

LEG. FINANCE - BILLS 1983 - 1984 - 1950
HB 588 cont. - CSHB 589

1950

Offered: 3/15/84
Referred: Finance

Original sponsor: Tischer

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 588 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees to persons who prevail in certain state adminis-
8 trative proceedings; and providing for an effective
9 date."

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

11 * Section 1. AS 09.50 is amended by adding a new section to read:

12 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE PROCEEDINGS.

13 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT
14 IN ADMINISTRATIVE PROCEEDING. (a) If action by a state agency re-
15 sults in an administrative proceeding in which the state agency takes
16 a position adverse to the respondent and the proceeding is to impose a
17 civil penalty or tax on a person or to revoke, suspend, limit, or
18 condition a person's right, authority, license, or privilege, the
19 hearing officer or other official who presides over the proceeding
20 shall allow the respondent to recover from the state the respondent's
21 costs of defense, including attorney fees, if the respondent prevails
22 in the administrative proceeding.

23 (b) If a civil penalty or tax is imposed on a person in an
24 administrative proceeding or the proceeding results in the revocation,
25 suspension, limitation, or conditioning of a right, authority, li-
26 cense, or privilege and the decision made in the administrative pro-
27 ceeding is reversed on the merits in a subsequent court proceeding,
28 the court shall allow the person who was the subject of that decision
29 to recover the costs of defense in the administrative proceeding,

1 including attorney fees.

2 (c) An award of costs and attorney fees made under this section
3 shall be 100 percent of the first \$2,000 of costs and attorney fees
4 and 75 percent of costs and attorney fees in excess of \$2,000.

5 (d) An award, of costs or attorney fees made under this section
6 may be appealed to the superior court.

7 (e) In this section "state agency" means a department, office,
8 agency or other instrumentality of the state, including the University
9 of Alaska.

10 * Sec. 2. This Act applies only to administrative proceedings that are
11 commenced after the effective date of this Act.

12 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).

Introduced: 2/8/84
Referred: Judiciary and Finance

1 IN THE HOUSE

BY TISCHER

2 HOUSE BILL NO. 588

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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7 fees to persons who prevail in certain state
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14 IN ADMINISTRATIVE PROCEEDING. (a) If action by a state agency re-
15 sults in an administrative proceeding to impose a civil penalty or tax
16 on a person or to revoke, suspend, limit, or condition a person's
17 right, authority, license, or privilege and the respondent prevails in
18 the administrative proceeding, the hearing officer or other official
19 who presides over the proceeding shall allow the respondent to recover
20 from the state the respondent's costs of defense, including attorney
21 fees.

22 (b) The amount of costs and attorney fees that may be awarded
23 under this section shall be determined by reference to the Alaska
24 Rules of Civil Procedure, Rules 54(d), 79, and 82, as if the action
25 had been brought in a state court.

26 (c) An award of costs or attorney fees made under this section
27 may be appealed to the superior court.

28 (d) In this section "state agency" means a department, office,
29 agency or other instrumentality of the state, including the University

1 of Alaska.

2 * Sec. 2. This Act applies only to administrative proceedings that are
3 commenced after the effective date of this Act.

4 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).

COMMITTEE REPORT
HOUSE

FURTHER:

(11)

Date: 3/29/84

3/6/84

The Committee on FINANCE has had HB 589

"An Act relating to the Alaska Power Authority; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 589 (Fin) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note 3/29/84
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - No Rec.

[Signature] - No Rec.

MILO H. FRITZ (NO REC)

John LINDAVER - PASS IF AMENDMENTS

[Signature] - No Rec.

[Signature] - No Rec.

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 589 (Fin)

Title: Relating to the Alaska Power Authority

Sponsor: Governor

Requestor: _____

Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.

Program Category Affected: Development

BRU, Program or Subprogram(s) Affected: _____

Alaska Power Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Representative Al Adams *APA*

Division: Finance

Phone: 465-3706

Date: 3/29/84

Approved by Commissioner: _____

Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

12/1/83

Analysis:

CS HB 589 (Finance)

Page 2 of 2

Repeal of the "Susitna Clause" will remove the obligation that the State must appropriate \$5 billion to the Power Development Fund by 1991 in order to prevent triggering of a requirement that there be a 10 percent rate of return on power project investments.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 589 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH 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 44.83.398(a) is amended to read:

10 (a) The authority shall sell power produced from power projects
11 acquired or constructed under the energy program for Alaska. For
12 purposes of this section, Lake Tyes, Swan Lake, Solomon Gulch, Bradley
13 Lake, Terror Lake hydroelectric facilities, and the Watana Dam phase
14 of the Susitna hydroelectric project are considered to be one power
15 project. This power project is referred to as the initial project [A
16 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
17 THORITY SHALL AGREE WITH THE AUTHORITY

18 (1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO
19 ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

20 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
21 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

22 * Sec. 2. AS 44.83.398(b) is amended to read:

23 (b) The authority shall establish a wholesale power rate struc-
24 ture applicable to sales of power to the [ITS] customers [AT THE
25 BUSBAR] of a power project as follows:

26 (1) The authority shall establish and maintain a separate
27 wholesale power rate applicable to each power project that it has
28 acquired or constructed under the energy program for Alaska, other
29 than a project described in (f) of this section. The wholesale power

1 rate established by the authority for the initial project shall be a
2 rate calculated under this paragraph except that the portion of the
3 rate applicable to (A) and (C) of this paragraph shall be adjusted for
4 the hydroelectric facilities in the initial project as set out in (3)
5 of this subsection. The wholesale power rate shall be computed by the
6 authority annually, or more frequently as may be necessary, and shall
7 equal the rate that the authority estimates is necessary to produce
8 revenue that is sufficient to pay

9 (A) operation, maintenance, and equipment replacement
10 costs of the power project;

11 (B) the power project's proportionate share of the
12 debt service on state loans and bonds for all power projects in
13 the energy program for Alaska, determined in accordance with (g)
14 of this section;

15 (C) safety inspections and investigations of the power
16 project by the authority.

17 (2) If, by July 1, 1991, the legislature has not appropri-
18 ated at least \$5,000,000,000 to the fund, in addition to appropri-
19 ations to the fund of interest earned on money in the fund, the author-
20 ity shall, beginning on that date, establish and maintain a separate
21 wholesale power rate applicable to each power project that is acquired
22 or constructed under the energy program for Alaska. The wholesale
23 power rate shall be computed by the authority annually, or more fre-
24 quently as may be necessary, and shall be the greater of

25 (A) 10 percent of the amount the authority has in-
26 vested in the power project, including loans and grants made by
27 the state; or

28 (B) the rate that the authority estimates is necessary
29 to produce revenue sufficient to pay

1 (i) operation, maintenance, and equipment re-
2 placement costs of the power project;

3 (ii) the power project's proportionate share of
4 debt service on state loans and bonds for all power projects
5 in the energy program for Alaska, determined in accordance
6 with (g) of this section; and

7 (iii) safety inspections and investigations of the
8 power project by the authority.

9 (3) For the purposes of determining amounts to be allocated
10 to each hydroelectric facility in the initial project under (1)(A) and
11 (1)(C) of this subsection, the authority shall determine for each
12 hydroelectric facility its individual operation, maintenance, equip-
13 ment replacement, safety inspection, and investigation costs.

14 * Sec. 3. AS 44.83.398(e) is amended to read:

15 (e) After determining the wholesale power rate for a power
16 project under the provisions of this section, the authority may adjust
17 the rate or change the rate provisions to insure that the revenue
18 derived from that power project and the aggregate revenues of the
19 authority will be adequate to comply with the rate covenants and other
20 agreements contained in any trust indenture or trust agreement entered
21 into by the authority for the security of the holders of bonds issued
22 to finance power projects in the energy program [ENERGY PROGRAM] for
23 Alaska. The authority may agree with a purchaser of power to limit
24 rate increases caused by debt service payable by the authority on
25 subsequent projects.

26 * Sec. 4. AS 44.83.398(g) is amended to read:

27 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
28 section, a power project's proportionate share of debt service on
29 state loans and bonds for all power projects in the energy program for

1 Alaska is equal to the state's investment in the power project divided
2 by the state's investment in all power projects in the energy program
3 for Alaska and multiplied by the debt service on state loans and bonds
4 for all power projects in the energy program for Alaska. In this
5 subsection

6 (1) "state's investment in the power project" includes all
7 state money invested in a power project, including loans, grants, and
8 proceeds from bonds, less the principal repayments on the project's
9 proportionate share of debt service on state loans and bonds;

10 (2) "state's investment in all power projects in the energy
11 program for Alaska" includes all state money invested in the power
12 projects, other than interties, in the energy program for Alaska,
13 including loans, grants, and proceeds from bonds, less the principal
14 repayments on bonds and state loans issued for the power projects.

15 * Sec. 5. AS 44.83.398(b)(2) is repealed.

16 * Sec. 6. AS 44.83.398(d) is repealed.

17 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

SECTIONAL ANALYSIS OF CS HB 589 (RESOURCES)

Section 1: Provides for the combination of Tyee, Swan, Solomon Gulch and Terror Lake projects into one project for the purpose of debt servicing --- hence the phrase, "four dam pool". Also removes restrictions on industrial power rates.

Section 2: Along with section 1, establishes that the four projects will be considered one project for purposes of debt servicing. APA is directed to determine the operation, maintenance, equipment replacement, safety inspection, and investigation costs of each project individually for rate calculation purposes. This section also continues the so called Susitna clause (see effective date sections).

Section 3: Protects the four dam pool power rate by giving APA the authority to limit rate increases if new projects are funded under the energy program for Alaska.

Section 4. AS 44.83.398(g) defines a power project's proportionate share of debt service. Section 4 removes the reference to a project's proportionate share of debt service under the Susitna clause. This is a technical amendment necessitated by section 5.

Section 5. Repeals the Susitna clause. The Susitna clause provides that if the legislature does not appropriate \$5 billion to the fund by 1991, then effectively, the wholesale power rate becomes 10% of the state's total annual investment in the project. Section 5 does not go into effect unless the voters approve the establishment of a major projects fund that is used to build the Susitna (Watana) dam, first (see section 8).

Section 6. Repeals an additional restriction on industrial rates, i.e. industrial rates would not have to be equal to or greater than residential rates.

Section 7. Provides an immediate effective date for everything in the bill except the repeal of the Susitna clause and the technical amendment in section 4.

Section 8. Provides that repeal of the Susitna clause and section 4 do not go into effect until the voters approve a major projects fund that is used to build the Susitna (Watana) dam, first.



ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301
ANCHORAGE, ALASKA 99503 • (907) 276-3235

February 29, 1984

The Honorable John Cowdery
Chairman, House Labor and Commerce Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

RE: House Bill 684 and House Bill 589

Dear Representative Cowdery:

The statutory changes in House Bill 589 and the appropriation in House Bill 684 are both essential to resolving the problems which exist in relation to "the four dam pool."

It is the position of our association, established by a unanimous vote of the directors on February 21, 1984, that both of these bills should be enacted as a part of a comprehensive package which also includes:

1. A major projects fund which assures funding of Watana and Bradley Lake, and
2. A permanent funding mechanism for the power cost assistance program for the high cost rural utilities.

We urge your committee to advance these bills to House Resources where such a package can be assembled.

Sincerely,

David Hutchens
Executive Director

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST
Bill/Resolution No.: HB 589
Title: Relating to the Alaska Power Authority
Sponsor: Governor
Requestor: _____
Date of Request: _____

FISCAL DETAIL
Agency Affected: Commerce & Economic Development
Program Category Affected: Development
BRU, Program or Subprogram(s) Affected: Alaska Power Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: George Matz Phone: 465-2079
Division: Dept. of Commerce & Economic Development Date: 1/6/84
Approved by Commissioner: Richard A. Lyon Date: 2/6/84
Agency: Dept. of Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Analysis:

HB 589

Page 2 of 2

Repeal of the "Susitna Clause" will remove the obligation that the State must appropriate \$5 billion to the Power Development Fund by 1991 in order to prevent triggering of a requirement that there be a 10 percent rate of return on power project investments.

the authority shall consider a person who, or a governmental agency that, offers to pay for electrical service to several facilities to be a separate consumer for each facility, if each facility is physically separate from another facility, other than through electric service lines, and if the person or governmental agency requests and offers to pay for electrical service to each facility;

(2) "facility" means a structure capable of receiving and using electrical energy; and

(3) "governmental agency" includes, with respect to the state or federal government or a municipal government, a legislative body, board of regents, administrative body, board, commission, committee, subcommittee, authority, council, agency, public corporation, school board, department, division, bureau, or other subordinate unit, whether advisory or otherwise, of the state, federal, or municipal government. (§ 1 ch 118 SLA 1981; am §§ 10 — 13 ch 89 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 22, 1983, deleted "and interest" following "principal" in paragraph (a)(2), added the second sentence of subsection (c), substituted "extended with the loan proceeds" for "during the preceding year for which the loan was made" in paragraph (d)(2)(B), and added subsection (f).

Sec. 44.83.363. Loan advisory committee. When an application for a rural electrification loan is submitted to the authority under AS 44.83.361, the authority shall appoint a local advisory committee from persons residing in the area that the applicant utility is certified to serve. The loan advisory committee shall consider the loan application, and shall recommend whether the loan application is to be approved or disapproved. A favorable recommendation from the loan advisory committee shall be based on a determination that development in the area of the proposed extension of electric service is likely to provide for full repayment of the loan under AS 44.83.361(d) within 10 years. In making that determination the committee shall consider

- (1) permanence of the premises to be served by the extension;
- (2) land use patterns in the area;
- (3) access for the line that would be installed with loan proceeds;
- (4) availability of other utility service in the area; and
- (5) the economic feasibility of the extension of electric service with the proceeds of the loan. (§ 1 ch 118 SLA 1981)

Article 9. Energy Program for Alaska.

Section	Section
380. Program established	390. Reappropriation of fund balance
382. Power development fund established	392. Lapse of excess appropriations
384. Use of fund balance	394. [Repealed]
386. Investment of fund	396. Operation of power project
388. Allotment to projects	398. Sale of power from power project

Section

- 400. Energy conservation
- 425. Definitions

Sec. 44.83.380. Program established. (a) The energy program for Alaska is established. The program shall be administered by the Alaska Power Authority.

(b) The energy program for Alaska is a program by which the authority may acquire or construct power projects with money appropriated by the legislature to the power development fund established in AS 44.83.382. A power project may be acquired or constructed as part of the energy program for Alaska only if the project is submitted to and approved by the legislature in accordance with procedures set out in AS 44.83.177 — 44.83.187.

(c) The provisions of AS 36.10.010 — 36.10.125 apply to power projects constructed by the authority under AS 44.83.380 — 44.83.425. (AS 44.83.400; § 1 ch 118 SLA 1981)

Revisor's notes. — A reference to AS 44.83.400 — 44.83.510 was changed to AS 44.83.380 — 44.83.425 by the revisor of statutes pursuant to AS 01.05.031 to conform to the renumbering of this article.

Editor's notes. — As enacted, this section was designated AS 44.83.400 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.382. Power development fund established. (a) A power development fund is established in the Alaska Power Authority to carry out the purposes of the energy program for Alaska (AS 44.83.380 — 44.83.425).

(b) The fund includes

- (1) money appropriated to it by the legislature; and
- (2) ~~[Repealed, § 27 ch 89 SLA 1983.]~~ (§ 1 ch 118 SLA 1981; am § 27 ch 89 SLA 1983)

Revisor's notes. — A reference to AS 44.83.400 — 44.83.510, in subsection (a), was changed to AS 44.83.380 — 44.83.425 by the revisor of statutes pursuant to AS 01.05.031 to conform to the renumbering of this article.

amendment, effective July 22, 1983, repealed paragraph (2) of subsection (b).

Editor's notes. — As enacted, this section was designated AS 44.83.410 and was renumbered by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1983

Sec. 44.83.384. Use of fund balance. (a) The fund may be used by the authority to provide money for

- (1) reconnaissance and feasibility studies and power project finance plans prepared under AS 44.83.177 — 44.83.181;
- (2) the cost of a power project, including but not limited to costs of acquiring necessary licenses, preparing engineering designs, obtaining land, and constructing the power project;
- (3) the defeasance of bonds, or the payment of debt service on loans for or on an issue of bonds sold in connection with a power project;

(4) the cost of operating and maintaining power projects; and
 (5) debt service on power projects.

(b) Money in the fund may be used under (a) of this section only for a power project that

(1) is economically feasible; and

(2) provides the lowest reasonable power cost to utility customers in the market area for the estimated life of the power project, whether operated by itself or in conjunction with other power projects in the market area, and that operates or will operate on one or more of the following:

(A) renewable energy resources, including but not limited to hydroelectric power, wind, biomass, geothermal, tidal or solar energy, or a method that uses temperature differentials or other physical properties of the ocean;

(B) coal or peat;

(C) energy derived from waste heat; or

(D) fossil fuel, including oil or natural gas.

(c) Notwithstanding (b)(1) of this section and AS 44.83.396 — 44.83.398, the fund may be used by the authority to provide money for the cost of a power project that is or was either constructed or owned by the United States government if the requirements of this subsection are met. The provisions of AS 44.83.177 — 44.83.187 do not apply to a power project financed under this subsection. The authority may use money in the fund for the cost of a power project under this subsection if

(1) the legislature enacts a law approving the project;

(2) the office of management and budget in the Office of the Governor reviews a feasibility study and a plan of finance for the project and determines that the feasibility study complies with the requirements for a feasibility study submitted under AS 44.83.181(b) and that the plan of finance complies with the requirements for a plan of finance submitted under AS 44.83.181(c); and

(3) the project meets the other requirements of this chapter. (§ 1 ch 118 SLA 1981; am § 12 ch 133 SLA 1982; am § 28 ch 63 SLA 1983; am §§ 14, 15 ch 89 SLA 1983)

Effect of amendments. — The 1982 amendment added subsection (c).

The first 1983 amendment, effective July 15, 1983, substituted "office of management and budget" for "division of budget and management" in paragraph (c)(2).

The second 1983 amendment, effective July 22, 1983, rewrote paragraph (1) of subsection (b) and substituted "AS 44.83.396 — 44.83.398" for "AS 44.83.394 — 44.83.398" and "or was either con-

structed or owned" for "constructed and owned" in the first sentence of subsection (c).

Editor's notes. — As enacted, this section was designated AS 44.83.420 and was renumbered by the revisor of statutes under AS 01.05.031.

For legislative approval of the Bradley Lake hydroelectric project, see § 20, ch. 133, SLA 1982, in the 1982 Temporary and Special Acts and Resolves.

Sec. 44.83.386. Investment of fund. The Department of Revenue shall invest the money in the fund in accordance with AS 37.10.070 and 37.10.075. The Department of Revenue shall provide money in the fund to the authority only after costs have been incurred or amounts in the fund have been otherwise obligated under contracts for the acquisition and construction of a project. Amounts that have been obligated, but for which costs have not yet been incurred, may be segregated by the Department of Revenue or transferred to the authority only with the prior approval or agreement of the commissioner of revenue. Interest received on money that is segregated or transferred under this section must be deposited in the general fund. (§ 1 ch 118 SLA 1981; am § 16 ch 89 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 22, 1983, substituted the language beginning "costs have been incurred" for "a cost for a project is incurred" at the end of the second sentence and added the third and fourth sentences.

Editor's notes. — As enacted, this section was designated AS 44.83.430 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.388. Allotment to projects. (a) The authority shall maintain records of power project allocations from the fund for each power project

(1) approved in accordance with AS 44.83.185; and
(2) for which an allocation is made from an appropriation made by the legislature without specifying an appropriation to a project.

(b) Income earned from investment of money appropriated to the fund shall be deposited in the general fund and may be appropriated to the fund by the legislature. (AS 44.83.440; § 1 ch 118 SLA 1981)

Editor's notes. — As enacted, this section was designated AS 44.83.440 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.390. Reappropriation of fund balance. (a) If a power project designated by the legislature by law is not constructed, the amount appropriated to it may be reappropriated to other power projects by the legislature.

(b) The legislature may reappropriate money under (a) of this section only for a power project that is economically feasible under AS 44.83.181(b) and only if the project will serve the market area that would have been served by the power project designated by the legislature and not constructed. (AS 44.83.450; § 1 ch 118 SLA 1981)

Editor's notes. — As enacted, this section was designated AS 44.83.450 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.392. Lapse of excess appropriations. If at the end of construction of a power project appropriations for the power project

Revenue 0.070 and the funds in the acquisition fund, but added by the authority with the interest in this section; am § 16

ed, this section 430 and was of statutes

ity shall l for each

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of statutes

he end of er project

exceed the amount required for construction of it, the excess lapses into the general fund. (AS 44.83.460; § 1 ch 118 SLA 1981)

Editor's notes. — As enacted, this section was designated AS 44.83.460 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.394. Revenue requirements. [Repealed, § 27 ch 89 SLA 1983.]

Sec. 44.83.396. Operation of power project. (a) A power project that is acquired or constructed as part of the energy program for Alaska is owned, and shall be administered, by the authority.

(b) When a power project has been acquired or constructed by the authority, the project may be operated for the authority under a contract or lease entered into by a qualified utility and the authority.

(c) The authority shall enter into a contract or lease under reasonable terms and conditions to permit the applicant utility to operate the power project when the applicant utility is the only wholesale power customer to be served directly by the power project unless the authority determines a utility making application for a contract or lease to operate a power project is not a qualified utility or is not capable of operating that power project efficiently and in a manner that is consistent with national standards for the industry and with agreements with bondholders.

(d) The authority shall adopt regulations to determine the manner of selecting a qualified utility to operate a power project under a contract or lease when there is more than one wholesale power customer to be served directly by the power project.

(e) When the authority permits a power project to be operated by a qualified utility under a contract or lease, the authority shall

(1) review and approve the annual budget for the operation and maintenance of the power project; and

(2) assure that the project is being operated efficiently and in a manner that is consistent with national standards for the industry and agreements with bondholders. (§ 1 ch 118 SLA 1981; am §§ 17 — 19 ch 89 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 22, 1983, deleted "by the state" following "is owned" in subsection (a), inserted "a qualified utility or is not" near the end of subsection (c), added the language beginning "efficiently and in a manner that is consistent" to the end of subsection (c), added "and" to the

end of paragraph (1) of subsection (e), and added "and agreements with bondholders" to the end of paragraph (2) of subsection (e).

Editor's notes. — As enacted, this section was designated AS 44.83.480 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.398. Sale of power from power project. (a) The authority shall sell power produced from power projects acquired or constructed under the energy program for Alaska. A utility that pur-

chases power produced by a power project of the authority shall agree with the authority

(1) to give preference in the sale of power at retail to all classes of consumers of power except industrial consumers;

(2) to charge industrial consumers of power a rate determined by the authority in accordance with (d) of this section.

(b) The authority shall establish a wholesale power rate structure applicable to sales of power to its customers at the busbar of a power project as follows:

(1) The authority shall establish and maintain a separate wholesale power rate applicable to each power project that it has acquired or constructed under the energy program for Alaska, other than a project described in (f) of this section. The wholesale power rate shall be computed by the authority annually, or more frequently as may be necessary, and shall equal the rate that the authority estimates is necessary to produce revenue that is sufficient to pay

(A) operation, maintenance, and equipment replacement costs of the power project;

(B) the power project's proportionate share of the debt service on state loans and bonds for all power projects in the energy program for Alaska, determined in accordance with (g) of this section;

(C) safety inspections and investigations of the power project by the authority.

(2) If, by July 1, 1991, the legislature has not appropriated at least \$5,000,000,000 to the fund, in addition to appropriations to the fund of interest earned on money in the fund, the authority shall, beginning on that date, establish and maintain a separate wholesale power rate applicable to each power project that is acquired or constructed under the energy program for Alaska. The wholesale power rate shall be computed by the authority annually, or more frequently as may be necessary, and shall be the greater of

(A) 10 percent of the amount the authority has invested in the power project, including loans and grants made by the state; or

(B) the rate that the authority estimates is necessary to produce revenue sufficient to pay

(i) operation, maintenance, and equipment replacement costs of the power project;

(ii) the power project's proportionate share of debt service on state loans and bonds for all power projects in the energy program for Alaska, determined in accordance with (g) of this section; and

(iii) safety inspections and investigations of the power project by the authority.

(c) The authority shall transmit all the money that it receives under (a) of this section to the commissioner of revenue for deposit in the state general fund except for money it has pledged or otherwise covenanted to secure bonds.

(d) A rate for an industrial consumer under (a)(2) of this section (1) may exceed the wholesale power rate determined under (b) of this section;

(2) may not be less than the rate charged residential consumers.

(e) After determining the wholesale power rate for a power project under the provisions of this section, the authority may adjust the rate or change the rate provisions to insure that the revenue derived from that power project and the aggregate revenues of the authority will be adequate to comply with the rate covenants and other agreements contained in any trust indenture or trust agreement entered into by the authority for the security of the holders of bonds issued to finance power projects in the Energy Program for Alaska.

(f) The provisions of (b) of this section do not apply to an intertie that is authorized as a separate project under AS 44.83.380. The authority shall establish and maintain separate power rate schedules applicable to each intertie that it has acquired or constructed as a separate power project under the energy program for Alaska. The power rate schedules shall produce sufficient revenue from utilities connected by the intertie to pay (1) operation, maintenance, and equipment replacement costs of the intertie; (2) debt service of the intertie; and (3) safety inspections and investigations of the intertie by the authority. If the authority determines that an intertie has ceased to function as a separate project and has become a part of one or more other power projects as a transmission line, the power rate schedules established under this subsection shall be terminated and a wholesale power rate applicable to the former intertie calculated under (b) of this section for the project or projects of which it has become a part.

(g) For the purposes of (b)(1)(B) and (b)(2)(B)(ii) of this section, a power project's proportionate share of debt service on state loans and bonds for all power projects in the energy program for Alaska is equal to the state's investment in the power project divided by the state's investment in all power projects in the energy program for Alaska and multiplied by the debt service on state loans and bonds for all power projects in the energy program for Alaska. In this subsection

(1) "state's investment in the power project" includes all state money invested in a power project, including loans, grants, and proceeds from bonds, less the principal repayments on the project's proportionate share of debt service on state loans and bonds;

(2) "state's investment in all power projects in the energy program for Alaska" includes all state money invested in the power projects, other than interties, in the energy program for Alaska, including loans, grants, and proceeds from bonds, less the principal repayments on bonds and state loans issued for the power projects.

(h) Notwithstanding (g) of this section, in the 1983 state fiscal year the proportionate share of debt service under (b) of this section, expressed as a rate, for a power project for which a construction

contract has been awarded before the effective date of this Act may not exceed the average debt service component of the wholesale power rate for all power projects in the energy program for Alaska. The limit imposed by this subsection shall be increased in the 1984 state fiscal year to four percent above the average debt service component of the wholesale power rate for all power projects in the energy program for Alaska and by an additional four percent above that average in each succeeding state fiscal year. If application of this subsection results in the production of insufficient revenue to pay the total debt service for all projects in the energy program for Alaska, a project that does not have its share of debt service limited under this subsection shall be subject to a rate in addition to the rate established under (b) of this section. The additional rate is the rate that the authority estimates is necessary to produce revenue that is sufficient to pay the difference between the total debt service for all projects in the energy program for Alaska and the revenue actually produced to pay that debt service, multiplied by a fraction whose numerator is the total cost of the project and whose denominator is the total cost of all of the projects that are subject to the additional rate. In this subsection, "projects in the energy program for Alaska" does not include an intertie that is authorized as a separate project as described in (f) of this section. (§ 1 ch 118 SLA 1981; am §§ 13 — 16 ch 133 SLA 1982; am §§ 20 — 23 ch 89 SLA 1983)

Effect of amendments. — The 1982 amendment, in subsection (b), substituted "a power project" for "the power project" in the introductory language, substituted "separate" for "single" and "each power project" for "all power projects" in the first sentence of paragraph (1), added "other than a project described in (f) of this section" to the end of the first sentence of paragraph (1), inserted "or more frequently as may be necessary" in the introductory language of the second sentence of paragraph (1), substituted "power project" for "power projects" in subparagraph (1)(A) and (C), added "the power project's proportionate share of the" to the beginning of subparagraph (1)(B), substituted the language beginning "on state loans and bonds" for "of the power projects" in subparagraph (1)(B), substituted "separate" for "single" and "each power project that is" for "all power projects that it has" in the first sentence of paragraph (2), inserted "or more frequently as may be necessary" in the introductory language of the second sentence of paragraph (2), substituted "power project" for "power projects" in subparagraph (2)(A) and (2)(B)(iii), and substituted the present provisions of subparagraph (2)(B)(ii) for the former provisions, which read: "debt service of power

projects by the authority; and." In subsection (c), the amendment substituted "under (a) of this section" for "under (b) of this section" and "money it has pledged to secure bonds in accordance with contracts with bondholders" for "the money it receives under (b)(1)(A) and (B) and (b)(2)(B)(i) and (ii), or the money it would have received under (b)(1)(A) and (B) and (b)(2)(B)(i) and (ii) of this section if those items had been used in part to establish the wholesale power rate in effect at the time the money is received by the authority." In subsection (e), the amendment substituted "a wholesale" for "the wholesale" and "or (f)" in the first sentence and added the second sentence. The amendment also added subsections (f) — (h).

The 1983 amendment, effective July 22, 1983, substituted "July 1, 1991" for "July 1, 1986" near the beginning of paragraph (2) of subsection (b), substituted "or otherwise covenanted to secure bonds" for "to secure bonds in accordance with contracts with bondholders" at the end of subsection (c), rewrote subsection (e), and added the last sentence of subsection (h).

Editor's notes. — As enacted, this section was designated AS 44.83.490 and was renumbered by the revisor of statutes under AS 01.05.031.

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Sec. 44.83.400. Energy conservation. The authority shall ensure

(1) that communities that benefit from the energy program for Alaska implement cost-effective energy conservation measures for residences, commercial and public buildings, and industries; and

(2) that communities shall fulfill their responsibilities under (1) of this section by cooperating with state agencies concerned with development and conservation of energy, including but not limited to

- (A) the Alaska Public Utilities Commission;
- (B) the Department of Community and Regional Affairs; and
- (C) the division of business loans, Department of Commerce and Economic Development. (AS 44.83.500; § 1 ch 118 SLA 1981; am § 5 ch 79 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 20, 1983, substituted "Department of Community and Regional Affairs" for "division of energy and power development, Department of Commerce and Economic Development" in

paragraph (2)(B).
Editor's notes. — As enacted, this section was designated AS 44.83.500 and was renumbered by the revisor of statutes under AS 01.05.031.

Sec. 44.83.425. Definitions. In AS 44.83.380 — 44.83.425,

(1) "busbar" means the substation that serves as the delivery point from the generation and transmission system of the authority to the transmission and distribution system of the utility;

(2) "debt service" means the amounts covenanted with respect to, or pledged to pay, bonds under a trust agreement securing bonds;

(3) "fund" means the power development fund established by AS 44.83.382;

(4) "industrial consumer" means a customer of a utility which customer has a peak power demand in excess of 500 kilowatts and uses the power principally for

- (A) manufacturing;
- (B) pipeline transportation;
- (C) the recovery or processing of minerals;
- (D) the processing of timber, agricultural, or seafood products or their by-products; or

(E) the operation of facilities owned by the federal government;

(5) "qualified utility" means an electric utility that is certified by the Alaska Public Utilities Commission to serve all or part of a market area that is served or will be served by the power project, and that the authority determines is capable of operating and maintaining the power project. (AS 44.83.510; § 1 ch 118 SLA 1981; am § 24 ch 89 SLA 1983)

Revisor's notes. — A reference to AS 44.83.400 — 44.83.510 was changed to AS 44.83.380 — 44.83.425 and a reference to AS 44.83.410 was changed to AS 44.83.382

by the revisor of statutes pursuant to AS 01.05.031 to reflect the renumbering of this article.
Effect of amendments. — The 1983

amendment, effective July 22, 1983, rewrote the definition of "debt service" in paragraph (2).

tion was designated AS 44.83.510 and was renumbered by the revisor of statutes under AS 01.05.031.

Editor's notes. — As enacted this sec-

Chapter 85. Alaska Municipal Bond Bank Authority.

Section

40. Officers, quorum, and meetings

100. Annual report and audit

180. Issuance of bonds and notes

Sec. 44.85.040. Officers, quorum, and meetings. (a) The directors shall elect one of their number as chairman. The directors shall elect a secretary and a treasurer who need not be directors, and the same person may be elected to serve both as secretary and treasurer. The powers of the bond bank authority are vested in the directors, and three directors of the bond bank authority constitute a quorum. Action may be taken and motions and resolutions adopted by the bond bank authority at any meeting by the affirmative vote of at least three directors. A vacancy in the directorship of the bond bank authority does not impair the right of a quorum to exercise all the powers and perform all the duties of the bond bank authority.

(b) The bond bank authority may meet and transact business by an electronic medium if (1) public notice of the time and locations where the meeting will be held by an electronic medium has been given in the same manner as if the meeting were held in a single location; (2) participants and members of the public in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations, and audio-visual materials are reasonably available to participants and to the public. A meeting by an electronic medium as provided in this subsection has the same legal effect as a meeting in person. (§ 1 ch 79 SLA 1975; am § 1 ch 86 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 21, 1983, desig-

nated the former provisions of this section as subsection (a) and added subsection (b).

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

WILL SHEFFIELD
GOVERNOR



NB 589

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the sale of power by the Alaska Power Authority. The bill amends portions of AS 44.83.398, which governs sale of power from projects in the energy program for Alaska. The amendments are necessary before power sales agreements can be signed and long-term financing can be put in place for the Lake Tyee, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects -- the "four dam pool."

A section-by-section analysis follows.

Sections 1 (by amending AS 44.83.398(a)) and 5 (by repealing AS 44.83.398(d)) of the bill eliminate restrictions on industrial power rates that may be charged by utilities purchasing power from projects in the energy program for Alaska. The statute currently prohibits utilities from charging a retail power rate to industrial consumers that is less than the rate charged to residential consumers. The change allows utilities to offer a lower rate to large-volume consumers, or consumers who currently use their own generation sources, which should reduce the overall rate to all consumers. The authority has discussed with the utilities the use of fixed-term supply contracts with industrial users with the length of the contract limited so that, when usage of power from the hydroelectric facilities approaches capacity, more power will be available to residential consumers and they will not end up subsidizing industrial power rates.

Section 1 also provides for the combination of the Lake Tye, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects into one power project for the purposes of the wholesale power rate calculation in AS 44.83.398-(b)(1). This power project is referred to as the "initial project."

Section 2 deletes the "Susitna clause" in AS 44.83.398-(b)(2). Repeal of this provision is desired by both the authority and the purchasing utilities because of the potential effect on rates. It is also viewed as crucial to the long-term financing of the initial project and future projects in the energy program for Alaska. The rating services are reluctant to give a favorable rating to revenue bonds issued with this provision in place because of the possibility that ratepayers' rates could increase substantially in 1991. The rates could be high enough to reduce demand and revenues, thus jeopardizing the ability of the utilities to meet their payment obligations under the power sales contracts.

Section 2 also describes the method for determining the amounts to be allocated to each hydroelectric facility in the initial project. Under this combined system the facilities share the debt service for the entire project and there is a single cents-per-kilowatt-hour rate for debt service applicable to all four hydroelectric facilities in the initial project. The rate for costs of operations, maintenance, equipment replacement, safety inspections, and investigations is determined separately for each facility. The result is a different wholesale rate for each facility in the initial project, but a sharing of debt service which substantially reduces the wholesale rate for projects such as Lake Tye.

Section 3 adds a sentence to AS 44.83.398(e) to allow the power authority to contractually limit the amount of debt service payable by power purchasers as a consequence of the later addition of new projects to the energy program for Alaska.

Section 4 removes the reference to the "Susitna clause" from AS 44.83.398(g).

Section 6 provides for an immediate effective date.

Sincerely,


Bill Sheffield
Governor

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

CS FOR HOUSE BILL NO. 589 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH 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 44.83.398(a) is amended to read:

10

(a) The authority shall sell power produced from power projects

11

acquired or constructed under the energy program for Alaska. For

12

purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and

13

Terror Lake hydroelectric facilities are considered to be one power

14

project. This power project is referred to as the initial project [A

15

UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-

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THORITY SHALL AGREE WITH THE AUTHORITY

17

(1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO

18

ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

19

(2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-

20

TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

21

* Sec. 2. AS 44.83.398(b) is amended to read:

22

(b) The authority shall establish a wholesale power rate struc-

23

ture applicable to sales of power to the [ITS] customers [AT THE

24

BUSBAR] of a power project as follows:

25

(1) The authority shall establish and maintain a separate

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wholesale power rate applicable to each power project that it has

27

acquired or constructed under the energy program for Alaska, other

28

than a project described in (f) of this section. The wholesale power

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rate established by the authority for the initial project shall be a

1. rate calculated under this paragraph except that the portion of the
2. rate applicable to (A) and (C) of this paragraph shall be adjusted for
3. the hydroelectric facilities in the initial project as set out in (3)
4. of this subsection. The wholesale power rate shall be computed by the
5. authority annually, or more frequently as may be necessary, and shall
6. equal the rate that the authority estimates is necessary to produce
7. revenue that is sufficient to pay

8. (A) operation, maintenance, and equipment replacement
9. costs of the power project;

10. (B) the power project's proportionate share of the
11. debt service on state loans and bonds for all power projects in
12. the energy program for Alaska, determined in accordance with (g)
13. of this section;

14. (C) safety inspections and investigations of the power
15. project by the authority.

16. (2) If, by July 1, 1991, the legislature has not appropri-
17. ated at least \$5,000,000,000 to the fund, in addition to appropria-
18. tions to the fund of interest earned on money in the fund, the author-
19. ity shall, beginning on that date, establish and maintain a separate
20. wholesale power rate applicable to each power project that is acquired
21. or constructed under the energy program for Alaska. The wholesale
22. power rate shall be computed by the authority annually, or more fre-
23. quently as may be necessary, and shall be the greater of

24. (A) 10 percent of the amount the authority has in-
25. vested in the power project, including loans and grants made by
26. the state; or

27. (B) the rate that the authority estimates is necessary
28. to produce revenue sufficient to pay

29. (i) operation, maintenance, and equipment

1 replacement costs of the power project;

2 (ii) the power project's proportionate share of
3 debt service on state loans and bonds for all power projects
4 in the energy program for Alaska, determined in accordance
5 with (g) of this section; and

6 (iii) safety inspections and investigations of the
7 power project by the authority.

8 (3) For the purposes of determining amounts to be allocated
9 to each hydroelectric facility in the initial project under (1)(A) and
10 (1)(C) of this subsection, the authority shall determine for each
11 hydroelectric facility its individual operation, maintenance, equip-
12 ment replacement, safety inspection, and investigation costs.

13 * Sec. 3. AS 44.83.398(e) is amended to read:

14 (e) After determining the wholesale power rate for a power
15 project under the provisions of this section, the authority may adjust
16 the rate or change the rate provisions to insure that the revenue
17 derived from that power project and the aggregate revenues of the
18 authority will be adequate to comply with the rate covenants and other
19 agreements contained in any trust indenture or trust agreement entered
20 into by the authority for the security of the holders of bonds issued
21 to finance power projects in the energy program [ENERGY PROGRAM] for
22 Alaska. The authority may agree with a purchaser of power to limit
23 rate increases caused by debt service payable by the authority on
24 subsequent projects.

25 * Sec. 4. AS 44.83.398(g) is amended to read:

26 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
27 section, a power project's proportionate share of debt service on
28 state loans and bonds for all power projects in the energy program for
29 Alaska is equal to the state's investment in the power project divided

1 by the state's investment in all power projects in the energy program
2 for Alaska and multiplied by the debt service on state loans and bonds
3 for all power projects in the energy program for Alaska. In this
4 subsection

5 (1) "state's investment in the power project" includes all
6 state money invested in a power project, including loans, grants, and
7 proceeds from bonds, less the principal repayments on the project's
8 proportionate share of debt service on state loans and bonds;

9 (2) "state's investment in all power projects in the energy
10 program for Alaska" includes all state money invested in the power
11 projects, other than interties, in the energy program for Alaska,
12 including loans, grants, and proceeds from bonds, less the principal
13 repayments on bonds and state loans issued for the power projects.

14 * Sec. 5. AS 44.83.398(b)(2) is repealed.

15 * Sec. 6. AS 44.83.398(d) is repealed.

16 * Sec. 7. Sections 1 - 3 and 6 of this Act take effect immediately in
17 accordance with AS 01.10.070(c).

18 * Sec. 8. Sections 4 and 5 of this Act take effect upon approval by the
19 qualified voters of the state of an amendment to the constitution of the
20 State of Alaska that establishes a major projects fund and requires that a
21 portion of the major projects fund be used to finance construction of the
22 Watana Dam in the Susitna River hydroelectric project before any other
23 capital project is financed from the major projects fund.

Introduced: 2/8/84
Referred: Labor & Commerce,
Resources and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 589

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH 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 44.83.398(a) is amended to read:

10 (a) The authority shall sell power produced from power projects
11 acquired or constructed under the energy program for Alaska. For
12 purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and
13 Terror Lake hydroelectric facilities are considered to be one power
14 project. This power project is referred to as the initial project [A
15 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
16 THORITY SHALL AGREE WITH THE AUTHORITY

17 (1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO
18 ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

19 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
20 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

21 * Sec. 2. AS 44.83.398(b) is amended to read:

22 (b) The authority shall establish a wholesale power rate struc-
23 ture applicable to sales of power to the [its] customers [AT THE
24 BUSBAR] of a power project as follows:

25 (1) The authority shall establish and maintain a separate
26 wholesale power rate applicable to each power project that it has
27 acquired or constructed under the energy program for Alaska, other
28 than a project described in (f) of this section. The wholesale power
29 rate established by the authority for the initial project must be a

1 rate calculated under this paragraph except that the portion of the
2 rate applicable to (A) and (C) of this paragraph must be adjusted for
3 the hydroelectric facilities in the initial project as set out in (3)
4 of this subsection. The wholesale power rate shall be computed by the
5 authority annually, or more frequently as may be necessary, and shall
6 equal the rate that the authority estimates is necessary to produce
7 revenue that is sufficient to pay

8 (A) operation, maintenance, and equipment replacement
9 costs of the power project;

10 (B) the power project's proportionate share of the
11 debt service on state loans and bonds for all power projects in
12 the energy program for Alaska, determined in accordance with (g)
13 of this section;

14 (C) safety inspections and investigations of the power
15 project by the authority.

16 [(2) IF, BY JULY, 1, 1991, THE LEGISLATURE HAS NOT APPRO-
17 PRIATED AT LEAST \$5,000,000,000 TO THE FUND. IN ADDITION TO APPRO-
18 PRIATIONS TO THE FUND OF INTEREST EARNED ON MONEY IN THE FUND, THE
19 AUTHORITY SHALL, BEGINNING ON THAT DATE, ESTABLISH AND MAINTAIN A
20 SEPARATE WHOLESALE POWER RATE APPLICABLE TO EACH POWER PROJECT THAT IS
21 ACQUIRED OR CONSTRUCTED UNDER THE ENERGY PROGRAM FOR ALASKA. THE
22 WHOLESALE POWER RATE SHALL BE COMPUTED BY THE AUTHORITY ANNUALLY, OR
23 MORE FREQUENTLY AS MAY BE NECESSARY, AND SHALL BE THE GREATER OF

24 (A) 10 PERCENT OF THE AMOUNT THE AUTHORITY HAS INVEST-
25 ED IN THE POWER PROJECT, INCLUDING LOANS AND GRANTS MADE BY THE
26 STATE; OR

27 (B) THE RATE THAT THE AUTHORITY ESTIMATES IS NECESSARY
28 TO PRODUCE REVENUE SUFFICIENT TO PAY

29 (i) OPERATION, MAINTENANCE, AND EQUIPMENT

1 REPLACEMENT COSTS OF THE POWER PROJECT;

2 (ii) THE POWER PROJECT'S PROPORTIONATE SHARE OF
3 DEBT SERVICE ON STATE LOANS AND BONDS FOR ALL POWER PROJECTS
4 IN THE ENERGY PROGRAM FOR ALASKA, DETERMINED IN ACCORDANCE
5 WITH (g) OF THIS SECTION: AND

6 (iii) SAFETY INSPECTIONS AND INVESTIGATIONS OF THE
7 POWER PROJECT BY THE AUTHORITY.]

8 (3) For the purpose of determining amounts to be allocated
9 to each hydroelectric facility in the initial project under (1)(A) and
10 (1)(C) of this subsection, the authority shall determine for each
11 hydroelectric facility its individual operation, maintenance, equip-
12 ment replacement, safety inspection, and investigation costs.

13 * Sec. 3. AS 44.83.398(e) is amended to read:

14 (e) After determining the wholesale power rate for a power
15 project under the provisions of this section, the authority may adjust
16 the rate or change the rate provisions to insure that the revenue
17 derived from that power project and the aggregate revenues of the
18 authority will be adequate to comply with the rate covenants and other
19 agreements contained in any trust indenture or trust agreement entered
20 into by the authority for the security of the holders of bonds issued
21 to finance power projects in the Energy Program for Alaska. The
22 authority may agree with a purchaser of power to limit rate increases
23 caused by debt service payable by the authority on subsequent proj-
24 ects.

25 * Sec. 4. AS 44.83.398(g) is amended to read:

26 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
27 section, a power project's proportionate share of debt service on
28 state loans and bonds for all power projects in the energy program for
29 Alaska is equal to the state's investment in the power project divided

1 by the state's investment in all power projects in the energy program
2 for Alaska and multiplied by the debt service on state loans and bonds
3 for all power projects in the energy program for Alaska. In this
4 subsection

5 (1) "state's investment in the power project" includes all
6 state money invested in a power project, including loans, grants, and
7 proceeds from bonds, less the principal repayments on the project's
8 proportionate share of the debt service on state loans and bonds;

9 (2) "state's investment in all power projects in the energy
10 program for Alaska" includes all state money invested in the power
11 projects, other than interties, in the energy program for Alaska,
12 including loans, grants, and proceeds from bonds, less the principal
13 repayments on bonds and state loans issued for the power projects.

14 * Sec. 5. AS 44.83.398(d) is repealed.

15 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

COMMITTEE REPORT
SENATE

FURTHER:

4/16/84

Date 5/26/84

Mr. President

The Committee on FINANCE considered CSHB 589(Fin) am

Alaska Power Authority authorizing the construction of the Watana and Bradley Lake hydroelectric projects; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt S CS for CSHB 589(Fin)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Bob Mulder

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

No Rec.
[Signature]

V. Fischer NR

[Signature] NR
Passed out for SURE

 Chairman

Chairman recommendation _____

Sen Fischer

SENATE FINANCE COMMITTEE
LETTER OF INTENT
FOR
SCS CSHB 589(Finance)

SCS CSHB 589 (Finance) authorizes construction of the Bradley Lake hydroelectric project and the Susitna River hydroelectric project in accordance with AS 44.83.185 and other statutory provisions.

It is the intent of the Legislature that the Alaska Power Authority spend no funds for detailed design work on either of these projects until power sales agreements have been signed by the utilities which will purchase power from the projects.

Further, no funds shall be spent until (1) the Alaska Power Authority Board of Directors adopts a written finding that the respective project is economically and financially feasible and recommends that it be constructed, and (2) the provisions of AS 44.83.183 and AS 44.83.185, which require submittal by the Alaska Power Authority of a feasibility study, plan of finance, and an independent cost estimate, and submittal by the Office of Management and Budget of a review report recommending approval or disapproval have been complied with. It is the intent of the Legislature that the report by the Office of Management and Budget be in a written form.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 589 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority;
7 authorizing the construction of the Watana and Brad-
8 ley Lake hydroelectric projects; and providing for an
9 effective date."

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

11 * Section 1. AS 44.33 is amended by adding new sections to read:

12 Sec. 44.33.600. CREATION OF FUND. (a) There is established in
13 the Department of Commerce and Economic Development the power develop-
14 ment revolving loan fund to carry out the purpose of AS 44.83.600 --
15 44.33.630. The fund may be used for no other purpose.

16 (b) The fund consists of

17 (1) appropriations to the fund by the legislature;

18 (2) repayments of principal to the fund; and

19 (3) income from investment of money in the fund and from
20 loans made from the fund.

21 Sec. 44.33.610. POWERS AND DUTIES OF DEPARTMENT IN ADMINISTERING
22 THE FUND. (a) The department may make a loan from the power develop-
23 ment revolving loan fund to the Alaska Power Authority for the purpose
24 of financing a power project acquired or constructed by the authority
25 under the energy program for Alaska (AS 44.83.380 -- 44.83.425).
26 Repayment of a loan from the fund must be made with the proceeds from
27 the sale of power from projects in the energy program for Alaska.
28 Except as provided in AS 44.83.398(i), the payments required to be
29 made by the authority on a loan from the fund constitute debt service

1 for the purpose of calculating the wholesale power rate in AS 44.83.-
2 398(b)(1).

3 (b) After completion of a final plan of finance and approval of
4 a project under AS 44.83.185(c), a loan may be made from the fund for

5 (1) the cost or a portion of the cost of final design,
6 acquisition, and construction of a power project;

7 (2) defeasance or payment of bonds or notes of the author-
8 ity issued for a power project;

9 (3) the establishment of a reserve fund for renewals and
10 replacements for the operation of a completed power project; and

11 (4) any other project related expenses including those
12 described in AS 44.83.398(i).

13 Sec. 44.33.620. LOAN TERMS. (a) A loan from the fund must be
14 repaid in accordance with the terms that the department determines to
15 be appropriate. In establishing the terms, including provision for a
16 return to the state of an amount in excess of the principal amount of
17 the loan, the department shall consider the revenues that the author-
18 ity could reasonably derive from the sale of power from the projects
19 based upon

20 (1) the market rate of interest for a loan of comparable
21 size and duration at the time the loan is made; and

22 (2) the estimated costs of alternative sources of energy
23 generation for utilities purchasing power from a project financed with
24 a loan from the fund.

25 (b) The department may agree with the authority to defer repay-
26 ment of a loan. However, the loan must be repaid in full during the
27 period of the loan agreement.

28 (c) A loan to the authority from the fund may not exceed 50
29 years.

1 Sec. 44.33.630. DEFINITIONS. In AS 44.33.600 -- 44.33.630

2 (1) "authority" means the Alaska Power Authority;

3 (2) "department" means the Department of Commerce and
4 Economic Development;

5 (3) "fund" means the power development revolving loan fund;

6 (4) "power project" means a project acquired or constructed
7 under the energy program for Alaska, AS 44.83.380 -- 44.83.425.

8 * Sec. 2. AS 44.83.092(4) is amended to read:

9 (4) that [AFTER COMPLETION OF A PROJECT] the municipality
10 or other entity is obligated to make payments, notwithstanding the
11 non-completion of or a suspension or reduction in the amount of the
12 power supplied by its project or another [THE] project.

13 * Sec. 3. AS 44.83.398 is amended by adding a new subsection to read:

14 (i) The authority may place in a separate interest bearing
15 account money appropriated to the authority as a loan for the purpose
16 of meeting the operating expenses of a facility in the initial pro-
17 ject. The money may be used to replace amounts which were expected to
18 be paid by a utility potentially served by a facility in the initial
19 project, which has not entered into a power sales agreement with the
20 authority. Repayment of the amount loaned must be made from revenues
21 attributable to power sales from that facility, as limited by the
22 terms of power sales agreements with power purchasers from that facil-
23 ity. A loan made in accordance with this subsection is not a state
24 loan for purposes of calculating the wholesale power rate under (b)(1)
25 of this section.

26 * Sec. 4. AS 44.83.398(a) is amended to read:

27 (a) The authority shall sell power produced from power projects
28 acquired or constructed under the energ, program for Alaska. For
29 purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and

1 Terror Lake hydroelectric facilities are considered to be one power
2 project. This power project is referred to as the initial project [A
3 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
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7 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
8 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

9 * Sec. 5. AS 44.83.398(b) is amended to read:

10 (b) The authority shall establish a wholesale power rate struc-
11 ture applicable to sales of power to the [ITS] customers [AT THE
12 BUSBAR] of a power project as follows:

13 (1) The authority shall establish and maintain a separate
14 wholesale power rate applicable to each power project that it has
15 acquired or constructed under the energy program for Alaska, other
16 than a project described in (f) of this section. The wholesale power
17 rate established by the authority for the initial project shall be a
18 rate calculated under this paragraph except that the portion of the
19 rate applicable to (A) and (C) of this paragraph shall be adjusted for
20 the hydroelectric facilities in the initial project as set out in (3)
21 of this subsection. The wholesale power rate shall be computed by the
22 authority annually, or more frequently as may be necessary, and shall
23 equal the rate that the authority estimates is necessary to produce
24 revenue that is sufficient to pay

25 (A) operation, maintenance, and equipment replacement
26 costs of the power project;

27 (B) the power project's proportionate share of the
28 debt service on state loans and bonds for all power projects in
29 the energy program for Alaska, determined in accordance with (g)

1 of this section;

2 (C) safety inspections and investigations of the power
3 project by the authority.

4 (2) If, by July 1, 1991, the legislature has not appropri-
5 ated at least \$5,000,000,000 to the fund, in addition to appropria-
6 tions to the fund of interest earned on money in the fund, the author-
7 ity shall, beginning on that date, establish and maintain a separate
8 wholesale power rate applicable to each power project that is acquired
9 or constructed under the energy program for Alaska. The wholesale
10 power rate shall be computed by the authority annually, or more fre-
11 quently as may be necessary, and shall be the greater of

12 (A) 10 percent of the amount the authority has in-
13 vested in the power project, including loans and grants made by
14 the state; or

15 (B) the rate that the authority estimates is necessary
16 to produce revenue sufficient to pay

17 (i) operation, maintenance, and equipment re-
18 placement costs of the power project;

19 (ii) the power project's proportionate share of
20 debt service on state loans and bonds for all power projects
21 in the energy program for Alaska, determined in accordance
22 with (g) of this section; and

23 (iii) safety inspections and investigations of the
24 power project by the authority.

25 (3) For the purposes of determining amounts to be allocated
26 to each hydroelectric facility in the initial project under (1)(A) and
27 (1)(C) of this subsection, the authority shall determine for each
28 hydroelectric facility its individual operation, maintenance, equip-
29 ment replacement, safety inspection, and investigation costs.

1 * Sec. 6. AS 44.83.398(e) is amended to read:

2 (e) After determining the wholesale power rate for a power
3 project under the provisions of this section, the authority may adjust
4 the rate or change the rate provisions to insure that the revenue
5 derived from that power project and the aggregate revenues of the
6 authority will be adequate to comply with the rate covenants and other
7 agreements contained in any trust indenture or trust agreement entered
8 into by the authority for the security of the holders of bonds issued
9 to finance power projects in the energy program [ENERGY PROGRAM] for
10 Alaska. The authority may agree with a purchaser of power to limit
11 rate increases caused by debt service payable by the authority on
12 subsequent projects.

13 * Sec. 7. AS 44.83.398(g) is amended to read:

14 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
15 section, a power project's proportionate share of debt service on
16 state loans and bonds for all power projects in the energy program for
17 Alaska is equal to the state's investment in the power project divided
18 by the state's investment in all power projects in the energy program
19 for Alaska and multiplied by the debt service on state loans and bonds
20 for all power projects in the energy program for Alaska. In this
21 subsection

22 (1) "state's investment in the power project" includes all
23 state money invested in a power project, including loans, grants, and
24 proceeds from bonds, less the principal repayments on the project's
25 proportionate share of debt service on state loans and bonds;

26 (2) "state's investment in all power projects in the energy
27 program for Alaska" includes all state money invested in the power
28 projects, other than interties, in the energy program for Alaska,
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2 * Sec. 8. AS 44.83.398(b)(2) is repealed.

3 * Sec. 9. AS 44.83.398(d) is repealed.

4 * Sec. 10. The Bradley Lake hydroelectric project is authorized for
5 construction under AS 44.83.185(c) and 44.83.384(c) at a construction cost
6 of \$350,000,000.

7 * Sec. 11. The Watana Dam project in the Susitna River hydroelectric
8 project is authorized for construction under AS 44.83.185(c) at a con-
9 struction cost of \$1,500,000,000 and the preliminary report on the Susitna
10 River hydroelectric project is approved in accordance with AS 44.83.320(b),
11 as to the Watana Dam Project.

12 * Sec. 12. Sections 1 - 3 of this Act take effect July 1, 1984.

13 * Sec. 13. Sections 4 - 11 of this Act take effect immediately in
14 accordance with AS 01.10.070(c).

208118

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST Bill/Resolution No.: CSHB 599 (Fin) FISCAL DETAIL Agency Affected: Commerce & Economic Dev.
 Title: Relating to the Alaska Power Program Category Affected: Development
 Authority _____
 Sponsor: Governor BRU, Program or Subprogram(s) Affected: _____
 Requestor: _____ Alaska Power Authority
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Analysis: "

Repeal of the "Susitna Clause" will remove the obligation that the State must appropriate \$5 billion to the Power Development Fund by 1991 in order to prevent triggering of a requirement that there be a 10 percent rate of return on power project investments.

Prepared By: Representative Al Adams *APA* Phone: 465-3706
 Division: Finance Date: 3/29/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST

Bill/Resolution No.: HB 589
 Title: Relating to the Alaska Power Authority
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
 Program Category Affected: Development
 BRU, Program or Subprogram(s) Affected: Alaska Power Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

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OPERATING						
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CAPITAL						
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Prepared By: George Matz Phone: 465-2079
 Division: Dept. of Commerce & Economic Development Date: 1/6/84

Approved by Commissioner: Richard A. Lyon Date: 2/6/84
 Agency: Dept. of Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 589 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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18 ity could reasonably derive from the sale of power from the projects
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20 (1) the market rate of interest for a loan of comparable
21 size and duration at the time the loan is made; and

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29 the energy program for Alaska, determined in accordance with (g)

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3 (b) After completion of a final plan of finance and approval of
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5 (1) the cost or a portion of the cost of final design,
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17 the loan, the department shall consider the revenues that the author-
18 ity could reasonably derive from the sale of power from the projects
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20 (1) the market rate of interest for a loan of comparable
21 size and duration at the time the loan is made; and

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23 generation for utilities purchasing power from a project financed with
24 a loan from the fund.

25 (b) The department may agree with the authority to defer repay-
26 ment of a loan. However, the loan must be repaid in full during the
27 period of the loan agreement.

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7 under the energy program for Alaska, AS 44.83.380 -- 44.83.425.

8 * Sec. 2. AS 44.83.092(4) is amended to read:

9 (4) that [AFTER COMPLETION OF A PROJECT] the municipality
10 or other entity is obligated to make payments, notwithstanding the
11 non-completion of or a suspension or reduction in the amount of the
12 power supplied by its project or another [THE] project.

13 * Sec. 3. AS 44.83.398 is amended by adding a new subsection to read:

14 (i) The authority may place in a separate interest bearing
15 account money appropriated to the authority as a loan for the purpose
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17 ject. The money may be used to replace amounts which were expected to
18 be paid by a utility potentially served by a facility in the initial
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20 authority. Repayment of the amount loaned must be made from revenues
21 attributable to power sales from that facility, as limited by the
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24 loan for purposes of calculating the wholesale power rate under (b)(1)
25 of this section.

26 * Sec. 4. AS 44.83.398(a) is amended to read:

27 (a) The authority shall sell power produced from power projects
28 acquired or constructed under the energy program for Alaska. For
29 purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and

1 Terror Lake hydroelectric facilities are considered to be one power
2 project. This power project is referred to as the initial project [A
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16 than a project described in (f) of this section. The wholesale power
17 rate established by the authority for the initial project shall be a
18 rate calculated under this paragraph except that the portion of the
19 rate applicable to (A) and (C) of this paragraph shall be adjusted for
20 the hydroelectric facilities in the initial project as set out in (3)
21 of this subsection. The wholesale power rate shall be computed by the
22 authority annually, or more frequently as may be necessary, and shall
23 equal the rate that the authority estimates is necessary to produce
24 revenue that is sufficient to pay

25 (A) operation, maintenance, and equipment replacement
26 costs of the power project;

27 (B) the power project's proportionate share of the
28 debt service on state loans and bonds for all power projects in
29 the energy program for Alaska, determined in accordance with (g)

1 of this section;

2 (C) safety inspections and investigations of the power
3 project by the authority.

4 (2) If, by July 1, 1991, the legislature has not appropri-
5 ated at least \$5,000,000,000 to the fund, in addition to appropria-
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14 the state; or

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20 debt service on state loans and bonds for all power projects
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22 with (g) of this section; and

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24 power project by the authority.

25 (3) For the purposes of determining amounts to be allocated
26 to each hydroelectric facility in the initial project under (1)(A) and
27 (1)(C) of this subsection, the authority shall determine for each
28 hydroelectric facility its individual operation, maintenance, equip-
29 ment replacement, safety inspection, and investigation costs.

1 * Sec. 6. AS 44.83.398(e) is amended to read:

2 (e) After determining the wholesale power rate for a power
3 project under the provisions of this section, the authority may adjust
4 the rate or change the rate provisions to insure that the revenue
5 derived from that power project and the aggregate revenues of the
6 authority will be adequate to comply with the rate covenants and other
7 agreements contained in any trust indenture or trust agreement entered
8 into by the authority for the security of the holders of bonds issued
9 to finance power projects in the energy program [ENERGY PROGRAM] for
10 Alaska. The authority may agree with a purchaser of power to limit
11 rate increases caused by debt service payable by the authority on
12 subsequent projects.

13 * Sec. 7. AS 44.83.398(g) is amended to read:

14 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
15 section, a power project's proportionate share of debt service on
16 state loans and bonds for all power projects in the energy program for
17 Alaska is equal to the state's investment in the power project divided
18 by the state's investment in all power projects in the energy program
19 for Alaska and multiplied by the debt service on state loans and bonds
20 for all power projects in the energy program for Alaska. In this
21 subsection

22 (1) "state's investment in the power project" includes all
23 state money invested in a power project, including loans, grants, and
24 proceeds from bonds, less the principal repayments on the project's
25 proportionate share of debt service on state loans and bonds;

26 (2) "state's investment in all power projects in the energy
27 program for Alaska" includes all state money invested in the power
28 projects, other than interties, in the energy program for Alaska,
29 including loans, grants, and proceeds from bonds, less the principal

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 589 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority;
7 authorizing the construction of the Watana and Brad-
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9 effective date."

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

11 * Section 1. AS 44.33 is amended by adding new sections to read:

12 Sec. 44.33.600. CREATION OF FUND. (a) There is established in
13 the Department of Commerce and Economic Development the power develop-
14 ment revolving loan fund to carry out the purpose of AS 44.83.600 --
15 44.33.630. The fund may be used for no other purpose.

16 (b) The fund consists of

17 (1) appropriations to the fund by the legislature;

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19 (3) income from investment of money in the fund and from

20 loans made from the fund.

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1 repayments on bonds and state loans issued for the power projects.

2 * Sec. 8. AS 44.83.398(b)(2) is repealed.

3 * Sec. 9. AS 44.83.398(d) is repealed.

4 * Sec. 10. The Bradley Lake hydroelectric project is authorized for
5 construction under AS 44.83.185(c) and 44.83.384(c) at a construction cost
6 of \$350,000,000.

7 * Sec. 11. The Watana Dam project in the Susitna River hydroelectric
8 project is authorized for construction under AS 44.83.185(c) at a con-
9 struction cost of \$1,500,000,000 and the preliminary report on the Susitna
10 River hydroelectric project is approved in accordance with AS 44.83.320(b),
11 as to the Watana Dam Project.

12 * Sec. 12. Sections 1 - 3 of this Act take effect July 1, 1984.

13 * Sec. 13. Sections 4 - 11 of this Act take effect immediately in
14 accordance with AS 01.10.070(c).

Original sponsor: Rules/Governor

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26 (2) "state's investment in all power projects in the energy
27 program for Alaska" includes all state money invested in the power
28 projects, other than interties, in the energy program for Alaska,
29 including loans, grants, and proceeds from bonds, less the principal

1 repayments on bonds and state loans issued for the power projects.

2 * Sec. 8. AS 44.83.398(b)(2) is repealed.

3 * Sec. 9. AS 44.83.398(d) is repealed.

4 * Sec. 10. The Bradley Lake hydroelectric project is authorized for
5 construction under AS 44.83.185(c) and 44.83.384(c) at a construction cost
6 of \$350,000,000.

7 * Sec. 11. The Watana Dam project in the Susitna River hydroelectric
8 project is authorized for construction under AS 44.83.185(c) at a con-
9 struction cost of \$1,500,000,000 and the preliminary report on the Susitna
10 River hydroelectric project is approved in accordance with AS 44.83.320(b),
11 as to the Watana Dam Project.

12 * Sec. 12. Sections 1 - 3 of this Act take effect July 1, 1984.

13 * Sec. 13. Sections 4 - 11 of this Act take effect immediately in
14 accordance with AS 01.10.070(c).



NB 589

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the sale of power by the Alaska Power Authority. The bill amends portions of AS 44.83.398, which governs sale of power from projects in the energy program for Alaska. The amendments are necessary before power sales agreements can be signed and long-term financing can be put in place for the Lake Tyee, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects -- the "four dam pool."

A section-by-section analysis follows.

Sections 1 (by amending AS 44.83.398(a)) and 5 (by repealing AS 44.83.398(d)) of the bill eliminate restrictions on industrial power rates that may be charged by utilities purchasing power from projects in the energy program for Alaska. The statute currently prohibits utilities from charging a retail power rate to industrial consumers that is less than the rate charged to residential consumers. The change allows utilities to offer a lower rate to large-volume consumers, or consumers who currently use their own generation sources, which should reduce the overall rate to all consumers. The authority has discussed with the utilities the use of fixed-term supply contracts with industrial users with the length of the contract limited so that, when usage of power from the hydroelectric facilities approaches capacity, more power will be available to residential consumers and they will not end up subsidizing industrial power rates.

Section 1 also provides for the combination of the Lake Tye, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects into one power project for the purposes of the wholesale power rate calculation in AS 44.83.398-(b)(1). This power project is referred to as the "initial project."

Section 2 deletes the "Susitna clause" in AS 44.83.398-(b)(2). Repeal of this provision is desired by both the authority and the purchasing utilities because of the potential effect on rates. It is also viewed as crucial to the long-term financing of the initial project and future projects in the energy program for Alaska. The rating services are reluctant to give a favorable rating to revenue bonds issued with this provision in place because of the possibility that ratepayers' rates could increase substantially in 1991. The rates could be high enough to reduce demand and revenues, thus jeopardizing the ability of the utilities to meet their payment obligations under the power sales contracts.


Section 2 also describes the method for determining the amounts to be allocated to each hydroelectric facility in the initial project. Under this combined system the facilities share the debt service for the entire project and there is a single cents-per-kilowatt-hour rate for debt service applicable to all four hydroelectric facilities in the initial project. The rate for costs of operations, maintenance, equipment replacement, safety inspections, and investigations is determined separately for each facility. The result is a different wholesale rate for each facility in the initial project, but a sharing of debt service which substantially reduces the wholesale rate for projects such as Lake Tye.

Section 3 adds a sentence to AS 44.83.398(e) to allow the power authority to contractually limit the amount of debt service payable by power purchasers as a consequence of the later addition of new projects to the energy program for Alaska.

Section 4 removes the reference to the "Susitna clause" from AS 44.83.398(g).

Section 6 provides for an immediate effective date.

Sincerely,


Bill Sheffield
Governor

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

4/2/84

Date 4-13-84

Mr. President

The Committee on RESOURCES considered CSHB 589(Fin)am

Alaska Power Authority authorizing the construction of the Watana and Bradley Lake hydroelectric projects; efd. and (a majority of the committee) (the committee) reports it back with the following recommendations:

- ~~do pass~~
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

*Do not
pass unless
amended.*

Bob Mulvaney

1

1

2 Curtis Sturgulowski

3 Delavan

3 iealer

no rec.

Bettye Johnson
Chairman
Do Pass
Chairman recommendation

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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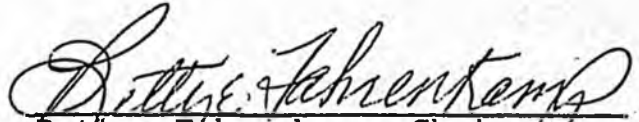
Senate

Committee on Resources

SENATE RESOURCES COMMITTEE
LETTER OF INTENT
FOR
CS HB 589 (Finance)am

The committee substitute for HB 589 (Finance)am authorizes the construction for the Bradley Lake hydroelectric project and the Susitna River hydroelectric project in accordance with AS 44.83.185 and other statutory provisions.

It is the intent of the legislature that the Alaska Power Authority spend no funds for detailed design work on either of these projects until power sales agreements have been signed by the utilities which will purchase power from the projects. Further, until compliance with the provisions of AS 44.83.183 and AS 44.83.185, which require a review by the Office of Management and Budget of a feasibility study and plan of finance, and submittal by the Alaska Power Authority to the legislature of an independent cost estimate, no funds shall be spent.


Bettye Fahrenkamp, Chairman
Senate Resources Committee

Offered: 3/29/84
For Today's Supplemental
Calendar

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 589 (Finance) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Power Authority
authorizing the construction of the Watana and
Bradley Lake hydroelectric projects; and providing
for an effective date."

7

8

9

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

11

* Section 1. AS 44.83.398(a) is amended to read:

12

(a) The authority shall sell power produced from power projects
acquired or constructed under the energy program for Alaska. For
purposes of this section, Lake Tyee, Swan Lake, Solomon Gulch, and
Terror Lake hydroelectric facilities are considered to be one power
project. This power project is referred to as the initial project [A
UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-
THORITY SHALL AGREE WITH THE AUTHORITY

13

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19

(1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO
ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

20

21

(2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-
TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

22

23

* Sec. 2. AS 44.83.398(b) is amended to read:

24

(b) The authority shall establish a wholesale power rate struc-
ture applicable to sales of power to the [ITS] customers [AT THE
BUSBAR] of a power project as follows:

25

26

27

(1) The authority shall establish and maintain a separate
wholesale power rate applicable to each power project that it has
acquired or constructed under the energy program for Alaska, other

28

29

1 than a project described in (f) of this section. The wholesale power
2 rate established by the authority for the initial project shall be a
3 rate calculated under this paragraph except that the portion of the
4 rate applicable to (A) and (C) of this paragraph shall be adjusted for
5 the hydroelectric facilities in the initial project as set out in (3)
6 of this subsection. The wholesale power rate shall be computed by the
7 authority annually, or more frequently as may be necessary, and shall
8 equal the rate that the authority estimates is necessary to produce
9 revenue that is sufficient to pay

10 (A) operation, maintenance, and equipment replacement
11 costs of the power project;

12 (B) the power project's proportionate share of the
13 debt service on state loans and bonds for all power projects in
14 the energy program for Alaska, determined in accordance with (g)
15 of this section;

16 (C) safety inspections and investigations of the power
17 project by the authority.

18 (2) If, by July 1, 1991, the legislature has not appropri-
19 ated at least \$5,000,000,000 to the fund, in addition to appropria-
20 tions to the fund of interest earned on money in the fund, the author-
21 ity shall, beginning on that date, establish and maintain a separate
22 wholesale power rate applicable to each power project that is acquired
23 or constructed under the energy program for Alaska. The wholesale
24 power rate shall be computed by the authority annually, or more fre-
25 quently as may be necessary, and shall be the greater of

26 (A) 10 percent of the amount the authority has in-
27 vested in the power project, including loans and grants made by
28 the state; or

29 (B) the rate that the authority estimates is necessary

1 to produce revenue sufficient to pay

2 (i) operation, maintenance, and equipment re-
3 placement costs of the power project;

4 (ii) the power project's proportionate share of
5 debt service on state loans and bonds for all power projects
6 in the energy program for Alaska, determined in accordance
7 with (g) of this section; and

8 (iii) safety inspections and investigations of the
9 power project by the authority.

10 (3) For the purposes of determining amounts to be allocated
11 to each hydroelectric facility in the initial project under (1)(A) and
12 (1)(C) of this subsection, the authority shall determine for each
13 hydroelectric facility its individual operation, maintenance, equip-
14 ment replacement, safety inspection, and investigation costs.

15 * Sec. 3. AS 44.83.398(e) is amended to read:

16 (e) After determining the wholesale power rate for a power
17 project under the provisions of this section, the authority may adjust
18 the rate or change the rate provisions to insure that the revenue
19 derived from that power project and the aggregate revenues of the
20 authority will be adequate to comply with the rate covenants and other
21 agreements contained in any trust indenture or trust agreement entered
22 into by the authority for the security of the holders of bonds issued
23 to finance power projects in the energy program [ENERGY PROGRAM] for
24 Alaska. The authority may agree with a purchaser of power to limit
25 rate increases caused by debt service payable by the authority on
26 subsequent projects.

27 * Sec. 4. AS 44.83.398(g) is amended to read:

28 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this
29 section, a power project's proportionate share of debt service on

1 state loans and bonds for all power projects in the energy program for
2 Alaska is equal to the state's investment in the power project divided
3 by the state's investment in all power projects in the energy program
4 for Alaska and multiplied by the debt service on state loans and bonds
5 for all power projects in the energy program for Alaska. In this
6 subsection

7 (1) "state's investment in the power project" includes all
8 state money invested in a power project, including loans, grants, and
9 proceeds from bonds, less the principal repayments on the project's
10 proportionate share of debt service on state loans and bonds;

11 (2) "state's investment in all power projects in the energy
12 program for Alaska" includes all state money invested in the power
13 projects, other than interties, in the energy program for Alaska,
14 including loans, grants, and proceeds from bonds, less the principal
15 repayments on bonds and state loans issued for the power projects.

16 * Sec. 5. AS 44.83.398(b)(2) is repealed.

17 * Sec. 6. AS 44.83.398(d) is repealed.

18 * Sec. 7. The Bradley Lake hydroelectric project is authorized for
19 construction under AS 44.83.185(c) and 44.83.384(c) at a construction cost
20 of \$350,000,000.

21 * Sec. 8. The Watana Dam project in the Susitna River hydroelectric
22 project is authorized for construction under AS 44.83.185(c) at a con-
23 struction cost of \$1,500,000,000 and the preliminary report on the Susitna
24 River hydroelectric project is approved in accordance with AS 44.83.320(b),
25 as to the Watana Dam Project.

26 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).