of such magnitude as to render the  
26 project inadvisable, an assessment of a community's present economy and  
27 power needs, an estimate of the community's future economy and power  
28 needs, a determination of alternative energy costs, and an estimate of  
29 the project cost.

1 \* Sec. 23. AS 44.56.050 is repealed.

2 \* Sec. 24. The requirements of AS 44.56.180(e), enacted in sec. 18 of  
3 this Act, do not apply to any project which the authority has determined to  
4 finance and in which it will not maintain an ownership interest upon comple-  
5 tion and for which the Tenth Legislature has adopted a concurrent resolution  
6 of approval.

7 \* Sec. 25. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

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*Judy*  
ALASKA POWER AUTHORITY

333 WEST 4th - SUITE 31 - ANCHORAGE ALASKA 99501

June 9, 1978

The Honorable John Sackett  
State Senator  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sackett:

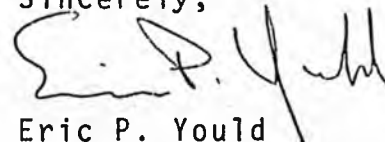
As per your request, attached is a summary of the amendments to the Alaska Power Authority as contained in HB-442. I have also provided a copy of this summary to Senators Butrovich and Hohman and to Judy Crondahl.

Thank you for the opportunity to testify before your committee. As I mentioned during the hearing, while I don't want the Power Authority to stand in the way of Permanent Fund legislation, we do have an ongoing program that is dependent on passage of HB-442. Thus, I hope that your committee will act favorably on this last bit of legislation before the end of this session.

Finally, as a matter of interest, I have ordered a copy of "The Power Broker".

If I can provide any additional information to you or your committee regarding electrical energy development, please do not hesitate to call on me.

Sincerely,



Eric P. Yould  
Executive Director

Amendments to the Alaska Power Authority  
Summary of HB-442

Submitted by Governor Hammond

- Section 1. This section clarifies the authority of APA to finance exclusive of ownership and to develop reasonable cost power rather than lowest cost power.
- Section 2. In addition to the existing five member board of directors for the Power Authority, this section provides for the additional membership of Commissioners of Community and Regional Affairs, Natural Resources, Transportation and Public Facilities and Revenue.
- Section 3. This provides clarification on who may be chosen Chairman of the Board and what constitutes a quorum.
- Section 4. This section indicates the manner in which the Directors are appointed and the authority of the Directors to secure necessary staff and to engage various contract services.
- Section 5. This section restates the purpose of the Power Authority. While the Power Authority presently has authority to develop hydroelectric and fossil fuel resources, this section expands our authority to develop wind, tidal, geothermal, solar and waste energy where feasible.
- Section 6. This is clarification language necessary to allow the Power Authority to maintain its facilities.
- Section 7. This section provides clean-up language relative to our authority to issue bonds.
- Section 8. This section provides clean-up language relative to our authority to accept gifts, grants or loans.
- Section 9. This section further clarifies our authority to finance exclusive of ownership.
- Section 10. This provides a grammatical change only.
- Section 11. This expands our ability to conduct feasibility studies with respect to power projects.
- Section 12. This section clarifies our relationship with the Alaska Public Utilities Commission. The Power Authority is not subject to the jurisdiction of A.P.U.C. nor does the Power Authority usurp A.P.U.C.'s jurisdiction over other public utilities. The section also repeals the statutory requirement that specific items be included in sales contracts. This is an acknowledgement that not all power contracts are the same.

- Section 13. Once again, this section provides clean-up language.
- Section 14. This section allows the Power Authority to establish a capital reserve fund of a sufficient amount to underwrite bond sales. There is no artificial ceiling on the level of funds which can be deposited in the reserve fund.
- Section 15. This section reclarifies the tax exempt status of Power Authority projects; however, it further provides that the Authority may make payments in place of taxes in amounts equal to the real and personal property taxes which would normally have been assessed had the facilities not been tax exempt.
- Section 16. This section restructures the Power Project Loan Fund into a revolving fund composed of appropriated funds and interest earned on loans by the fund. Loans can be made for feasibility studies, constructing small scale power production facilities and municipal water supply facilities. Loans may only be made pursuant to adoption of rules and regulations. Terms of the loans will be established by the Power Authority except for those projects for which loans are outstanding from the Water Resources Revolving Loan Fund, in which case, terms of the loan shall be in accordance with those specified under the Water Resources Loan Fund.
- Section 17. This section requires that the Power Authority advise the Legislature and Governor on the most appropriate means by which to finance a power project including the issuance of revenue bonds, a guarantee of indebtedness by the permanent fund, an appropriation from the general fund or a combination of these resources. The Legislature is under no obligation to take action based on the recommendation of the Power Authority. This section also requires that each new project estimated to cost in excess of \$50 million must first be authorized by the Legislature before the Power Authority can proceed with revenue bond financing for the project. The section also requires that all projects of the Power Authority be subject to public bidding.
- Section 18. This section requires that the Governor shall submit his evaluation and recommendation to the Legislature on each project which the Power Authority has submitted to the Legislature and for which the authority requires legislative approval to proceed.
- Section 19. This section makes the Authority subject to the executive budget act. In addition, the Authority is required to make an annual report to the Legislature on the status of each project which it is developing.
- Section 20. This section requires that the Department of

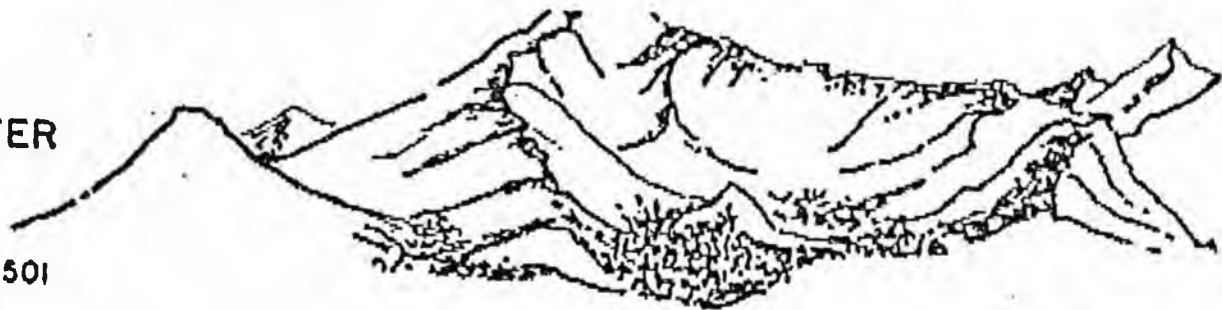
Commerce and Economic Development prepare a long term electrical development plan for Alaska.

Sections 21 & 22. These sections do nothing more than define terms.

Section 23. This section repeals Section 44.56.050 and replaces it with Section 4 (Section 44.56.045).

Section 24. This section insures that those projects for which the 10th State Legislature has adopted a joint resolution are not subject to the requirements of AS 44.56.180 (e). The Healy II Project and the Susitna Phase I studies are the only projects subject to this section.

ALASKA CHAPTER  
Sierra Club  
P.O. Box 2025  
Anchorage, Alaska 99501



June 6, 1978

Senator John Sackett  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Sackett:

We have reviewed HB442 regarding the Alaska Power Authority and were shocked at the amount of power which would be given to the Authority with little or no public accountability.

I wanted to express to you some of our concerns with this Bill in the hope it may be useful to your Committee's deliberations.

It is our feeling that the composition of the Authority's membership (Sec. 2) does not guarantee representation of the public interest. To insure these interests also be considered, the Authority should include, as a voting director, a representative of a consumer and/or environmental organization. The meetings of the A.P.A. should be publicized and open to the public.

The purpose of the APA as set forth in Sec. 5, is not only to construct, acquire and finance power production facilities of almost all kinds but also to operate and maintain these facilities. Not only would this be a step toward socialism but would not be in the public interest since government projects have a history of being far less efficient than private enterprise.

Neither the interest rates nor the repayment of loans, as set in Sec 16, would be fair to the taxpayer. Since the monies to be expended would come from public funds (Sec.17) including the issuance of revenue bonds, the use of the Permanent Fund and the general fund, it is certainly questionable that it would be in the taxpayers' best interest to allow so low a return on these monies and leaves the door wide open for no repayment at all. It is clear the APA would be working as an advocate for the power utilities at the expense of, and without input from, the tax-paying public. Even the Legislature would lose their right to review and approve or reject any project under \$50 million. This small group of appointed people would be the sole judge. Their determination of the merits of a project would be made without benefit of "Costly data collection" (Sec.22). The cost-benefit ratio, or the impact of a project on people, wildlife and the environment will play a very small role in their decision making.

We feel this to be unacceptable and we hope your committee will concur.

Senator Sackett - Page 2

It is our hope that your committee will effect the changes needed in this piece of legislation that will better serve the public.

Thank you for your consideration in this matter.

Sincerely,

*GINNY HARRIS*

GINNY HARRIS  
Alaska Regional Vice President  
Sierra Club

3945 Balchen Dr.  
Anchorage, AK 99503  
272-5647

cc: All members of the Senate

HB 442

April 6, 1977

The Honorable Hugh Malone  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 16 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending several provisions of the Alaska Power Authority Act. When I signed the Act (last legislature's SCS CSNB 779 am S, which became ch. 278 SLA 1976) I mentioned in my June 30, 1976 letter returning the Act to the legislature that I had serious reservations regarding the Act. The amendments proposed in the attached bill seek to achieve two major objectives: an increase in the public accountability and breadth of input to the authority, and an increase in the authority's ability to function in a business-like and efficient manner. A brief section-by-section analysis follows:

Section 1. This section amends AS 44.56.010(a)(3) to conform the legislative findings to the legislative statement of the purpose of the authority in AS 44.56.-070.

Sections 2 and 3. These amendments expand the board to include four ex officio and non-voting members, and provide that a chairman is to be appointed by the governor. The purpose of this change is to expand the representativeness and breadth of perspectives on the board.

Sections 4 and 8. As it stands, the present law excludes all power-generating technologies except fossil fuel and hydroelectric technologies. These amendments are offered to allow the market and the technical experts to determine which technologies are best suited for meeting Alaska's power needs.

Section 5. This section adds the authority to "maintain" power projects, and is suggested in the interest of certainty and uniform specificity.

Section 6. This section reflects appropriate wording changes given the definition of "person" in section 19, below.

Section 7. This section proposes stylistic changes for clarity.

Section 9. Wording is inserted in AS 44.56.090 to allow industrial purchasers to contract directly with the authority. This change is desirable because any industrial project outside of an existing utility distribution system would be able to purchase power directly from the authority, rather than through a utility.

For clarity, a subsection is added regarding the relationship between the authority and the Alaska Public Utilities Commission (APUC). Under this amendment, while the APUC would not have jurisdiction over the authority, the APUC would retain all existing jurisdiction over public utilities.

Further wording is inserted to assure that pricing policies cover full costs as defined in the chapter.

Section 10. This section adds clarification.

Section 11. This amendment eliminates the upper limit on the size of capital reserve funds, allowing the authority greater flexibility to adjust to changing market conditions.

Section 12. This section requires payment in place of taxes to local subdivisions.

Section 13. This amendment insures that uniform and acceptable standards are established before any loans are made by the Power Project Revolving Fund and seeks to integrate the fund with the other activities and responsibilities of the authority.

Sections 14 and 15. These sections provide gubernatorial review and approval of the executive-branch functions performed by the Alaska Power Authority. Proposals are to be reviewed by all affected agencies and the resultant views, comments, and findings forwarded to the legislature along with the project proposal. The attorney general's office is concerned about the constitutionality of the existing requirement that individual project proposals be submitted to the legislature for approval. I think it is important to insure that many perspectives and individuals have an opportunity to contribute to the decision-making process. However, to the extent that there may be a constitutional problem with the legislative-approval requirement, I urge your review of it. The amendments proposed in this bill do not change the legislative approval provision.

Section 16. This amendment clarifies the intention that the authority be subject to the Executive Budget Act. Further, it is required that the authority make an annual detailed report to the legislature of the status of each of its projects.

Section 17. A new section is added to increase the accountability of, and public input to, the authority. Also, a long-term electric development plan is to be the responsibility of the Department of Commerce and Economic Development.

Sections 18 and 19. These sections, respectively, make the changes in the technology wording consistent with sections 4 and 3 and add a definition of "person".

Section 20. This section repeals a provision for the sake of consistency, and repeals a subsection dealing with trust agreement covenants.

Sincerely,

Jay S. Hammond  
Governor

THE LEGISLATURE OF THE STATE OF ALASKA  
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 442  
 Title Amendments to the Alaska Power Authority Act  
 Requested by Office of the Governor Date 3/29/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development  
 Program Category Affected Development  
 Budget Request Unit(s) Affected Alaska Power Authority/Division of Energy & Power Development

EXPENDITURES (Thousands of Dollars)

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

NONE

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

If the Division of Energy and Power Development is retained, there will be no fiscal impact.

IV. DATE 3/29/77

PREPARED BY William I. McConkey, Director  
 AGENCY Division of Energy & Power Development  
 PHONE 272-0527

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

HB 442

ALASKA POWER AUTHORITY

333 WEST 4th - SUITE 31 - ANCHORAGE ALASKA 99501

May 23, 1978

*Do some res. in alaska. Get cc, laws, + bookkeeping. Schedule this +*

The Honorable John Sackett  
State Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Sackett:

The Alaska Power Authority is proceeding with the financing of three power projects; however, our ability to continue with these projects is contingent upon passage of legislation presently before the Senate Finance Committee. Financing will be through the sale of tax exempt revenue bonds.

The projects include the Healy II coal fired steamplant for Fairbanks, financing of the Solomon Gulch hydroelectric project for Glennallen and Valdez, and authorization to finance the Phase I explorations for the Susitna hydroelectric project. Following is a synopsis of the legislation:

*H. 442*  
HB-442      Needed for Solomon Gulch (\$33,000,000) and Healy II. Clarifies Power Authority tax status and relationship to APUC. Allows financing exclusive of APA ownership and establishes a monetary ceiling for legislative authorization.

*H. 73*  
SJR-50      Authorizes Power Authority to finance the  
(HJR-73)    \$25,000,000 Phase I Susitna explorations. Federal government assumes costs if explorations indicate the project is not feasible.

*H. 77*  
HJR-77      Authorizes Power Authority to finance the \$300,000,000 Healy II coal fired steamplant.

Non-passage of this legislation will delay these projects until the next legislative session which will ultimately result in higher energy costs to the consumers. Please don't hesitate to call upon me if I can provide any input to your committee.

Sincerely,

Eric P. Yould  
Executive Director

cc:  
Senator Rader

Sec. 44.56.230. Definitions. In this chapter, unless the context requires otherwise,

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

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

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

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

(5) "public agency" means any city or other municipal corporation, political subdivision, governmental unit, or public corporation created by or under the laws of this state or of another state of the United States, and any state or the United States, and any person, board or other body declared by the laws of any state or the United States to be a department, agency, or instrumentality of them. (§ 1 ch 278 SLA 1976)

Sec. 44.56.210. Short title. This chapter may be cited as the Alaska Power Authority Act. (§ 1 ch 278 SLA 1976)

**Chapter 57. Alaska Toll Bridge Authority.**

Article

- 1. Creation and Organization (§§ 44.57.010 — 44.57.040)
- 2. Powers and Duties (§§ 44.57.120 — 44.57.190)
- 3. Financial Provisions (§§ 44.57.210 — 44.57.270)
- 4. General Provisions (§§ 44.57.300 — 44.57.340)

**Article 1. Creation and Organization.**

Section	Section
10. Alaska Toll Bridge Authority created	30. Authority may employ personnel
20. Majority rule	40. Suits

Sec. 44.57.010. Alaska Toll Bridge Authority created. (a) There is created the Alaska Toll Bridge Authority composed of the governor, the commissioner of the Department of Highways, the commissioner of the Department of Administration, the commissioner of the Department of Public Works, and the commissioner of the Department of Revenue. The Alaska Toll Bridge Authority is a public corporation of the state. The

authority is an instrumentality of the state within the Department of Highways, but has a legal existence independent of and separate from the state. If the office of a commissioner is discontinued or abolished by law, the governor shall appoint any person or officer of the state to fill the vacancy resulting from the abolition or discontinuance of the office.

(b) All members of the authority shall serve without compensation, but shall receive their necessary actual traveling expenses incurred in the discharge of their duties. (§ 1 ch 95 SLA 1967)

Sec. 44.57.020. Majority rule. A majority of the members of the authority may act for the authority. The authority shall establish rules and regulations considered wise and lay down policies of procedure and generally supervise and control the operation of the functions vested in it by law and is clothed with all necessary powers to carry out its functions. The authority shall appoint an executive secretary who serves at its pleasure and who is the chief administrative officer of the authority. The authority shall act collectively with recorded resolutions or motions adopted by a majority of the authority at regular or special meetings, notice of which meetings shall be given to all members under the rules of the authority. Three members constitute a quorum at any meeting, but no resolution, motion, or other decision of the authority may be adopted or passed without a favorable vote of at least three members. (§ 1 ch 95 SLA 1967)

Sec. 44.57.030. Authority may employ personnel. The authority may appoint other officers, hire employees and agents, and engage professional and technical services and advice upon employment or independent contract basis. The authority shall prescribe the duties and compensation of its personnel. (§ 1 ch 95 SLA 1967)

Sec. 44.57.040. Suits. The authority may sue and be sued in the name of the Alaska Toll Bridge Authority. (§ 1 ch 95 SLA 1967)

**Article 2. Powers and Duties.**

Section	Section
120. Toll bridges authorized — Investigations	160. Right of way across state land, streets, roads and compensation
130. General powers of the authority and officials and financial statements	170. Resolution of necessity in acquiring right of way and effect
140. Construction of toll bridges	180. Revenues and application
150. Authority to acquire right of way in constructing a toll bridge	190. Cooperative funds

Sec. 44.57.120. Toll bridges authorized — Investigations. The Alaska Toll Bridge Authority is empowered, in accordance with the provisions of this chapter, to provide for the establishing and constructing of toll bridges upon any public highways of this state together with approaches wherever the toll bridge is considered

law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 278 SLA 1976)

**Article 4. Power Project Revolving Fund.**

**Section**  
170. Fund established

**Sec. 44.56.170. Fund established.** (a) There is established as a separate fund the power project revolving fund which shall be administered by the authority as a trust fund separate and distinct from any other money or funds of the authority.

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

(c) The authority may make loans from the funds, 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 windpower energy production, or for natural gas line construction.

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

(e) As used in this section an "eligible borrower" is a municipality or public utility as defined in AS 42.05.701-(2)(A). (§ 1 ch 278 SLA 1976)

**Article 5. General Provisions.**

<b>Section</b>	<b>Section</b>
180. Construction of projects	220. Public records; open meetings
190. Annual audit	230. Definitions
200. Annual report	240. Short title
210. Budget and appropriations	

**Sec. 44.56.180. Construction of projects.** The authority shall submit a statement outlining the general design, demonstration of financial feasibility, and maximum amount of bonds estimated to be necessary for each new project to the legislature and the commissioner of commerce

and economic development, together with a statement that the authority intends to design, acquire and construct the project itself or that it intends that the project be designed, acquired or constructed by the United States or another person under agreement with the authority providing for ownership of all or a portion of the project by the authority or of a right to the capacity of it. If the legislature adopts a joint resolution approving the general design and maximum amount of bonds, the authority shall, in accordance with the terms of the joint resolution, (1) proceed to design, acquire and construct the new project, or (2) agree with the United States or other person for design, acquisition and construction of the project by the United States, for payments to the United States or other person for such design, acquisition and construction, reimbursement by the United States or other person in certain events, and otherwise on the terms and conditions as may be set out in such agreement. If the new project is to be designed, acquired and constructed by the authority, it shall be designed, acquired and constructed as a public work of the state except that public bidding shall not be required, if the authority so determines on projects in excess of \$50,000,000. For the purpose of this section a new project does not include an addition or modification to an existing project if the total cost of the addition or modification does not exceed \$1,000,000, to any repair or reconstruction of a project, or to any design, acquisition or construction necessary to complete a project for which bonds previously authorized by the legislature have been issued. Any such addition, modification, repair, reconstruction, design, acquisition or construction may be undertaken by the authority without any of the approvals necessary for a new project. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.190. Annual audit.** The authority shall have its financial records audited annually by a certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.200. Annual report.** Before March 1 of each year, the authority shall submit to the governor and the legislature a comprehensive report describing operations, income and expenditures for the preceding 12-month period. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.210. Budget and appropriations.** The authority shall submit its annual budget to the legislature through the governor as provided for state agencies by the Executive Budget Act (AS 37.07). It may expend money directly appropriated by the legislature only as authorized by the legislature. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.220. Public records; open meetings.** The provisions of AS 09.25.110 — 09.25.120 and AS 44.62.310 — 44.62.312 apply to the authority. The authority shall publish a proposed agenda of its meetings and afford the public an opportunity to be heard in accordance with AS 44.62.312. (§ 1 ch 278 SLA 1976)

reserve fund is less than such a per cent, not exceeding 10 per cent of the principal amount of all of those bonds secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms, as may be established by resolution of the authority (called the "capital reserve fund requirement"), unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

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

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

(g) When the authority has created and established a capital reserve fund, the commissioner of revenue may lend surplus money in the general fund to the authority for deposit in a capital reserve fund in an amount equal to the capital reserve fund requirement. The loans shall be made on such terms and conditions as may be agreed upon by the commissioner of revenue and the authority, including without limitation terms and conditions providing that the loans need not be repaid until the obligations of the authority secured and to be secured by the capital reserve fund are no longer outstanding. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.120. Validity of pledge.** It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.130. Nonliability on bonds.** (a) Neither the members of the authority nor a person executing the bonds is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.140. Pledge of the state.** The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.150. Tax exemption.** All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and public of this state and for an essential public and governmental purpose and the bonds and the interest and income on and from the bonds and all income of the authority are exempt from taxation except for transfer, inheritance and estate taxes. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.160. Bonds legal investments for fiduciaries.** The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on any insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of

authority with any person. The authority may issue bonds to pay, fund or refund the principal of, or interest or redemption premiums on, bonds issued by it, whether or not the bonds or interest to be funded or refunded have become due.

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

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine. (§ 1 ch 278 S.L.A 1976)

Sec. 44.56.110. Trust indentures and trust agreements. (a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the authority may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

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

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

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

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by mandamus or other proceeding

or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

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

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

(b) Notwithstanding any other provisions of this chapter, the trust agreement shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that a contract entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing any one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money which may be made available to the authority for the purposes of those funds from any other source. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity; however, money in a fund may not be withdrawn from it at any time in an amount which would reduce the amount of that fund to less than the capital reserve requirement set out in (2) of this subsection, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by such a capital reserve fund, the bonds may not be issued if the amount in the capital

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

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

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

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

(12) to apply to the appropriate agencies of the state, the United States and to a foreign country and any other proper agency for the permits, licenses, or approvals as may be necessary, and to construct, maintain and operate power projects in accordance with the licenses or permits, and to obtain, hold and use the licenses and permits in the same manner as any other person or operating unit;

(13) to perform feasibility studies with respect to hydroelectrical and fossil fuel power generating projects;

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

(15) to exercise the power of eminent domain in accordance with AS 09.55.250 — 09.55.410. (§ 1 ch 278 S.L.A. 1976)

**Sec. 44.56.090. Power contracts.** The authority shall, in addition to other methods which it may find advantageous, provide that municipal electric, rural electric, cooperative electric, or private electric utilities and regional electric authorities or other persons authorized by law to engage in the distribution of power may secure a reasonable share of the power generated by a project, or any interest in it, or for any right to the capacity of it and shall sell the power or cause the power to be sold at prices representing cost of generation, plus capital and operating charges, plus a fair cost of transmission, all as determined by the directors, and subject to conditions which assure the resale of the power to retail consumers at the lowest possible price. A contract for the sale, transmission and distribution of power generated by a project or any right to the capacity of it shall provide

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

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

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

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

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

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

(7) for security for performance as the authority may consider practicable and advisable, including provisions assuring the continuance of the distribution and transmission of power generated by a project, the use of their facilities for these purposes, and the continuance of an outlet and adequate market for the power generated by the project;

(8) other terms not inconsistent with the provisions and policy of this chapter as the authority may consider advisable. Contracts to sell power are subject to review by the Alaska Public Utilities Commission. (§ 1 ch 278 S.L.A. 1976)

**Article 3. Financial Provisions.**

<p>Section 100. Bonds of the authority 110. Trust indentures and agreements 120. Validity of pledge 130. Nonliability on bonds</p>	<p>Section 140. Pledge of the state 150. Tax exemption 160. Bonds legal investments for fiduciaries</p>
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**Sec. 44.56.100. Bonds of the authority.** (a) The authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds; (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds; (3) from its income and receipts or other assets generally, or a designated part or parts of them; or (4) from one or more revenue-producing contracts including a contract providing for the security of the bonds made by the

**Sec. 44.56.010. Legislative finding and policy.** (a) The legislature finds, determines and declares that

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

(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;

(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 facilitated by the creation of an instrumentality of the state with powers to incur debt for constructing, and with powers to operate, power projects.

(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 encourage the long-term economic growth of the state, including the development of its natural resources, through the establishment of power projects by creating the public corporation with powers, duties and functions as provided in this chapter. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.020. Creation of authority.** There is created the Alaska Power Authority. The authority is a public corporation of the state in the Department of Commerce and Economic Development but with separate and independent legal existence. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.030. Membership of the authority.** The authority consists of the commissioner of commerce and economic development and four public members appointed by the governor. The appointment of each director other than the commissioner of commerce and economic development is subject to confirmation by the legislature. The directors must be residents of the state and qualified voters at the time of appointment and shall comply with the requirements of AS 39.50 (conflict of interest). The term of office of each director appointed by the governor is four years except that the directors first appointed shall have terms of one, two, three, and four years, respectively. A vacancy in a directorship occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.040. Officers and quorum.** The directors shall elect one of the public members as chairman and other officers they determine desirable. The powers of the authority are vested in the directors, and three directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of at least three directors. The directors of the authority serve without compensation, but they shall receive the same

travel pay and per diem as provided by law for board members. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.050. Staff.** The authority shall employ an executive director who may with the approval of the authority select and employ additional staff as necessary. In addition to its staff of regular employees, the authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings, or other proceedings. The director is subject to confirmation by the legislature. (§ 1 ch 278 SLA 1976)

## Article 2. Purpose and Powers.

### Section

70. Purpose of the authority

80. Powers of the authority

90. Power contracts

**Sec. 44.56.070. Purpose of the authority.** The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska by providing a means of constructing, acquiring, financing and operating hydroelectric and fossil fuel generating projects. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.080. Powers of the authority.** In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

(4) to make rules and regulations governing the exercise of its corporate powers;

(5) to acquire, whether by construction, purchase, gift or lease, and to improve, equip and operate power projects;

(6) to issue bonds to carry out any of its corporate purposes and powers, including the acquisition or construction of a project to be owned or leased, as lessor or lessee, by the authority, or the acquisition of any interest in it or any right to capacity of it, the establishment or increase of reserves to secure or to pay the bonds or interest on them, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers;

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

**Sec. 44.56.010. Legislative finding and policy.** (a) The legislature finds, determines and declares that

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

(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;

(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 facilitated by the creation of an instrumentality of the state with powers to incur debt for constructing, and with powers to operate, power projects.

(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 encourage the long-term economic growth of the state, including the development of its natural resources, through the establishment of power projects by creating the public corporation with powers, duties and functions as provided in this chapter. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.020. Creation of authority.** There is created the Alaska Power Authority. The authority is a public corporation of the state in the Department of Commerce and Economic Development but with separate and independent legal existence. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.030. Membership of the authority.** The authority consists of the commissioner of commerce and economic development and four public members appointed by the governor. The appointment of each director other than the commissioner of commerce and economic development is subject to confirmation by the legislature. The directors must be residents of the state and qualified voters at the time of appointment and shall comply with the requirements of AS 39.50 (conflict of interest). The term of office of each director appointed by the governor is four years except that the directors first appointed shall have terms of one, two, three, and four years, respectively. A vacancy in a directorship occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.040. Officers and quorum.** The directors shall elect one of the public members as chairman and other officers they determine desirable. The powers of the authority are vested in the directors, and three directors of the authority constitute a quorum. Action may be taken and motions and resolutions adopted by the authority at a meeting by the affirmative vote of at least three directors. The directors of the authority serve without compensation, but they shall receive the same

travel pay and per diem as provided by law for board members. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.050. Staff.** The authority shall employ an executive director who may with the approval of the authority select and employ additional staff as necessary. In addition to its staff of regular employees, the authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings, or other proceedings. The director is subject to confirmation by the legislature. (§ 1 ch 278 SLA 1976)

## Article 2. Purpose and Powers.

### Section

70. Purpose of the authority

80. Powers of the authority

90. Power contracts

**Sec. 44.56.070. Purpose of the authority.** The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska by providing a means of constructing, acquiring, financing and operating hydroelectric and fossil fuel generating projects. (§ 1 ch 278 SLA 1976)

**Sec. 44.56.080. Powers of the authority.** In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

(4) to make rules and regulations governing the exercise of its corporate powers;

(5) to acquire, whether by construction, purchase, gift or lease, and to improve, equip and operate power projects;

(6) to issue bonds to carry out any of its corporate purposes and powers, including the acquisition or construction of a project to be owned or leased, as lessor or lessee, by the authority, or the acquisition of any interest in it or any right to capacity of it, the establishment or increase of reserves to secure or to pay the bonds or interest on them, and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers;

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

Sec. 44.50.180. Postmasters as notaries. (a) Each postmaster in the state may perform the functions of a notary public in the state.

(b) Each official act of a postmaster as a notary public shall be signed by the postmaster, with a designation of his title as postmaster, shall have the cancellation stamp of the post office affixed, and shall state the name of the post office and the date on which the act was done.

(c) The postmaster may charge and receive the same fees as a notary for similar services. (§ 13 ch 19 SLA 1961)

Sec. 44.50.190. Savings clause. This chapter shall not be construed as to effect the release or extinguishment of a liability or forfeiture incurred or right accruing under a previous law regulating notaries. All commissions presently in effect continue until they expire or are terminated by death, disqualification, resignation, removal from the state, or until the notary is removed from office by the lieutenant governor under the Administrative Procedure Act (AS 44.62). (§ 14 ch 99 SLA 1961)

**Chapter 53. Foreign Commissioners for Acknowledgments.**

**Section**

- 10. Appointment, term of office, and powers
- 20. Qualifying for office

Sec. 44.53.010. Appointment, term of office, and powers. The governor may appoint as many commissioners in each state, territory, and district of the United States as he considers expedient. Each commissioner holds office for four years. Within the state, territory, or district for which appointed, each commissioner may take and certify

(1) the proof or acknowledgment of a conveyance of real property within the district or of any other written instrument to be used or operated in it;

(2) the acknowledgment of satisfaction of a judgment of a court of this district;

(3) a affidavit or deposition to be used in a court or before a judicial officer of the district. (§ 10-G-1 ACLA 1949)

Am. Jur. reference. -- 1 Am. Jur., Acknowledgments, §§ 64 to 66, 105, 173.

Sec. 44.53.020. Qualifying for office. Before exercising his powers, a commissioner appointed under § 10 of this chapter shall have a seal of office, and take an oath before a judicial officer in the county, city, or town where he resides, that he will faithfully perform the duties of the office. The commissioner shall file the oath and an impression of the

seal in the office of the Department of Administration. The Department of Administration shall collect \$5 for each certificate of appointment and shall account for and deposit the amounts received in the state treasury. (§ 10-6-2 ACLA 1949)

**Part 4. Independent State Boards, Associations, Commissions, and Corporations.**

**Chapter**

- 56. Alaska Power Authority, (§§ 44.56.010 — 44.56.240)
- 57. Alaska Toll Bridge Authority (§§ 44.57.010 — 44.57.340)
- 58. Alaska Municipal Bond Bank Authority (§§ 44.58.005 — 44.58.420)
- 59. State Development Corporation (§§ 44.59.010 — 44.59.450)
- 60. Small Business Development Corporation of Alaska (§§ 44.60.010 — 44.60.390)
- 61. Alaska Industrial Development Authority (§§ 44.61.010 — 44.61.220)

**Chapter 56. Alaska Power Authority.**

**Article**

- 1. Creation and Organization (§§ 44.56.010 — 44.56.050)
- 2. Purpose and Powers (§§ 44.56.070 — 44.56.090)
- 3. Financial Provisions (§§ 44.56.100 — 44.56.160)
- 4. Power Project Revolving Fund (§ 44.56.170)
- 5. General Provisions (§§ 44.56.180 — 44.56.240)

Repeal of former chapter. — Section 1, ch. 64, SLA 1975, repealed former Chapter 56, entitled "State Mortgage Association," which derived from §§ 1-10, ch. 103, SLA 1961; § 1, ch. 97, SLA 1962; §§ 1, 2, ch. 40, SLA 1963; § 1, ch. 36, SLA 1966. The former chapter consisted of four articles, as follows: 1. Creation and Organization (§§ 44.56.010 — 44.56.080); 2. Powers and Duties (§§ 44.56.090 — 44.56.096); 3. Financial Provisions (§§ 44.56.100 — 44.56.270); 4. General Provisions (§ 44.56.280).

**Article 1. Creation and Organization.**

**Section**

- 10. Legislative finding and policy
- 20. Creation of authority
- 30. Membership of the authority

**Section**

- 40. Officers and quorum
- 50. Staff

Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/5/77  
Referred: Finance

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 442

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

8 \* Section 1. AS 44.56.010(a)(3) is amended to read:

9 (3) the achievement of the goals of lower consumer power  
10 costs and beneficial long-term economic growth and of establishing,  
11 operating and developing power projects in the state will be accelerated  
12 and facilitated by the creation of an instrumentality of the state with  
13 powers to construct, acquire, finance, and [INCUR DEBT FOR CONSTRUCTING,  
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15 \* Sec. 2. AS 44.56.030 is repealed and re-enacted to read:

16 Sec. 44.56.030. MEMBERSHIP OF THE AUTHORITY. (a) The authority  
17 shall consist of the following directors:

18 (1) four directors at large to be appointed by the governor  
19 for four-year terms;

20 (2) the commissioner of commerce and economic development.

21 (b) The commissioners of community and regional affairs, natural  
22 resources, transportation and public facilities, and revenue shall serve  
23 as nonvoting members of the board of directors of the authority.

24 \* Sec. 3. AS 44.56 is amended by adding a new section to read:

25 Sec. 44.56.045. QUALIFICATIONS, POWERS, AND DUTIES OF OFFICERS  
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27 qualified voters of Alaska, shall comply with the requirements of AS  
28 39.50 (conflict of interests), and shall be selected for their expertise  
29 relevant to the authority. The four original directors at large have

1 terms of one, two, three, and four years, respectively.

2 (b) A vacancy in a directorship occurring other than by expiration  
3 of a term shall be filled in the same manner as the original appointment,  
4 but for the unexpired portion of the term only.

5 (c) The authority shall employ a general manager who may, with  
6 the approval of the authority, employ additional staff as necessary.  
7 In addition to its staff of regular employees, the authority may con-  
8 tract for and engage the services of legal and bond counsel, consul-  
9 tants, experts, and financial and technical advisors the authority  
10 considers necessary for the purpose of conducting studies, investiga-  
11 tions, hearings, or other proceedings. The board of directors shall  
12 establish the compensation of the general manager. The general manager  
13 and other personnel of the authority are exempt from the provisions of  
14 AS 39.25.

15 \* Sec. 4. AS 44.56.070 is amended to read:

16 Sec. 44.56.070. PURPOSE OF THE AUTHORITY. The purpose of the  
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18 and economic welfare of the people of Alaska by providing a means of  
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28 or other person [FEDERAL AGENCY OR AN AGENCY OR INSTRUMENTALITY OF THE  
29 STATE, MUNICIPALITY, PRIVATE ORGANIZATION OR OTHER SOURCE];

1 \* Sec. 7. AS 44.56.080(11) is amended to read:

2 (11) to enter into contracts [FOR THE PURCHASE, SALE,  
3 EXCHANGE, TRANSMISSION, OR USE OF POWER GENERATED BY A PROJECT, OR ANY  
4 RIGHT TO THE CAPACITY OF IT] with any person and with the United  
5 States, and, subject to the laws of the United States and subject to  
6 the concurrence of the legislature, with a foreign country or its  
7 agencies for the purchase, sale, exchange, transmission, or use of  
8 power from a project, or any right to capacity of it;

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14 COMMISSION. (a) The authority shall, in addition to other methods  
15 which it may find advantageous, provide that municipal electric, rural  
16 electric, cooperative electric, or private electric utilities and  
17 regional electric authorities, [OR] other persons authorized by law to  
18 engage in the distribution of electricity, or bulk industrial purchasers  
19 of electricity outside the distribution area of any such utility or  
20 authority [POWER] may secure a reasonable share of the power generated  
21 by a project, or any interest in a project [IT], or for any right to  
22 the power [CAPACITY OF IT] and shall, except for bulk industrial  
23 purchasers, sell the power or cause the power to be sold at the lowest  
24 practicable prices which cover the full cost of the electricity or  
25 services, including capital and operating costs, debt coverage as  
26 considered appropriate by the authority, and other charges that may be  
27 authorized by this chapter [PRICES REPRESENTING COST OF GENERATION,  
28 PLUS CAPITAL AND OPERATING CHARGES, PLUS A FAIR COST OF TRANSMISSION,  
29 ALL AS DETERMINED BY THE DIRECTORS, AND SUBJECT TO CONDITIONS WHICH

1 ASSURE THE RESALE OF THE POWER TO RETAIL CONSUMERS AT THE LOWEST  
2 POSSIBLE PRICE]. A contract for the sale, transmission and distribu-  
3 tion of power generated by a project or any right to the capacity or  
4 it shall provide

5 (1) for payment of the proportionate share of [ALL] operat-  
6 ing and maintenance expenses of a project and costs of renewals,  
7 replacements and improvements of it;

8 (2) for payment of the proportionate share of interest on  
9 and amortization charges sufficient to retire bonds of the authority  
10 issued for the project and reserves for them, plus a debt service  
11 coverage factor as may be determined by the authority to be necessary  
12 for the marketability of its bonds;

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

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

19 (5) for periodic revisions of the service and rates to  
20 persons on the basis of accurate cost data obtained by the accounting  
21 methods and systems approved by the directors and in furtherance and  
22 effectuation of the policy declared in this chapter;

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

25 (7) for security for performance as the authority may  
26 consider practicable and advisable, including provisions assuring the  
27 continuance of the distribution and transmission of power generated by  
28 a project, the use of their facilities for these purposes, and the  
29 continuance of an outlet and adequate market for the power generated

1 by the project;

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

4 [CONTRACTS TO SELL POWER ARE SUBJECT TO REVIEW BY THE ALASKA PUBLIC  
5 UTILITIES COMMISSION.]

6 (b) The authority is not subject to the jurisdiction of the  
7 Alaska Public Utilities Commission. Nothing in this chapter grants  
8 the authority any jurisdiction over the services or rates of any  
9 public utility or diminishes or otherwise alters the jurisdiction of  
10 the Alaska Public Utilities Commission with respect to any public  
11 utility, including any right the commission may have to review and  
12 approve or disapprove contracts for the purchase of electricity by a  
13 public utility.

14 \* Sec. 10. AS 44.56.110(a) is amended to read:

15 (a) In the discretion of the authority, an issue of bonds may be  
16 secured by a trust indenture or trust agreement between the authority  
17 and a corporate trustee (which may be a trust company, bank, or national  
18 banking association, with corporate trust powers, located inside or  
19 outside the state) or by a secured loan agreement or other instrument  
20 or under a resolution giving powers to a corporate trustee by means of  
21 which the authority may

22 (1) make and enter into any and all the covenants and  
23 agreements with the trustee or the holders of the bonds which the  
24 authority may determine to be necessary or desirable, including,  
25 without limitation, covenants, provisions, limitations and agreements  
26 as to

27 (A) the application, investment, deposit, use and  
28 disposition of the proceeds of bonds of the authority or of money  
29 or other property of the authority or in which it has an interest;

1 (B) the fixing and collection of rentals, charges,  
2 fees or other consideration for, and the other terms to be incor-  
3 porated in, contracts with respect to a project or to generated  
4 power;

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

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

12 (E) the vesting in a trustee of rights, powers, duties,  
13 funds or property in trust for the benefit of bondholders,  
14 including, without limitation, the right to enforce payment,  
15 performance, and all other rights of the authority or of the  
16 bondholders, under a lease, power of contract, contract of sale,  
17 mortgage, security agreement, or trust agreement with respect to  
18 a project by injunction [MANDAMUS] or other proceeding or by  
19 taking possession of by agent or otherwise and operating a project  
20 and collecting rents or other consideration and applying the same  
21 in accordance with the trust agreement;

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

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

28 \* Sec. 11. AS 44.56.110(d) is amended to read:

29 (d) If the authority decides to issue bonds secured by such a

1 capital reserve fund, the bonds may not be issued if the amount in the  
2 capital reserve fund is less than such an amount [A PER CENT, NOT  
3 EXCEEDING 10 PER CENT OF THE PRINCIPAL AMOUNT OF ALL OF THOSE BONDS  
4 SECURED BY THAT CAPITAL RESERVE FUND THEN TO BE ISSUED AND THEN OUT-  
5 STANDING IN ACCORDANCE WITH THEIR TERMS,] as may be established by  
6 resolution of the authority (called the "capital reserve fund require-  
7 ment"), unless the authority, at the time of issuance of the obliga-  
8 tions, deposits in the capital reserve fund from the proceeds of the  
9 obligations to be issued or from other sources, an amount which,  
10 together with the amount then in the fund, will not be less than the  
11 capital reserve fund requirement.

12 \* Sec. 12. AS 44.56.150 is amended to read:

13 Sec. 44.56.150. TAX EXEMPTION. All property of the authority is  
14 public property devoted to an essential public and governmental func-  
15 tion and purpose and is exempt from all taxes of the state or a politi-  
16 cal subdivision of the state; however, the authority shall make payments  
17 in place of taxes in amounts equal to the real and personal property  
18 taxes which would be assessed on its real and personal property by  
19 each political subdivision in which its property is located to the  
20 same extent as if that property were private property and the authority  
21 were a non-public corporation. All bonds issued under this chapter  
22 are issued by a body corporate and public of this state and for an  
23 essential public and governmental purpose and the bonds and the  
24 interest and income on and from the bonds and all income of the autho-  
25 rity are exempt from taxation except for transfer, inheritance and  
26 estate taxes.

27 \* Sec. 13. AS 44.56.170 is repealed and re-enacted to read:

28 Sec. 44.56.170. FUND ESTABLISHED; LOANS. (a) There is estab-  
29 lished as a separate fund the power project revolving fund which shall

1 be administered by the authority as a trust fund separate and distinct  
2 from any other money or funds of the authority, and which shall be com-  
3 posed of appropriated funds and interest earned on loans by the fund.

4 (b) The authority may make loans from the fund to electric  
5 utilities, cities, boroughs, village corporations, village councils,  
6 and nonprofit marketing cooperatives to pay the costs of feasibility  
7 studies, preconstruction engineering, design, construction, equipping,  
8 modification and expansion of power projects and for other energy re-  
9 quirements or conservation including but not limited to geothermal,  
10 solar, hydroelectric or wind power energy production, and waste energy  
11 conservation.

12 (c) Before making any loans from the power project revolving  
13 fund, the authority shall by regulation specify the standards for  
14 those loans with respect to the following:

15 (1) criteria regarding the eligibility of borrowers and of  
16 types of projects;

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

19 (3) interest rates and other terms and conditions, and col-  
20 lateral or any other security required for loans; and

21 (4) other relevant criteria, standards, or procedures.

22 (d) Regulations proposed for adoption under this section shall  
23 be submitted to the governor for his review and for review by other  
24 appropriate agencies.

25 (e) Any loan made by the authority must be made according to the  
26 standards, criteria, and procedures established by regulation under  
27 this section.

28 \* Sec. 14. AS 44.56.180 is amended to read:

29 Sec. 44.56.180. PROPOSAL AND CONSTRUCTION OF PROJECTS. (a) The

1 authority shall submit a statement outlining the general design,  
2 demonstration of financial feasibility, and maximum amount of bonds  
3 estimated to be necessary for each new project to the governor and the  
4 legislature [AND THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT],  
5 together with a statement that the authority intends to design, acquire  
6 and construct the project itself or that it intends that the project  
7 be designed, acquired or constructed by the United States or another  
8 person under agreement with the authority providing for ownership of  
9 all or a portion of the project by the authority or of a right to the  
10 capacity of it. If the legislature adopts a joint resolution approving  
11 the general design and maximum amount of bonds, the authority shall, in  
12 accordance with the terms of the joint resolution, (1) proceed to  
13 design, acquire and construct the new project, or (2) agree with the  
14 United States or other person for design, acquisition and construction  
15 of the project by the United States, for payments to the United States  
16 or other person for such design, acquisition and construction, reimburse-  
17 ment by the United States or other person in certain events, and other-  
18 wise on the terms and conditions as may be set out in such agreement.  
19 If the new project is to be designed, acquired and constructed by the  
20 authority, it shall be designed, acquired and constructed as a public  
21 work of the state except that public bidding shall not be required, if  
22 the authority so determines on projects in excess of \$50,000,000. For  
23 the purpose of this section a new project does not include an addition  
24 or modification to an existing project if the total cost of the addition  
25 or modification does not exceed \$1,000,000, to any repair or reconstruc-  
26 tion of a project, or to any design, acquisition or construction neces-  
27 sary to complete a project for which bonds previously authorized by the  
28 legislature have been issued. Any such addition, modification, repair,  
29 reconstruction, design, acquisition or construction may be undertaken by

1 the authority without any of the approvals necessary for a new project.

2 \* Sec. 15. AS 44.56.180 is amended by adding new subsections to read:

3 (b) Any power project proposal requiring approval by the legis-  
4 lature under this chapter, together with supporting data, analyses,  
5 and findings of the authority, must be submitted to the governor for  
6 review as provided in this chapter. The proposal shall contain find-  
7 ings of fact by the authority regarding the following items:

8 (1) the consistency of the project or action with the long-  
9 term electric power development plan and with relevant state laws and  
10 policies;

11 (2) the balance of benefits and costs to Alaska, including  
12 environmental and social costs, and the ability of the project to  
13 generate sufficient revenues to be self-supporting;

14 (3) whether a project which will physically impinge upon a  
15 park, wildlife refuge, registered historic site, critical habitat area,  
16 or state land classified for public recreation, has a feasible alter-  
17 native project design or site;

18 (4) whether any alternative to the project or action which  
19 would result in comparable volumes of power at a lower cost has been  
20 rejected because the authority finds that social, cultural, or environ-  
21 mental considerations justify rejection; and

22 (5) the way in which the authority's policies and its pro-  
23 posed action affect the following policy areas:

24 (A) the use of power development, power pricing, and  
25 marketing policies to achieve the social, economic, and energy  
26 conservation goals of the state;

27 (B) policies concerning the allocation of state fossil  
28 fuels, land, water resources, and other natural resources to power  
29 development;

1 (C) facility siting policies and the conformity of  
2 project proposals to federal, state, and local land use and  
3 community development plans and policies;

4 (D) rural electrification policies as they affect  
5 regional growth;

6 (E) reliability standards and quality-of-service  
7 policies of the authority including reserve capacity levels and  
8 back-up system capabilities;

9 (F) authority environmental policies to insure that  
10 project proposals conform to state environmental policies; and

11 (G) any other policy matters relevant to the actions of  
12 the authority.

13 (c) Recognizing the crucial role of power demand estimates in  
14 analyses and project evaluations, any estimates or projections of  
15 future electrical power demands produced or used by the authority must  
16 be submitted to the governor for his review and the review of appro-  
17 priate state agencies.

18 \* Sec. 16. AS 44.56.210 is amended by adding a new subsection to read:

19 (b) The authority shall, by the 15th day of each regular legis-  
20 lative session, present to the legislature a report detailing project  
21 status, original costs and projected costs, particularly highlighting  
22 any costs in excess of the original cost estimates submitted for each  
23 project when that project was originally approved by the legislature.

24 \* Sec. 17. AS 44.56 is amended by adding a new section to read:

25 Sec. 44.56.224. LONG-TERM PLAN. The Department of Commerce and  
26 Economic Development, assisted by the authority, shall prepare, and as  
27 appropriate revise, a long-term electrical power development plan for  
28 meeting projected electrical energy demand in Alaska at the lowest  
29 feasible cost, including environmental and social costs, consistent

1 with acceptable standards of reliability. The plan must include, but  
2 is not limited to, considerations specified in sec. 180(b) of this  
3 chapter. In preparing and revising the plan, the department shall  
4 obtain and consider, through appropriate public input processes, the  
5 expertise and views of local governments, electrical utilities, industry,  
6 labor, consumer, and environmental advocacy groups and other interested  
7 members of the public. The plan and any revision of it must be sub-  
8 mitted to the governor for his review and for review by all appropriate  
9 state agencies. The department shall adopt the plan if it is shown to  
10 be consistent with state policy and if it is approved by the governor.  
11 The plan shall be submitted to the legislature for information immediately  
12 following adoption.

13 \* Sec. 18. AS 44.56.230(4) is amended to read:

14 (4) "power project" or "project" means a plant, works,  
15 system, facility, water rights, fuel deposits or sources, and real  
16 estate and personal property of any nature whatsoever, together with  
17 all facilities and appurtenances related to them or necessary for the  
18 purposes of them used or useful in the generation, by means of any  
19 feasible technology, [WATER OR FOSSIL FUEL] of electric power and the  
20 production, transmission, purchase, sale, exchange and interchange of  
21 electric power, and shall include any interest in them, whether divided  
22 or undivided, or any right to the capacity of them; [.]

23 \* Sec. 19. AS 44.56.230 is amended by adding a new paragraph to read:

24 (6) "person" includes a public agency in addition to the  
25 entities set out in AS 01.10.060(7).

26 \* Sec. 20. AS 44.56.050 is repealed.  
27  
28  
29

Introduced: 4/6/77  
Referred: Commerce and  
Finance

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4 (b) A vacancy in a directorship occurring other than by expira-  
5 tion of a term shall be filled in the same manner as the original  
6 appointment, but for the unexpired portion of the term only.

7 (c) The directors may elect other officers they consider desirable  
8 The powers of the authority are vested in the directors. Three  
9 directors constitute a quorum. Action may be taken and motions and  
10 resolutions adopted by the authority at a meeting by the affirmative  
11 vote of at least three members entitled to vote.

12 (d) The directors at large and the chairman serve without compen-  
13 sation, but they are entitled to receive the same per diem and travel  
14 allowances as provided by law for members of other boards and com-  
15 missions.

16 (e) The authority shall employ a general manager who may, with  
17 the approval of the authority, employ additional staff as necessary.  
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19 contract for and engage the services of legal and bond counsel, consul-  
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3 the power [CAPACITY OF IT] and shall, except for bulk industrial  
4 purchasers, sell the power or cause the power to be sold at the lowest  
5 practicable prices which cover the full cost of the electricity or  
6 services, including capital and operating costs, debt coverage as  
7 considered appropriate by the authority, and other charges that may be  
8 authorized by this chapter [PRICES REPRESENTING COST OF GENERATION,  
9 PLUS CAPITAL AND OPERATING CHARGES, PLUS A FAIR COST OF TRANSMISSION,  
10 ALL AS DETERMINED BY THE DIRECTORS, AND SUBJECT TO CONDITIONS WHICH  
11 ASSURE THE RESALE OF THE POWER TO RETAIL CONSUMERS AT THE LOWEST  
12 POSSIBLE PRICE]. A contract for the sale, transmission and distribu-  
13 tion of power generated by a project or any right to the capacity of  
14 it shall provide

15 (1) for payment of the proportionate share of [ALL] operat-  
16 ing and maintenance expenses of a project and costs of renewals,  
17 replacements and improvements of it;

18 (2) for payment of the proportionate share of interest on  
19 and amortization charges sufficient to retire bonds of the authority  
20 issued for the project and reserves for them, plus a debt service  
21 coverage factor as may be determined by the authority to be necessary  
22 for the marketability of its bonds;

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

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

29 (5) for periodic revisions of the services and rates to

1 persons on the basis of accurate cost data obtained by the accounting  
2 methods and systems approved by the directors and in furtherance and  
3 effectuation of the policy declared in this chapter;

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

6 (7) for security for performance as the authority may  
7 consider practicable and advisable, including provisions assuring the  
8 continuance of the distribution and transmission of power generated by  
9 a project, the use of their facilities for these purposes, and the  
10 continuance of an outlet and adequate market for the power generated  
11 by the project;

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

14 [CONTRACTS TO SELL POWER ARE SUBJECT TO REVIEW BY THE ALASKA PUBLIC  
15 UTILITIES COMMISSION.]

16 (b) The authority is not subject to the jurisdiction of the  
17 Alaska Public Utilities Commission. Nothing in this chapter grants  
18 the authority any jurisdiction over the services or rates of any  
19 public utility or diminishes or otherwise alters the jurisdiction of  
20 the Alaska Public Utilities Commission with respect to any public  
21 utility, including any right the commission may have to review and  
22 approve or disapprove contracts for the purchase of electricity by a  
23 public utility.

24 \* Sec. 10. AS 44.56.110(a) is amended to read:

25 (a) In the discretion of the authority, an issue of bonds may be  
26 secured by a trust indenture or trust agreement between the authority  
27 and a corporate trustee (which may be a trust company, bank, or national  
28 banking association, with corporate trust powers, located inside or  
29 outside the state) or by a secured loan agreement or other instrument

1 or under a resolution giving powers to a corporate trustee by means of  
2 which the authority may

3 (1) make and enter into any and all the covenants and  
4 agreements with the trustee or the holders of the bonds which the  
5 authority may determine to be necessary or desirable, including,  
6 without limitation, covenants, provisions, limitations and agreements  
7 as to

8 (A) the application, investment, deposit, use and  
9 disposition of the proceeds of bonds of the authority or of money  
10 or other property of the authority or in which it has an interest;

11 (B) the fixing and collection of rentals, charges,  
12 fees or other consideration for, and the other terms to be incor-  
13 porated in, contracts with respect to a project or to generated  
14 power;

15 (C) the assignment by the authority of its rights in  
16 contracts with respect to a project or to generated power or in  
17 a mortgage or other security interest created with respect to a  
18 project or generated power to a trustee for the benefit of  
19 bondholders;

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

22 (E) the vesting in a trustee of rights, powers, duties,  
23 funds or property in trust for the benefit of bondholders,  
24 including, without limitation, the right to enforce payment,  
25 performance, and all other rights of the authority or of the  
26 bondholders, under a lease, power of contract, contract of sale,  
27 mortgage, security agreement, or trust agreement with respect to  
28 a project by injunction [MANDAMUS] or other proceeding or by  
29 taking possession of by agent or otherwise and operating a project

1 and collecting rents or other consideration and applying the same  
2 in accordance with the trust agreement;

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

6 (3) provide for any other matters of like or different  
7 character which in any way affect the security or protection of the  
8 bonds.

9 \* Sec. 11. AS 44.56.110(d) is amended to read:

10 (d) If the authority decides to issue bonds secured by such a  
11 capital reserve fund, the bonds may not be issued if the amount in the  
12 capital reserve fund is less than such an amount [A PER CENT, NOT  
13 EXCEEDING 10 PER CENT OF THE PRINCIPAL AMOUNT OF ALL OF THOSE BONDS  
14 SECURED BY THAT CAPITAL RESERVE FUND THEN TO BE ISSUED AND THEN OUT-  
15 STANDING IN ACCORDANCE WITH THEIR TERMS,] as may be established by  
16 resolution of the authority (called the "capital reserve fund require-  
17 ment"), unless the authority, at the time of issuance of the obliga-  
18 tions, deposits in the capital reserve fund from the proceeds of the  
19 obligations to be issued or from other sources, an amount which,  
20 together with the amount then in the fund, will not be less than the  
21 capital reserve fund requirement.

22 \* Sec. 12. AS 44.56.150 is amended to read:

23 Sec. 44.56.150. TAX EXEMPTION. All property of the authority is  
24 public property devoted to an essential public and governmental func-  
25 tion and purpose and is exempt from all taxes of the state or a politi-  
26 cal subdivision of the state; however, the authority shall make payments  
27 in place of taxes in amounts equal to the real and personal property  
28 taxes which would be assessed on its real and personal property by  
29 each political subdivision in which its property is located to the

1 same extent as if that property were private property and the authority  
2 were a non-public corporation. All bonds issued under this chapter  
3 are issued by a body corporate and public of this state and for an  
4 essential public and governmental purpose and the bonds and the  
5 interest and income on and from the bonds and all income of the autho-  
6 rity are exempt from taxation except for transfer, inheritance and  
7 estate taxes.

8 \* Sec. 13. AS 44.56.170 is repealed and re-enacted to read:

9       Sec. 44.56.170. FUND ESTABLISHED; LOANS. (a) There is estab-  
10 lished as a separate fund the power project revolving fund which shall  
11 be administered by the authority as a trust fund separate and distinct  
12 from any other money or funds of the authority, and which shall be  
13 composed of appropriated funds and interest earned on loans by the  
14 fund.

15       (b) The authority may make loans from the fund to electric  
16 utilities, cities, boroughs, village corporations, village councils,  
17 and nonprofit marketing cooperatives to pay the costs of feasibility  
18 studies, preconstruction engineering, design, and construction of  
19 power projects.

20       (c) Before making any loans from the power project revolving  
21 fund, the authority shall by regulation specify the standards for  
22 those loans with respect to the following:

23               (1) criteria regarding the eligibility of borrowers and of  
24 types of projects;

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

27               (3) interest rates and other terms and conditions, and col-  
28 lateral or any other security required for loans; and

29               (4) other relevant criteria, standards, or procedures.

1 (d) Regulations proposed for adoption under this section shall  
2 be submitted to the governor for his review and for review by other  
3 appropriate agencies. The regulations shall be adopted if they are  
4 shown to be consistent with the long-term electric power development  
5 plan and with state policy and if they are approved by the governor.

6 (e) Any loan made by the authority must be made according to the  
7 standards, criteria, and procedures established by regulation under  
8 this section, and must be consistent with the long-term electric power  
9 development plan and state policy.

10 (f) Any single loan, or group of loans to a single borrower,  
11 proposed to be made from the fund under this section exceeding  
12 \$1,000,000 must be submitted to the governor for review and approval.

13 \* Sec. 14. AS 44.56.180 is amended to read:

14 Sec. 44.56.180. PROPOSAL AND CONSTRUCTION OF PROJECTS. (a) The  
15 authority shall submit a statement outlining the general design,  
16 demonstration of financial feasibility, and maximum amount of bonds  
17 estimated to be necessary for each new project to the governor and the  
18 legislature [AND THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT],  
19 together with a statement that the authority intends to design, acquire  
20 and construct the project itself or that it intends that the project  
21 be designed, acquired or constructed by the United States or another  
22 person under agreement with the authority providing for ownership of  
23 all or a portion of the project by the authority or of a right to the  
24 capacity of it. If the governor approves the project upon making  
25 specific findings under (b) of this section, and if the legislature  
26 adopts a joint resolution approving the general design and maximum  
27 amount of bonds, the authority shall, in accordance with the terms of  
28 the joint resolution, (1) proceed to design, acquire and construct  
29 the new project, or (2) agree with the United States or other person

1 for design, acquisition and construction of the project by the United  
2 States, for payments to the United States or other person for such  
3 design, acquisition and construction, reimbursement by the United  
4 States or other person in certain events, and otherwise on the terms  
5 and conditions as may be set out in such agreement. If the new project  
6 is to be designed, acquired and constructed by the authority, it shall  
7 be designed, acquired and constructed as a public work of the state  
8 except that public bidding shall not be required, if the authority so  
9 determines on projects in excess of \$50,000,000. For the purpose of  
10 this section a new project does not include an addition or modification  
11 to an existing project if the total cost of the addition or modification  
12 does not exceed \$1,000,000, to any repair or reconstruction of a  
13 project, or to any design, acquisition or construction necessary to  
14 complete a project for which bonds previously authorized by the legis-  
15 lature have been issued. Any such addition, modification, repair,  
16 reconstruction, design, acquisition or construction may be undertaken  
17 by the authority without any of the approvals necessary for a new  
18 project.

19 \* Sec. 15. AS 44.56.180 is amended by adding new subsections to read:

20 (b) Any power project proposal requiring approval by the legis-  
21 lature under this chapter, together with supporting data, analyses,  
22 and findings of the authority, must be submitted to the governor for  
23 review as provided in this chapter at least 60 days before submission  
24 of these materials to the legislature. No project may be undertaken  
25 without the written approval of the governor in which writing the  
26 governor makes findings of fact regarding the items listed in this  
27 subsection and transmits those findings to the legislature:

28 (1) the consistency of the project or action with the long-  
29 term electric power development plan and with relevant state laws and