

LEG. FINANCE - BILLS 1983 - 1984 2037

CSSB 151 cont.

2037

Often when a major project is undertaken in Alaska, especially rural Alaska, workers come from outside to fill the newly created jobs. NANA and Cominco are working to ensure that jobs go to current Alaskans and local residents wherever possible. Cominco's hiring policy will give preference to 1) residents of the NANA region, 2) residents of northwest Alaska, and 3) other Alaskans. An extensive training program will qualify residents for Red Dog jobs. Over the first five years of operation, local resident hire (including categories 1 and 2 above) is expected to range from 50-85%. Most of the remainder are expected to be from Anchorage, Fairbanks or other Alaskan communities. The ultimate goal is 100% local hire. Employees will work on a rotating basis — two to three weeks on and two to three weeks off, allowing for continued subsistence activities.

The addition of over 400 permanent, year round, private sector jobs is significant in a region where unemployment is high and employment is highly seasonal, particularly when strong efforts are being made to train and hire local people. Assuming three-quarters of the employees are local residents, the total personal income added to the region could be more than \$9.5 million annually.

Indirect Employment & Economic Development. Within the region, and especially in Kotzebue, there will be indirect or spinoff benefits from the project and from the infusion of cash into the region. Anchorage and Fairbanks will realize indirect benefits also, as will any community whose residents are employed by the mine. These benefits will come in the form of direct purchase of goods and services by Cominco and the increased purchases of goods and services by mine employees. These purchases will in turn stimulate the regional economy and cause additional jobs to be created.

Alaska and the NANA Region will see a good proportion of the benefits from Cominco's annual operating expenditures. Assuming 90% of the employees are Alaskans, as much as \$11 million of Cominco's \$13 million payroll could enter the regional and state economies through the purchase of goods and services (consumer goods, transportation, communication, banking, housing construction, etc.), although some will inevitably leak out of the state through purchases outside Alaska, federal income taxes, etc. A portion of the \$24 million allocated for operating supplies will flow into the Alaskan economy. Of \$3.5 million in repair supplies, perhaps \$1 million would be spent in Anchorage and

a much smaller amount in Kotzebue. It is estimated Cominco's expenditures in Kotzebue, primarily for repair of mobile equipment, emergency supplies, purchase of miscellaneous small equipment (boats, outboards, snowmachines), etc. could amount to \$100,000 annually, especially as the service sector expands over time due to regional economic growth.

An additional \$7 million will be spent by Cominco in miscellaneous expenditures as follows: approximately \$2 million for transporting personnel to and from the mine (\$700,000 to local charter services, \$1.3 million to commercial airlines serving Kotzebue, Fairbanks and Anchorage); \$1 million for insurance; \$1 million for the accounting and purchasing office in Anchorage; \$1 million for loading the concentrate onto ships at the port (which may be contracted out to a local concern) and \$1 million for backhauling supplies.

Federal, State & Local Tax Revenues. Significant tax revenues will accrue to all levels of government from the Red Dog Project. The federal treasury will receive revenues from federal corporate and personal income taxes, the state from the Alaska mining license tax and corporate income tax and local government from local sales taxes and local property taxes. The revenue figures given below are preliminary and should be taken as rough estimates only.

The state mining license tax contains a three and one-half year forgiveness clause for new operations, so no tax would be due until after that period. It is estimated the state would receive approximately \$10-15 million in the tenth year of production. The Alaska corporate income tax is also calculated on net income. In the tenth year of production, it is estimated to be roughly \$10-15 million.

Local sales taxes are levied by most of the villages in the NANA Region at a rate of 2-3%; the rate is 3% in Kotzebue and 2-5% in Fairbanks. Thus any purchases of goods or services by Cominco directly, by employees with their earnings or by the recirculation of those dollars within the region will net local governments some revenue.

Local property taxes would be levied only where a mine is located within the boundaries of a local municipal government. Local property tax rates vary from year to year and from municipality to municipality. An estimate for Red Dog is not currently available.

Regional Cost of Living. A more indirect benefit to the region of developing Red Dog would be the potential for reducing the costs of goods in the region. The construction of a regional port with the capability of handling larger quantities of goods more cheaply and of storing goods in bulk could directly reduce their costs. Fuel, for instance, could be imported in bulk for the region and the mine at the same time and stored at the port year-round. It could then be transported to a village at the most convenient time of year or when needed. From a regional port, goods could also be shipped directly to the villages, cutting down the current expense of lightering from large ships anchored far offshore into Kotzebue and then shipment to all the villages. In addition, there is the possibility that goods coming into the region could be backhauled on the concentrate carriers along with Cominco's major supplies.

Additional Benefits. Several other benefits to the region and state are likely to result from the proposed project. With a regional port, the beginnings of a transportation system in the region and an institutionalized mechanism through which to expand it as needed, other deposits may become feasible to develop. The existence of a successful "model" in the region may encourage further exploration and development.

In addition to providing new, private sector jobs, the project will help to balance the seasonal fluctuations in employment and income, while allowing employees the needed flexibility for continued participation in local subsistence activities.

Red Dog will operate for at least 50 years, which will maximize many of the benefits to the region and minimize some of the negative impacts, providing greater stability to the region's economy. In addition, Red Dog will prepare local residents, through training and work experience, for participation in other resource development projects which may occur in northwestern Alaska.

#### IV. CONCLUSIONS

There are substantial benefits to be realized from the development of Alaska's mineral resources. Many regions have good potential for mineral development, but lack the transportation system necessary for such development. The absence of basic transportation not only hinders resource development, but contributes to the high cost of goods and services in rural Alaska.

Currently, most rural economies in Alaska are heavily dependent on state and federal government spending for both jobs and income. This dependence is dangerous in the long run because government expenditures and programs can be cut suddenly and drastically.

This situation is of concern in the NANA Region, and underscores the need for a healthy and expanding private sector and, in particular, the need for increased private sector job opportunities. Development of the Red Dog deposit, for example, will provide a significant number of jobs and bring a new source of cash income into the region. NANA and Cominco are taking steps to ensure the benefits, including jobs, reach those people who already live in the region.

But development of a mining industry in rural Alaska must go hand-in-hand with development of regional transportation systems. This is no small task in Alaska, given the size of the state and the condition of the state's rural transportation network. Currently, large areas of the state lying within the unorganized borough must rely totally on the state for capital improvements, competing with all the other needs for limited public funds. Greater flexibility is needed in the options available for funding and operating the rural transportation facilities needed for resource development.

Creation of a regional transportation authority would allow an unorganized region to take advantage of a much wider range of options. Use of an authority would allow for greater public control, coordination of transportation system development within a region and responsiveness to local needs. It would allow the fiscal burden on the state and industry to be apportioned as appropriate in a particular situation. In short, it would allow the state to expand its limited statewide transportation system into regions with undeveloped resource potential in order to encourage regional economic development and diversification and to expand job opportunities in areas where the need is most critical.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
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## Senate

### Committee on Resources

June 2, 1983

#### Memo

To: Rep. Al Adams, Chairman House Finance Committee

From: Senator Bettye Fahrenkamp

Subject: CSSB 151, Regional Resource Authorities

I understand that the House Finance Committee will soon be considering the above legislation. As you know, I am in strong support of this legislation and greatly appreciate your prompt attention.

This bill would authorize the creation of regional authorities in the unorganized borough area which could issue tax-exempt revenue bonds for the construction of transportation facilities in connection with resource developments. This ability would have obvious beneficial impacts for projects such as the proposed Red Dog mine in Northwest Alaska where the absence of transportation facilities would involve significant financing obstacles.

In addition to the ability to issue bonds the structure of the authorities would have the added advantage of local elected representation on the Board of Governors to ensure that projects are chosen and developed in such a manner as to be responsive to local concerns.

In testimony and discussion of this bill in the Senate several concerns were raised including:

- 1) The possibility of proliferation of authorities throughout the unorganized borough (based on REAA boundaries);
- 2) The possibility that bonds issued by regional authorities would create a liability or indebtedness to the State or adversely affect the ability of the state or localities to market their own bonds;
- 3) That access to the facilities developed by the authority might not be fairly and equally administered or that facilities desired by some interests might not receive fair or equal consideration.

In response to these concerns the Senate amended the original bill to include:

- 1) The Governor must make a positive finding that an authority would be economically advantageous to the region and state prior to holding elections in the region to establish the authority;
- 2) The ability to petition to establish an authority sunsets July 1, 1986;

- 3) Prior to issuing any revenue bonds an authority must submit an independent economic analysis of a project and its revenues to the state bond committee. The committee must find that project revenues are adequate for payment of the bonds and that the bonds would not adversely affect the ability of the state or localities to market their bonds;
- 4) A statement in the bill and in the Letter of Intent that bonds issued by an authority do not constitute any liability or indebtedness to the state or political subdivision, nor can an authority pledge the faith or credit of the state or local government;
- 5) A provision that the authority would be integrated into a local government should it be established, but that an indebtedness of an authority does not constitute an obligation of the new government;
- 6) A provision which ensures fair and equal access and fee assessments for users of facilities and fair consideration of all proposed projects brought before the authority;

In the House Resources Committee further safeguards were added to the bill:

- 1) A provision that state funds could not be used to pay off or meet revenue bond obligations of an authority;
- 2) A change in the boundaries of possible authorities to coincide with regional housing authorities rather than REAAs. This reduces the possible number of authorities from 21 to 9.

It is my understanding that your committee is considering further amendments, one of which to set a cap or ceiling on the total indebtedness which could be incurred by an authority. I certainly would favor a cap of \$500 million to provide further safeguards against "runaway" indebtedness while still permitting necessary financing for large resource projects.

Another amendment which would reduce the number for a quorum from 6 of 8 Board members as was adopted in the House Resources Committee to 5 including one of the three Governor's appointees is also a good one. This ensures participation (and oversight) by the state while not hamstringing the workings of the authority with problematic numbers of Board members required for a quorum.

I would like the opportunity to testify before your committee on this important piece of legislation and to supply any additional information which you may need.

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## Senate

### Committee on Resources

To: All Members  
House of Representatives

From: Bettye Fahrenkamp, Chairman *BF*  
Senate Resources Committee

Date: June 16, 1983

Subject: SB 151, Regional Resource Authorities

One of the major obstacles to mineral development and other resource projects in much of Alaska is the absence of transportation facilities. This is particularly true in the unorganized borough where entities to assist in the development of infrastructure are largely absent. Until borough governments are established (when the necessary tax base is present), there is a great need for some entity to assist major resource development projects through the provision of transportation systems.

With virtually no risk to the State and little direct State involvement, the State can provide substantial assistance to rural economic development through the authorization of regional resource authorities as provided in SB 151. Obviously, any direct State funding of transportation systems, as has occurred in Canada, would be a much more expensive and risky option for the State.

SB 151 would authorize the establishment of regional authorities in the unorganized borough area which would provide:

- Access to tax-exempt revenue bonds which would substantially reduce financing costs of resource developments;
- Public ownership of transportation systems and ports assuring equal access to all users;
- Maximized local involvement in decision-making along with state participation and oversight.

In testimony and discussion of this legislation, several concerns were raised, including:

- The possibility of proliferation of authorities throughout the unorganized borough;
- The possibility that bonds issued by authorities would create a liability or indebtedness to the State or adversely affect State and local bond ratings;

- The possibility that access to the facilities developed and run by an authority might not be fairly and equally provided, or that some proposed developments might not receive equal consideration.

In response to these concerns, the following "safety features" have been included in SB 151:

- The Governor must approve the establishment of any authority;
- The local people in a region must approve by petition and election the establishment of an authority;
- An authority must be created before July 1, 1986;
- The maximum number of possible authorities allowed would be nine, corresponding to regional housing authority boundaries;
- The State Bond Committee must approve the sale of any revenue bonds by authorities;
- A provision in the bill and in the Letter of Intent expressly states that bonds issued by an authority do not constitute any liability or indebtedness to the State or political subdivision;
- An authority expressly does not have normal governmental powers of eminent domain, tax, land use planning and zoning, permitting, etc. Should a borough be established in the region, the authority would automatically be integrated into it;
- Of the eight members on an authority board, five would be elected from the region, three would be State commissioners. A quorum would require the presence of at least one commissioner;
- Total indebtedness of all authorities established would be limited by law to \$400 million;
- An authority would be audited each year by Legislative Budget and Audit;
- A provision to ensure fair and equal access and user fee assessments and fair consideration by the authority of all proposed developments;
- A provision that state funds cannot be used to pay off or meet revenue bond obligations of an authority.

I believe this legislation is now carefully crafted to achieve the goals of development assistance through maximum local control while providing adequate state input and oversight to assure financial integrity of projects and state-wide coordination. The economic benefits of this legislation could be substantial to our state with little direct cost.

I urge you to support this important bill.

New language added by proposed H CS SB 151 (FIN)

1. Page 5, line 16-18: Changes quorum for authority meetings from six members to five members, with one of the five being one of the commissioners.
2. Page 6, line 8: Allows authority to hold meetings by teleconference.
3. Page 7, lines 9-11: Adds language allowing an authority to charge rents, rates, etc. sufficient to secure bonds and pay debt service, as well as other costs listed. This is to insure the bonds' marketability.
4. Page 7, line 29: The phrase "owned by the authority" is added to clarify that this provision applies only to facilities under direct ownership of the authority.
5. Page 8, line 11: A comma is deleted. This is a technical amendment.
6. Page 8, line 27: Adds the word "revenue" to clearly establish that the authority has the power to issue revenue bonds only.
7. Page 9, line 5-7: Adds language to clarify that bond debt service may be paid back from the authority's assets or from the assets of another entity involved in the project.
8. Page 10, lines 9-10: The new language clarifies the fact that Bond Committee approval is contingent upon revenues being adequate to pay debt service if bonds are secured only by project revenues, and that regardless of the adequacy of project revenues, issuance of the bonds would not inhibit the state's overall ability to market bonds.
9. Page 10, lines 14-16: Adds a new subsection (g) limiting the total bonding capacity of all authorities to \$400 million, exclusive of bonds sold to refinance projects. The exclusion is standard in other statutes dealing with bond capacity limitations and is necessary to insure bond marketability.
10. Page 15, line 4: Changes the word "subsection" to "section". This is a technical word change since this equal use and access language is now a section, not a subsection.

Introduced: 2/25/83  
Referred: Resources  
and Finance

BY FAHRENKAMP, KERTTULA,  
FERGUSON AND P. FISCHER

1 IN THE SENATE

2 SENATE BILL NO. 151

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development  
7 Authorities; and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,  
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-  
12 portation and port facilities adequate to permit the development of non-  
13 renewable natural resource enterprises, including mining enterprises.

14 (2) The development of nonrenewable natural resource enter-  
15 prises, including mining enterprises, is essential to the long-term eco-  
16 nomic growth of the state and will directly and indirectly alleviate un-  
17 employment in the state.

18 (3) The achievement of full employment and the establishment and  
19 continuing development of nonrenewable natural resource enterprises in the  
20 state will be accelerated by authorizing the creation of instrumentalities  
21 in the various areas of the state with powers to borrow money to provide  
22 for the development of transportation and port facilities, and to own,  
23 operate and maintain transportation and port facilities, as provided in  
24 this chapter.

25 \* Sec. 2. AS 30 is amended by adding a new chapter to read:

26 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

27 Sec. 30.13.010. CREATION AND ORGANIZATION. (a) The residents  
28 of each area of the state within the boundaries of a regional educa-  
29 tional attendance area established under AS 14.08 may create a public

1 body corporate and politic under the name and style of the "\_\_\_\_\_ -  
2 \_\_\_\_\_ Resource Development Authority" with all or any  
3 significant part of the name of the region of the state inserted. For  
4 purposes of this chapter the authority created has jurisdiction over  
5 the area within the boundaries of the regional educational attendance  
6 area. An authority is created by a petition filed with the Department  
7 of Community and Regional Affairs that must include the proposed name  
8 of the authority, the boundaries of its jurisdiction, and a statement  
9 of the proposed facilities to be provided by the authority. The  
10 petition must be signed by 50 residents of the proposed area of the  
11 authority. The Department of Community and Regional Affairs shall  
12 review petitions for content and signatures. If the Department of  
13 Community and Regional Affairs determines that the petition is ade-  
14 quate, it shall transmit the petition to the director of elections.

15 (b) Within 30 days after receipt of a petition, the director of  
16 elections shall order an election in the proposed area of the author-  
17 ity to determine whether the voters desire the creation of the author-  
18 ity. The election must be held not less than 30 or more than 90 days  
19 after the date of the election order. The election order must specify  
20 the dates after which nomination petitions for election of initial  
21 officers may be filed.

22 (c) An Alaska voter who has been a resident within the area of  
23 the proposed authority for 30 days before the date of election may  
24 vote.

25 (d) If creation of an authority is approved, the director of  
26 elections shall, within 10 days of certification, order an election to  
27 choose the five initial members of the authority. The election is  
28 held not less than 60 or more than 90 days after the date of the  
29 election order. The initially elected members of the authority take

1 office on the first Monday following certification of their election  
2 and shall be designated by lot to serve for terms respectively expir-  
3 ing on the first days of the first, second, third, fourth and fifth  
4 Novembers next ensuing after the date of their appointment. On the  
5 first Tuesday of October in each year after the first election, one  
6 person shall be elected as a member of the authority to serve for a  
7 term commencing on the first day of November in that year and expiring  
8 on the first day of November after that year. The governor shall  
9 appoint as members of the authority two persons who serve as the heads  
10 of principal departments of the executive branch to serve for two-year  
11 terms.

12 (e) Nominations for elected members are made by petition. The  
13 petition must be in the form prescribed by the director of elections  
14 and include the name and address of the nominee and the statement of  
15 the nominee that the nominee is qualified under the provisions of this  
16 chapter for the office of member of the authority. Petitions to  
17 nominate members must include the signature and resident address of 20  
18 voters in the area of the authority. The director of elections shall  
19 supervise the elections in the general manner prescribed by the Alaska  
20 Election Code (AS 15). The state shall pay all election costs under  
21 this chapter.

22 (f) A copy of each petition for the creation of an authority and  
23 of the certificate of the director of elections as to the election  
24 shall be filed in the office of the director of elections. Upon proof  
25 of filing the authority referred to shall, in any suit, action or  
26 proceeding involving the validity or enforcement of, or relating to,  
27 any contract or obligation or act of the authority, be conclusively  
28 presumed to have been lawfully and properly created as a public body  
29 corporate and politic and established and authorized to transact

1 business and exercise its powers under this chapter.

2 Sec. 30.13.020. MEMBERS. (a) The members of an authority shall  
3 elect a chairperson and a vice chairperson from among its members. A  
4 majority of the members of an authority constitutes a quorum for the  
5 transaction of business. Action may be taken and motions or resolu-  
6 tions adopted by an authority by vote of a majority of the members  
7 present, unless the bylaws of an authority require a larger number.  
8 An authority may delegate to one or more of its officers, agents or  
9 employees the powers and duties that it considers proper. An author-  
10 ity may appoint persons as officers it considers advisable, including  
11 an executive director, and may employ professional advisors, counsel,  
12 technical experts, agents, and other employees it considers advisable.

13 (b) A member of an authority may not vote on a resolution of the  
14 authority relating to any agreement to be entered into by the author-  
15 ity under this chapter if the member is a party to the agreement or  
16 has a direct ownership or equity interest, beneficially or of record,  
17 exceeding one percent in a firm, partnership, corporation or asso-  
18 ciation that is a party to the agreement. A resolution of the author-  
19 ity that is approved by a majority of all the members who are not  
20 barred from voting under this subsection is a valid action of the  
21 authority for all purposes.

22 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an  
23 authority shall be the improvement, establishment and development of  
24 facilities in its district for transportation purposes, either direct-  
25 ly or by agreement with any public or private entity or person, or in  
26 any other manner, as in the judgment of the authority will provide an  
27 effective and satisfactory method for promoting its purposes.

28 Sec. 30.13.040. POWERS OF AN AUTHORITY. In furtherance of its  
29 corporate purposes, an authority has the power to

- 1                   (1) sue and be sued;
- 2                   (2) have a seal and alter it at its pleasure;
- 3                   (3) make and alter bylaws for its organization and internal  
4 management;
- 5                   (4) adopt regulations governing the exercise of its corpo-  
6 rate powers;
- 7                   (5) acquire, rent, hold, use and dispose of real and per-  
8 sonal property necessary, useful, or convenient for its purposes;
- 9                   (6) grant, by franchise, lease or otherwise, the use of any  
10 project, facilities or property owned and controlled by it to any  
11 person for the consideration and period of time and upon the other  
12 terms and conditions it may fix and agree upon;
- 13                   (7) lease or agree with others to use a project for the  
14 rentals and upon the terms and conditions the authority may consider  
15 advisable;
- 16                   (8) provide for and secure the payment of bonds and the  
17 rights of the holders of them, and to purchase, hold and dispose of  
18 bonds;
- 19                   (9) accept gifts, grants, or loans from, and enter into  
20 contracts or other transactions regarding them, with any federal,  
21 state, municipal or other agency or instrumentality, private orga-  
22 nization, or other person;
- 23                   (10) deposit or invest its funds, subject to agreements with  
24 bondholders;
- 25                   (11) charge and collect rents, rates, fees, or other charges  
26 for its services and facilities;
- 27                   (12) enter into contracts or other transactions with any  
28 federal, state, municipal or other agency, or instrumentality, private  
29 organization, or person consistent with the exercise of any powers

1 under this chapter; and

2 (13, do all things necessary and convenient to carry out its  
3 corporate purposes and exercise the powers granted in this chapter.

4 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only  
5 those powers expressly granted in this chapter, reasonably implied  
6 from this chapter, or reasonably necessary or convenient to carry out  
7 its corporate purposes and to exercise the powers expressly granted in  
8 or reasonably implied from this chapter. An authority does not have  
9 powers of eminent domain, taxation, land use planning, or other simi-  
10 lar governmental powers.

11 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) An authority may  
12 borrow money and may issue bonds, including but not limited to bonds  
13 on which the principal and interest are payable,

14 (1) exclusively from the income and receipts or other money  
15 derived from the project financed with the proceeds of the bonds;

16 (2) exclusively from the income and receipts or other money  
17 derived from designated projects whether or not they are financed in  
18 whole or in part with the proceeds of the bonds; or

19 (3) from its income and receipts or other assets generally,  
20 or a designated part or parts of them.

21 (b) Bonds shall be authorized by resolution of the authority,  
22 and be dated and shall mature as the resolution may provide, except  
23 that no bond may mature more than 40 years from the date of its issue.  
24 Bonds shall bear interest at the rate or rates, be in the denomina-  
25 tions, be in the form, either coupon or registered, carry the regis-  
26 tration privileges, be executed in the manner, be payable in the  
27 medium of payment, at the place or places, and be subject to the terms  
28 of redemption which the resolution or a subsequent resolution may  
29 provide.

1 (c) All bonds, regardless of form or character, shall be nego-  
2 tiable instruments for the purposes of the Uniform Commercial Code.

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

6 (e) The superior court shall have jurisdiction to hear and  
7 determine suits, actions or proceedings relating to an authority,  
8 including suits, actions or proceedings brought to foreclose or other-  
9 wise enforce a mortgage, pledge, assignment or security interest or  
10 brought by or for the benefit or security of a holder of its bonds or  
11 by a trustee for or other representative of the holders.

12 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
13 discretion of the authority, an issue of bonds may be secured by a  
14 trust indenture or trust agreement between the authority and a corpo-  
15 rate trustee, that may be a trust company, bank, or national banking  
16 association, with corporate trust powers, located inside or outside  
17 the state, or by a secured loan agreement or other instrument or under  
18 a resolution giving powers to a corporate trustee, after this in this  
19 section referred to as "trust agreement", by means of which the  
20 authority may

21 (1) make and enter into the covenants and agreements with  
22 the trustee or the holders of the bonds that the authority determines  
23 necessary or desirable, including, without limitation, covenants,  
24 provisions, limitations and agreements as to

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

29 (B) the fixing and collection of rents or other

1 consideration for, and the other terms to be incorporated in an  
2 agreement with respect to a project;

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

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

8 (E) the vesting in a trustee of rights, powers,  
9 duties, funds, or property in trust for the benefit of bond-  
10 holders, including, without limitation, the right to enforce  
11 payment, performance and all other rights of the authority or of  
12 the bondholders, under a lease, contract of sale, mortgage,  
13 security agreement, or trust agreement with respect to a project  
14 by mandamus or other proceeding or by taking possession of by  
15 agent or otherwise and operating a project and collecting rents  
16 or other consideration and applying the same in accordance with  
17 the trust agreement;

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

21 (3) provide for any other matters that in any way affect  
22 the security or protection of the bonds.

23 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
24 legislature that a pledge made in respect of bonds shall be perfected  
25 and shall be valid and binding from the time the pledge is made; that  
26 the money or property so pledged and thereafter received by an author-  
27 ity shall immediately be subject to the lien of the pledge without  
28 physical delivery or further act; and that the lien of the pledge  
29 shall be valid and binding against all parties having claims of any

1 kind in tort, contract, or otherwise against the authority irrespec-  
2 tive of whether the parties have notice. Neither the resolution,  
3 trust agreement or any other instrument by which a pledge is created  
4 need be recorded or filed under the provisions of the Uniform Commer-  
5 cial Code to be perfected or to be valid, binding, or effective  
6 against the parties.

7 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members  
8 of an authority nor a person executing the bonds are liable personally  
9 on the bonds or are subject to personal liability or accountability by  
10 reason of the issuance of the bonds.

11 (b) The bonds issued by an authority do not constitute an in-  
12 debtedness or other liability of the state or of a political subdivi-  
13 sion of the state, except the authority, but shall be payable solely  
14 from the income and receipts or other funds or property of the author-  
15 ity. The authority may not pledge the faith or credit of the state or  
16 of a political subdivision of the state, except the authority, to the  
17 payment of a bond, and the issuance of a bond by the authority does  
18 not directly or indirectly or contingently obligate the state or a  
19 political subdivision of the state to apply money from, levy or pledge  
20 any form of taxation to the payment of the bond.

21 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and  
22 agrees with the holders of bonds issued under this chapter and with  
23 the federal agency which loans or contributes funds in respect to a  
24 project, that the state will not limit or alter the rights and powers  
25 vested in an authority by this chapter to fulfill the terms of a  
26 contract made by the authority with the holders or federal agency, or  
27 in any way impair the rights and remedies of the holders until the  
28 bonds, together with the interest on them with interest on unpaid  
29 installments of interest, and all costs and expenses in connection

1 with an action or proceeding by or on behalf of the holders, are fully  
2 met and discharged. The authority is authorized to include this  
3 pledge and agreement of the state, insofar as it refers to holders of  
4 bonds of the authority, in a contract with the holders, and insofar as  
5 it relates to a federal agency, in a contract with the federal agency.

6 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal  
7 property of an authority and its assets, income and receipts are  
8 declared to be the property of a political subdivision of the state  
9 and, together with any project financed under this chapter and an  
10 interest created in a project applicant or other person under this  
11 chapter, devoted to an essential public and governmental function and  
12 purpose, and the property, assets, income, receipts, project and  
13 leasehold interests are exempt from all taxes and special assessments  
14 of the state or a political subdivision of the state. All bonds of an  
15 authority are declared to be issued by a political subdivision of the  
16 state and for an essential public and governmental purpose and to be a  
17 public instrumentality, and the bonds, and the interest on them, the  
18 income from them and the transfer of the bonds, and all assets, income  
19 and receipts pledged to pay or secure the payment of the bonds, or  
20 interest on them, shall at all times be exempt from taxation by or  
21 under the authority of the state, except for inheritance and estate  
22 taxes and taxes on transfers by or in contemplation of death. Nothing  
23 in this section affects or limits an exemption from license fees,  
24 property taxes, or excise, income, or other taxes, provided under any  
25 other law, nor does it create a tax exemption with respect to the  
26 interest of any business enterprise or other person, other than the  
27 authority, in any property, assets, income, receipts, project or lease  
28 whether or not financed under this chapter.

29 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The

1 bonds of an authority are securities in which all public officers and  
2 bodies of the state and all municipalities and municipal subdivisions,  
3 all insurance companies and associations and other persons carrying on  
4 an insurance business, all banks, bankers, trust companies, savings  
5 banks, savings associations, including savings and loan associations  
6 and building and loan associations, investment companies and other  
7 persons carrying on banking business, all administrators, guardians,  
8 executors, trustees and other fiduciaries, and all other persons who  
9 are now or may afterward be authorized to invest in bonds or other  
10 obligations of the state, may properly and legally invest money in-  
11 cluding capital in their control or belonging to them. Notwithstand-  
12 ing any other provisions of law, the bonds of an authority are also  
13 securities that may be deposited with and may be received by all  
14 public officers and bodies of the state and all municipalities and  
15 municipal subdivisions for any purpose for which the deposit of bonds  
16 or other obligations of the state is now or may afterward be autho-  
17 rized.

18 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,  
19 leases, or otherwise operates or controls a facility, the authority  
20 shall, to the maximum extent possible, provide for equal rights to  
21 access to and use of the facility by members of the public and other  
22 persons or entities. However, this section does not prevent an  
23 authority from establishing fair and reasonable limitations on use of  
24 or access to a facility to the extent the authority considers, in its  
25 sole discretion, that the limitations are necessary in connection with  
26 the nature of the facility or the demand for use of or access to the  
27 facility. This section applies to the establishment of rates and rate  
28 structures as well as other factors relating to the use of or access  
29 to a facility owned, leased, operated, or otherwise controlled by an

1 authority.

2 Sec. 30.13.140. JURISDICTION. An authority is not subject to  
3 the jurisdiction of the Alaska Transportation Commission.

4 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or  
5 second class is created with an area coterminous with the area of an  
6 authority, the authority shall be integrated into the borough within  
7 one year of incorporation. On integration the borough succeeds to all  
8 the rights, powers, duties, assets, and liabilities of the authority.

9 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-  
10 text otherwise requires,

11 (1) "authority" means a public body created under AS 30.-  
12 13.010;

13 (2) "bonds" means bonds or other obligations issued under  
14 this chapter;

15 (3) "cost" includes the cost of acquisition or construction  
16 of all or any part of transportation facilities and of all or any  
17 property, rights, easements and franchises considered by an authority  
18 to be necessary, useful, or convenient, including reimbursements to  
19 the authority or any other person of money expended for the purposes  
20 of the authority and interest or discount on bonds to finance those  
21 expenses, engineering and inspection costs and legal expenses, the  
22 cost of financial, professional and other advice, and the cost of  
23 issuance of bonds;

24 (4) "district" means the area within the boundaries of an  
25 authority;

26 (5) "person" includes an association, corporation, nation,  
27 state or agency or subdivision of the state, municipality of the  
28 state, or an authority, as well as a natural person;

29 (6) "transportation facilities" or "facilities" means

1 harbor, port, shipping and transportation facilities of all kinds,  
2 including harbors, channels, turning basins, anchorage areas, jetties,  
3 breakwaters, waterways, canals, locks, tidal basins, wharves, docks,  
4 piers, slips, bulkheads, public landings, warehouses, terminals  
5 refrigerating and cold storage plants, rolling stock car ferries,  
6 tugs, boats, conveyors, tunnels, bridges, highways, roads and rail-  
7 roads, and appliances of all kinds for the handling, storage, in-  
8 spection and transportation of freight and natural resource products;  
9 it also includes all property, rights, easements and franchises rela-  
10 tive to a facility and necessary or convenient for the acquisition,  
11 construction or operation of the facility, but does not include air-  
12 port facilities.

13 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).

Offered: 4/6/83  
Referred: Finance

Original sponsors: Fahrenkamp, Kerttula  
Ferguson and P.Fischer

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SENATE BILL NO. 151 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to Regional Resource Development  
7 Authorities; and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,  
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-  
12 portation and port facilities adequate to permit the development of natural  
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including  
15 mining enterprises, is essential to the long-term economic growth of the  
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and  
18 continuing development of natural resource enterprises in the state will be  
19 accelerated by authorizing the creation of instrumentalities in the various  
20 areas of the state with powers to borrow money to provide for the develop-  
21 ment of transportation and port facilities, and to own, operate and main-  
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority  
24 created under this chapter provides a method of assuring that the manner of  
25 development and the permanent features of a project will be consistent with  
26 the economic, sociological, and political aspirations of the residents of  
27 the particular region.

28 \* Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1           Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of  
2 each area of the state within the boundaries of a regional educational  
3 attendance area established under AS 14.08 may create a public body  
4 corporate and politic under the name and style of the "  
5 \_\_\_\_\_ Resource Development Authority" with all or any  
6 significant part of the name of the region of the state inserted. The  
7 boundaries of the authority created shall be coterminous with the  
8 boundaries of the regional educational attendance area. Creation of  
9 an authority is initiated by a petition filed with the Department of  
10 Community and Regional Affairs and a statement submitted to the gover-  
11 nor before July 1, 1986. The petition must include the proposed name  
12 of the authority, its boundaries, and a statement of the facilities  
13 proposed to be provided by the authority. The petition must be signed  
14 by 100 residents of the area of the proposed authority. The Depart-  
15 ment of Community and Regional Affairs shall review petitions for  
16 content and signatures. If the Department of Community and Regional  
17 Affairs determines that the petition is adequate, it shall transmit  
18 the petition to the director of elections.

19           (b) The statement required under (a) of this section to be  
20 submitted to the governor must include the purposes for which the  
21 authority is to be created, the goals and potential projects the  
22 authority intends to accomplish, and an analysis of alternative  
23 methods of accomplishing the goals and projects of the proposed au-  
24 thority. The governor shall determine whether the accomplishment of  
25 the goals and potential projects of the proposed authority would be  
26 advantageous to the economic growth of the region and the state and  
27 whether the creation of the proposed authority would be an appropriate  
28 and desirable method of accomplishing those goals and projects. The  
29 governor shall submit findings under this subsection to the division

1 of elections within 90 days after receipt of the statement.

2 (c) The director of elections shall order an election in the  
3 area of the proposed authority to determine whether the voters desire  
4 the creation of the authority if the director has received the peti-  
5 tion and

6 (1) the governor has submitted affirmative findings to the  
7 director under (b) of this section; or

8 (2) more than 90 days have elapsed since the statement was  
9 submitted to the governor under (a) of this section and the governor  
10 has failed to submit negative findings to the division of elections.

11 (d) An order for an election shall be made within 30 days after  
12 the requirements of (c) of this section have been met. The election  
13 shall be held not less than 30 or more than 120 days after the date of  
14 the election order. To the extent practicable, the election shall be  
15 held on a date coinciding with the date for other elections in the  
16 region. The election order shall specify the dates after which nomi-  
17 nation petitions for election of initial officers may be filed.

18 (e) A registered voter who has been a resident within the area  
19 of the proposed authority for 30 days before the date of election may  
20 vote.

21 (f) If creation of an authority is approved, the director of  
22 elections shall, within 10 days of certification, order an election to  
23 choose the five initially elected members of the board of governors of  
24 the authority. The election shall be held not less than 60 or more  
25 than 90 days after the date of the election order. The initially  
26 elected members of the board of governors shall take office on the  
27 first Monday following certification of their election. Two of the  
28 initially elected members shall be designated by lot to serve for a  
29 term expiring on the first day of the second November after the date

1 of their election; two of the initially elected members shall be  
2 designated by lot to serve for a term expiring on the first day of the  
3 third November after the date of their election, and one of the ini-  
4 tially elected members shall be designated by lot to serve for a term  
5 expiring on the first day of the fourth November after the date of  
6 election.

7 (g) Nominations for elected members are made by petition. The  
8 petition shall be in the form prescribed by the director of elections  
9 and include the name and address of the nominee and the statement of  
10 the nominee that the nominee is qualified under this chapter for the  
11 office of member of the board of governors of the authority. A  
12 nomination petition shall include the signature and resident address  
13 of 20 voters in the area of the authority. The director of elections  
14 shall supervise the elections in the general manner prescribed by the  
15 Alaska Election Code (AS 15). The state shall pay all election costs  
16 under this chapter.

17 (h) A copy of each petition for the creation of an authority and  
18 of the certificate of the director of elections as to the election  
19 shall be filed in the office of the director of elections. Upon proof  
20 of filing the authority referred to shall, in any suit, action or  
21 proceeding involving the validity or enforcement of, or relating to,  
22 any contract or obligation or act of the authority, be conclusively  
23 presumed to have been lawfully and properly created as a public body  
24 corporate and politic and established and authorized to transact  
25 business and exercise its powers under this chapter.

26 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be  
27 governed by a board of governors consisting of eight members, five of  
28 whom shall be elected and three of whom shall be appointed by the  
29 governor. Elections of members to succeed those initially elected

1 under AS 30.13.010(f) shall be held on the first Tuesday of October of  
2 each year in which a term expires. Terms of elected members shall be  
3 two years.

4 (b) Nominations for elected members to succeed those initially  
5 elected under AS 30.13.010(f) shall be in accordance with the proce-  
6 dures set out in AS 30.13.010(g).

7 (c) The three members appointed by the governor shall be heads  
8 of principal departments of the executive branch and shall serve at  
9 the pleasure of the governor.

10 (d) The members of the board of governors shall elect a chair-  
11 person and a vice chairperson from among its members. A majority of  
12 the members of the board of governors at a meeting at which a quorum  
13 is present constitutes a quorum for the transaction of business.  
14 Action may be taken and motions or resolutions adopted by the board of  
15 governors at a meeting at which a quorum is present by vote of a  
16 majority of the members present, unless the bylaws of an authority  
17 require a larger number. The board of governors may delegate to one  
18 or more of its officers, agents or employees the powers and duties  
19 that it considers proper. The board of governors may appoint persons  
20 as officers it considers advisable, including an executive director,  
21 and may employ professional advisors, counsel, technical experts,  
22 agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not  
24 vote on a resolution of the board relating to any agreement to be  
25 entered into by the authority under this chapter if the member is a  
26 party to the agreement or has a direct ownership or equity interest,  
27 beneficially or of record, exceeding one percent in, or is employed  
28 by, a firm, partnership, corporation or association that is a party to  
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this  
2 subsection is a valid action of the authority for all purposes.

3 Sec 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an  
4 authority shall be the improvement, establishment and development of  
5 facilities in its district for transportation purposes in connection  
6 with natural resource enterprises, either directly or by agreement  
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050  
9 and AS 30.13.130, in furtherance of its corporate purposes under  
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

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

13 (3) adopt and amend bylaws for its organization and inter-  
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-  
16 rate powers in accordance with the Administrative Procedure Act  
17 (AS 44.62);

18 (5) acquire, rent, hold, use and dispose of real and per-  
19 sonal property necessary, useful, or convenient for its purposes upon  
20 the terms and conditions the authority may consider advisable;

21 (6) provide for and secure the payment of bonds and the  
22 rights of the holders of them, and to purchase, hold and dispose of  
23 bonds;

24 (7) accept gifts, loans, or grants, including organiza-  
25 tional grants, from, and enter into contracts or other transactions  
26 regarding them with, any federal, state, municipal or other agency or  
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with  
29 bondholders;

1           (9) charge and collect rents, rates, fees, or other charges  
2 for its services and facilities;

3           (10) enter into contracts or other transactions with any  
4 federal, state, municipal or other agency, or instrumentality, private  
5 organization, or person consistent with the exercise of any powers  
6 under this chapter; and

7           (11) do all things necessary and convenient to carry out its  
8 corporate purposes and exercise the powers granted in this chapter.

9           Sec. 30.13.050. LIMITATION ON POWERS. An authority has only  
10 those powers expressly granted in this chapter, reasonably implied  
11 from this chapter, or reasonably necessary or convenient to carry out  
12 its corporate purposes and to exercise the powers expressly granted in  
13 or reasonably implied from this chapter. An authority does not have  
14 powers of eminent domain, taxation, land use planning, zoning, permit-  
15 ting, or other similar governmental powers.

16           Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) An authority may  
17 borrow money and may issue bonds, including but not limited to bonds  
18 on which the principal and interest are payable,

19           (1) exclusively from the income and receipts or other money  
20 derived from the project financed with the proceeds of the bonds;

21           (2) exclusively from the income and receipts or other money  
22 derived from designated projects whether or not they are financed in  
23 whole or in part with the proceeds of the bonds; or

24           (3) from its income and receipts or other assets generally,  
25 or a designated part or parts of them.

26           (b) Bonds shall be authorized by resolution of the authority,  
27 and be dated and shall mature as the resolution may provide, except  
28 that no bond may mature more than 40 years from the date of its issue.  
29 Bonds shall bear interest at the rate or rates, be in the

1 denominations, be in the form, either coupon or registered, carry the  
2 registration privileges, be executed in the manner, be payable in the  
3 medium of payment, at the place or places, and be subject to the terms  
4 of redemption which the resolution or a subsequent resolution may  
5 provide.

6 (c) All bonds, regardless of form or character, shall be nego-  
7 tiable instruments for the purposes of the Uniform Commercial Code.

8 (d) All bonds may be sold at public or private sale in the  
9 manner, for the price or prices, and at the time or times that the  
10 authority may determine.

11 (e) The superior court shall have jurisdiction to hear and  
12 determine suits, actions or proceedings relating to an authority,  
13 including without limitation suits, actions or proceedings brought to  
14 foreclose or otherwise enforce a mortgage, pledge, assignment or  
15 security interest or brought by or for the benefit or security of a  
16 holder of its bonds or by a trustee for or other representative of the  
17 holders.

18 (f) Before issuing bonds for a project under this chapter an  
19 authority shall submit to the state bond committee a description of  
20 the bond issue and an independent economic feasibility analysis of the  
21 project and expected revenues. This information may be contained in a  
22 preliminary prospectus, offering circular or official statement relat-  
23 ing to the bond issue. Bonds may not be issued unless the state bond  
24 committee finds, based upon the information submitted by the authority  
25 under AS 30.13.060(f)(1) and other information that is reasonably  
26 available to it, that the project revenues can be reasonably expected  
27 to be adequate for payment of the principal and interest on the bonds  
28 to be issued, and that issuance of the bonds by the authority would  
29 not be expected to adversely affect the ability of the state or its

1 political subdivisions to market bonds.

2 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
3 discretion of the authority, an issue of bonds may be secured by a  
4 trust indenture or trust agreement between the authority and a corpo-  
5 rate trustee, that may be a trust company, bank, or national banking  
6 association, with corporate trust powers, located inside or outside  
7 the state, or by a secured loan agreement or other instrument or under  
8 a resolution giving powers to a corporate trustee, after this in this  
9 section referred to as "trust agreement", by means of which the autho-  
10 rity may

11 (1) make and enter into the covenants and agreements with  
12 the trustee or the holders of the bonds that the authority determines  
13 necessary or desirable, including, without limitation, covenants,  
14 provisions, limitations and agreements as to

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

19 (B) the fixing and collection of rents or other con-  
20 sideration for, and the other terms to be incorporated in an  
21 agreement with respect to a project;

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

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

27 (E) the vesting in a trustee of rights, powers,  
28 duties, funds, or property in trust for the benefit of bond-  
29 holders, including, without limitation, the right to enforce

1 payment, performance and all other rights of the authority or of  
2 the bondholders, under a lease, contract of sale, mortgage,  
3 security agreement, or trust agreement with respect to a project  
4 by mandamus or other proceeding or by taking possession of by  
5 agent or otherwise and operating a project and collecting rents  
6 or other consideration and applying the same in accordance with  
7 the trust agreement;

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

11 (3) provide for any other matters that in any way affect  
12 the security or protection of the bonds.

13 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
14 legislature that a pledge made in respect of bonds shall be perfected  
15 and shall be valid and binding from the time the pledge is made; that  
16 the money or property so pledged and thereafter received by an author-  
17 ity shall immediately be subject to the lien of the pledge without  
18 physical delivery or further act; and that the lien of the pledge  
19 shall be valid and binding against all parties having claims of any  
20 kind in tort, contract, or otherwise against the authority irrespec-  
21 tive of whether the parties have notice. Neither the resolution,  
22 trust agreement or any other instrument by which a pledge is created  
23 need be recorded or filed under the provisions of the Uniform Commcr-  
24 cial Code to be perfected or to be valid, binding, or effective  
25 against the parties. This section does not affect title to or convey-  
26 ances of real property, and does not limit the applicability of  
27 AS 34.15.290.

28 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members  
29 of an authority nor a person executing the bonds are liable personally

1 on the bonds or are subject to personal liability or accountability by  
2 reason of the issuance of the bonds.

3 (b) The bonds issued by an authority do not constitute an in-  
4 debtedness or other liability of the state or of a political subdivi-  
5 sion of the state, but shall be payable solely from the income and  
6 receipts or other funds or property of the authority. The authority  
7 may not pledge the faith or credit of the state or of a political  
8 subdivision of the state, except the authority, to the payment of a  
9 bond, and the issuance of a bond by the authority does not directly or  
10 indirectly or contingently obligate the state or a political subdivi-  
11 sion of the state to apply money from, levy or pledge any form of  
12 taxation to the payment of the bond.

13 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and  
14 agrees with the holders of bonds issued under this chapter and with  
15 the federal agency which loans or contributes funds in respect to a  
16 project, that the state will not limit or alter the rights and powers  
17 vested in an authority by this chapter to fulfill the terms of a  
18 contract made by the authority with the holders or federal agency, or  
19 in any way impair the rights and remedies of the holders until the  
20 bonds, together with the interest on them with interest on unpaid  
21 installments of interest, and all costs and expenses in connection  
22 with an action or proceeding by or on behalf of the holders, are fully  
23 met and discharged. The authority is authorized to include this  
24 pledge and agreement of the state, insofar as it refers to holders of  
25 bonds of the authority, in a contract with the holders, and insofar as  
26 it relates to a federal agency, in a contract with the federal agency.

27 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal  
28 property of an authority and its assets, income and receipts are  
29 declared to be the property of a political subdivision of the state

1 and, together with any project financed under this chapter are exempt  
2 from all taxes and special assessments of the state or a political  
3 subdivision of the state. All bonds of an authority are declared to  
4 be issued by a political subdivision of the state and for an essential  
5 public and governmental purpose and to be a public instrumentality,  
6 and the bonds, and the interest on them, the income from them and the  
7 transfer of the bonds, and all assets, income and receipts pledged to  
8 pay or secure the payment of the bonds, or interest on them, shall at  
9 all times be exempt from taxation by or under the authority of the  
10 state, except for inheritance and estate taxes and taxes on transfers  
11 by or in contemplation of death. Nothing in this section affects or  
12 limits an exemption from license fees, property taxes, or excise,  
13 income, or other taxes, provided under any other law, nor does it  
14 create a tax exemption with respect to the interest of any business  
15 enterprise or other person, other than the authority, in any property,  
16 assets, income, receipts, project or lease whether or not financed  
17 under this chapter.

18 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
19 bonds of an authority are securities in which all public officers and  
20 bodies of the state and all municipalities and municipal subdivisions,  
21 all insurance companies and associations and other persons carrying on  
22 an insurance business, all banks, bankers, trust companies, savings  
23 banks, savings associations, including without limitation savings and  
24 loan associations and building and loan associations, investment  
25 companies and other persons carrying on banking business, all adminis-  
26 trators, guardians, executors, trustees and other fiduciaries, and all  
27 other persons who are now or may afterward be authorized to invest in  
28 bonds or other obligations of the state, may properly and legally  
29 invest money including capital in their control or belonging to them.

1 Notwithstanding any other provisions of law, the bonds of an authority  
2 are also securities that may be deposited with and may be received by  
3 all public officers and bodies of the state and all municipalities and  
4 municipal subdivisions for any purpose for which the deposit of bonds  
5 or other obligations of the state is now or may afterward be autho-  
6 rized.

7 Sec. 30.13.130. EQUAL USE AND ACCESS. (a) If an authority  
8 owns, leases, or otherwise operates or controls, or participates in  
9 the financing of, a facility, the authority shall, to the maximum  
10 extent possible, provide for equal rights of access to and use of the  
11 facility by members of the public and other persons or entities upon  
12 terms and conditions that are fair and reasonable. However, this  
13 subsection does not prevent an authority from establishing fair and  
14 reasonable limitations on use of or access to a facility to the extent  
15 the limitations are necessary in connection with the nature of the  
16 facility or the demand for use of or access to the facility. This  
17 section applies to the establishment of rates and rate structures as  
18 well as all other factors, terms, and conditions relating to the use  
19 of or access to the facility, including without limitation the design  
20 and location of the facility. The members of the authority shall make  
21 a written finding concerning compliance of the facility with the  
22 provisions of this section. A written finding signed by at least  
23 three of the five elected members and two of the three appointed  
24 members that the facility complies with the provisions of this section  
25 shall constitute a conclusive presumption of compliance.

26 (b) Before issuing bonds for any project under this chapter, an  
27 authority must find, on the basis of all information reasonably avail-  
28 able to it, that

29 (1) the project and its development under this chapter will

1 be economically advantageous to the state and the general public  
2 welfare and will contribute to the economic growth of the state and  
3 the region within which the authority may exercise its powers;

4 (2) the project is financially feasible; and

5 (3) the scope of the project is sufficient to provide a  
6 reasonable expectation of a benefit to the region and the economy of  
7 the state.

8 Sec. 30.13.140. JURISDICTION. An authority is not subject to  
9 the jurisdiction of the Alaska Transportation Commission.

10 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or  
11 second class or a home rule municipality is created with an area  
12 coterminous with or inclusive of the area of an authority, the author-  
13 ity shall be integrated into the borough or home rule municipality  
14 within one year of incorporation. On integration the borough or home  
15 rule municipality succeeds to all the rights, powers, duties, assets,  
16 and liabilities of the authority, except that any indebtedness of an  
17 authority does not constitute a general obligation of the borough or  
18 home rule municipality payable from taxes levied by the borough or  
19 home rule municipality. The borough or home rule municipality may not  
20 levy any taxes to pay the indebtedness.

21 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-  
22 text otherwise requires,

23 (1) "authority" means a public body created under AS 30.-  
24 13.010;

25 (2) "bonds" means bonds or other obligations issued under  
26 this chapter;

27 (3) "cost" includes the cost of acquisition or construction  
28 of all or any part of transportation facilities and of all or any  
29 property, rights, easements and franchises considered by an authority

1 to be necessary, useful, or convenient, including without limitation  
2 reimbursements to the authority or any other person of money expended  
3 for the purposes of the authority and interest or discount on bonds to  
4 finance those expenses, engineering and inspection costs and legal  
5 expenses, the cost of financial, professional and other advice, and  
6 the cost of issuance of bonds;

7 (4) "district" means the area within the boundaries of an  
8 authority;

9 (5) "person" includes a corporation, company, partnership,  
10 firm, association, organization, business trust, society, state or  
11 agency or subdivision of the state, municipality of the state, or an  
12 authority, as well as a natural person;

13 (6) "transportation facilities", or "facilities", or "pro-  
14 jects" means harbor, port, shipping and transportation facilities of  
15 all kinds, including harbors, channels, turning basins, anchorage  
16 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,  
17 wharves, docks, piers, slips, bulkheads, public landings, warehouses,  
18 terminals, refrigerating and cold storage plants, rolling stock car  
19 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and  
20 railroads, and appliances of all kinds for the handling, storage, in-  
21 spection and transportation of freight and natural resource products;  
22 it also includes all property, rights, easements and franchises rela-  
23 tive to a facility and necessary or convenient for the acquisition,  
24 construction or operation of the facility, but does not include air-  
25 port facilities.

26 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).

Offered: 4/14/83  
Referred: Rules

Original sponsors: Fahrenkamp, Kerttula  
Ferguson and P.Fischer

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 151 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development  
7 Authorities; and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,  
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-  
12 portation and port facilities adequate to permit the development of natural  
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including  
15 mining enterprises, is essential to the long-term economic growth of the  
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and  
18 continuing development of natural resource enterprises in the state will be  
19 accelerated by authorizing the creation of instrumentalities in the various  
20 areas of the state with powers to borrow money to provide for the develop-  
21 ment of transportation and port facilities, and to own, operate and main-  
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority  
24 created under this chapter provides a method of assuring that the manner of  
25 development and the permanent features of a project will be consistent with  
26 the economic, sociological, cultural, environmental, and political aspira-  
27 tions of the residents of the particular region.

28 \* Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1           Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of  
2 each area of the state within the boundaries of a regional educational  
3 attendance area established under AS 14.08 may create a public body  
4 corporate and politic under the name and style of the "  
5 \_\_\_\_\_ Resource Development Authority" with all or any  
6 significant part of the name of the region of the state inserted. The  
7 boundaries of the authority created shall be coterminous with the  
8 boundaries of the regional educational attendance area. Creation of  
9 an authority is initiated by a petition filed with the Department of  
10 Community and Regional Affairs and a statement submitted to the gover-  
11 nor before July 1, 1986. The petition must include the proposed name  
12 of the authority, its boundaries, and a statement of the facilities  
13 proposed to be provided by the authority. The petition must be signed  
14 by 15 percent of the total number of residents in the regional educa-  
15 tional attendance area who cast votes in the preceding general  
16 election. The Department of Community and Regional Affairs shall  
17 review petitions for content and signatures. If the Department of  
18 Community and Regional Affairs determines that the petition is ade-  
19 quate, it shall transmit the petition to the director of elections.

20           (b) The statement required under (a) of this section to be  
21 submitted to the governor must include the purposes for which the  
22 authority is to be created, the goals and potential projects the  
23 authority intends to accomplish, and an analysis of alternative  
24 methods of accomplishing the goals and projects of the proposed au-  
25 thority. The governor shall determine whether the accomplishment of  
26 the goals and potential projects of the proposed authority would be  
27 advantageous to the economic growth of the region and the state and  
28 whether the creation of the proposed authority would be an appropriate  
29 and desirable method of accomplishing those goals and projects. The

1 governor shall submit findings under this subsection to the division  
2 of elections within 90 days after receipt of the statement.

3 (c) The director of elections shall order an election in the  
4 area of the proposed authority to determine whether the voters desire  
5 the creation of the authority if the director has received the peti-  
6 tion and

7 (1) the governor has submitted affirmative findings to the  
8 director under (b) of this section; or

9 (2) more than 90 days have elapsed since the statement was  
10 submitted to the governor under (a) of this section and the governor  
11 has failed to submit negative findings to the division of elections.

12 (d) An order for an election shall be made within 30 days after  
13 the requirements of (c) of this section have been met. The election  
14 shall be held not less than 30 or more than 120 days after the date of  
15 the election order. To the extent practicable, the election shall be  
16 held on a date coinciding with the date for other elections in the  
17 region. The election order shall specify the dates after which nomi-  
18 nation petitions for election of initial officers may be filed.

19 (e) A registered voter who has been a resident within the area  
20 of the proposed authority for 30 days before the date of election may  
21 vote.

22 (f) If creation of an authority is approved, the director of  
23 elections shall, within 10 days of certification, order an election to  
24 choose the five initially elected members of the board of governors of  
25 the authority. The election shall be held not less than 60 or more  
26 than 90 days after the date of the election order. The initially  
27 elected members of the board of governors shall take office on the  
28 first Monday following certification of their election. Two of the  
29 initially elected members shall be designated by lot to serve for a

1 term expiring on the first day of the second November after the date  
2 of their election; two of the initially elected members shall be  
3 designated by lot to serve for a term expiring on the first day of the  
4 third November after the date of their election, and one of the ini-  
5 tially elected members shall be designated by lot to serve for a term  
6 expiring on the first day of the fourth November after the date of  
7 election.

8 (g) Nominations for elected members are made by petition. The  
9 petition shall be in the form prescribed by the director of elections  
10 and include the name and address of the nominee and the statement of  
11 the nominee that the nominee is qualified under this chapter for the  
12 office of member of the board of governors of the authority. A  
13 nomination petition shall include the signature and resident address  
14 of 20 voters in the area of the authority. The director of elections  
15 shall supervise the elections in the general manner prescribed by the  
16 Alaska Election Code (AS 15). The state shall pay all election costs  
17 under this chapter.

18 (h) A copy of each petition for the creation of an authority and  
19 of the certificate of the director of elections as to the election  
20 shall be filed in the office of the director of elections. Upon proof  
21 of filing the authority referred to shall, in any suit, action or  
22 proceeding involving the validity or enforcement of, or relating to,  
23 any contract or obligation or act of the authority, be conclusively  
24 presumed to have been lawfully and properly created as a public body  
25 corporate and politic and established and authorized to transact  
26 business and exercise its powers under this chapter.

27 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be  
28 governed by a board of governors consisting of eight members, five of  
29 whom shall be elected and three of whom shall be appointed by the

1 governor. Elections of members to succeed those initially elected  
2 under AS 30.13.010(f) shall be held on the first Tuesday of October of  
3 each year in which a term expires. Terms of elected members shall be  
4 two years.

5 (b) Nominations for elected members to succeed those initially  
6 elected under AS 30.13.010(f) shall be in accordance with the proce-  
7 dures set out in AS 30.13.010(g).

8 (c) The three members appointed by the governor shall be heads  
9 of principal departments of the executive branch and shall serve at  
10 the pleasure of the governor.

11 (d) The members of the board of governors shall elect a chair-  
12 person and a vice chairperson from among its members. A majority of  
13 the members of the board of governors constitutes a quorum for the  
14 transaction of business. Action may be taken and motions or resolu-  
15 tions adopted by the board of governors at a meeting at which a quorum  
16 is present by vote of a majority of the members present, unless the  
17 bylaws of an authority require a larger number. The board of gover-  
18 nors may delegate to one or more of its officers, agents or employees  
19 the powers and duties that it considers proper. The board of gover-  
20 nors may appoint persons as officers it considers advisable, including  
21 an executive director, and may employ professional advisors, counsel,  
22 technical experts, agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not  
24 vote on a resolution of the board relating to any agreement to be  
25 entered into by the authority under this chapter if the member is a  
26 party to the agreement or has a direct ownership or equity interest,  
27 beneficially or of record, exceeding one percent in, or is employed  
28 by, a firm, partnership, corporation or association that is a party to  
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this  
2 subsection is a valid action of the authority for all purposes.

3 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an  
4 authority shall be the improvement, establishment and development of  
5 facilities in its district for transportation purposes in connection  
6 with natural resource enterprises, either directly or by agreement  
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050  
9 and AS 30.13.130, in furtherance of its corporate purposes under  
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

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

13 (3) adopt and amend bylaws for its organization and inter-  
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-  
16 rate powers;

17 (5) acquire, rent, hold, use and dispose of projects and  
18 other real and personal property necessary, useful, or convenient for  
19 its purposes upon the terms and conditions the authority may consider  
20 advisable;

21 (6) provide for and secure the payment of bonds and the  
22 rights of the holders of them, and to purchase, hold and dispose of  
23 bonds;

24 (7) accept gifts, loans, or grants, including organiza-  
25 tional grants, from, and enter into contracts or other transactions  
26 regarding them with, any federal, state, municipal or other agency or  
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with  
29 bondholders;

1           (9) charge and collect rents, rates, fees, or other charges  
2 for its services and facilities;

3           (10) enter into contracts or other transactions with any  
4 federal, state, municipal or other agency, or instrumentality, private  
5 organization, or person consistent with the exercise of any powers  
6 under this chapter; and

7           (11) do all things necessary and convenient to carry out its  
8 corporate purposes and exercise the powers granted in this chapter.

9           Sec. 30.13.050. LIMITATION ON POWERS. An authority has only  
10 those powers expressly granted in this chapter, reasonably implied  
11 from this chapter, or reasonably necessary or convenient to carry out  
12 its corporate purposes and to exercise the powers expressly granted in  
13 or reasonably implied from this chapter. An authority does not have  
14 powers of eminent domain, taxation, land use planning, zoning, permit-  
15 ting, or other similar governmental powers.

16           Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)  
17 Before issuing bonds for any project under this chapter, an authority  
18 must find, on the basis of all information reasonably available to it,  
19 that

20           (1) the project and its development under this chapter will  
21 be economically advantageous to the state and the general public  
22 welfare and will contribute to the economic growth of the state and  
23 the region within which the authority may exercise its powers;

24           (2) the project is financially feasible; and

25           (3) the scope of the project is sufficient to provide a  
26 reasonable expectation of a benefit to the region and the economy of  
27 the state.

28           (b) An authority shall give fair and reasonable consideration to  
29 a project presented to it for financing. When the authority

1 determines whether to finance or assist in the financing of the pro-  
2 ject, the authority shall state the reasons for its determination in a  
3 written resolution upon request by a person who presented the project  
4 to the authority or a person who presented opposition to the project.  
5 The authority shall base its reasons on the information presented to  
6 it concerning the project and on other information considered appro-  
7 priate by the authority.

8 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the  
9 provisions of AS 30.13.055(a), an authority may borrow money and may  
10 issue bonds, including but not limited to bonds on which the principal  
11 and interest are payable,

12 (1) exclusively from the income and receipts or other money  
13 derived from the project financed with the proceeds of the bonds;

14 (2) exclusively from the income and receipts or other money  
15 derived from designated projects whether or not they are financed in  
16 whole or in part with the proceeds of the bonds; or

17 (3) from its income and receipts or other assets generally,  
18 or a designated part or parts of them.

19 (b) Bonds shall be authorized by resolution of the authority,  
20 and be dated and shall mature as the resolution may provide, except  
21 that no bond may mature more than 40 years from the date of its issue.  
22 Bonds shall bear interest at the rate or rates, be in the denomina-  
23 tions, be in the form, either coupon or registered, carry the regis-  
24 tration privileges, be executed in the manner, be payable in the  
25 medium of payment, at the place or places, and be subject to the terms  
26 of redemption which the resolution or a subsequent resolution may  
27 provide.

28 (c) All bonds, regardless of form or character, shall be nego-  
29 tiable instruments for the purposes of the Uniform Commercial Code.

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

4           (e) The superior court shall have jurisdiction to hear and  
5 determine suits, actions or proceedings relating to an authority,  
6 including without limitation suits, actions or proceedings brought to  
7 foreclose or otherwise enforce a mortgage, pledge, assignment or  
8 security interest or brought by or for the benefit or security of a  
9 holder of its bonds or by a trustee for or other representative of the  
10 holders.

11           (f) Before issuing bonds for a project under this chapter an  
12 authority shall submit to the state bond committee a description of  
13 the bond issue and an independent economic feasibility analysis of the  
14 project and expected revenues. This information may be contained in a  
15 preliminary prospectus, offering circular or official statement relat-  
16 ing to the bond issue. Bonds may not be issued unless the state bond  
17 committee finds, based upon the information submitted by the authority  
18 under this subsection and other information that is reasonably avail-  
19 able to it, that the project revenues can be reasonably expected to be  
20 adequate for payment of the principal and interest on the bonds to be  
21 issued, and that issuance of the bonds by the authority would not be  
22 expected to adversely affect the ability of the state or its political  
23 subdivisions to market bonds.

24           Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
25 discretion of the authority, an issue of bonds may be secured by a  
26 trust indenture or trust agreement between the authority and a corpo-  
27 rate trustee, that may be a trust company, bank, or national banking  
28 association, with corporate trust powers, located inside or outside  
29 the state, or by a secured loan agreement or other instrument or under

1 a resolution giving powers to a corporate trustee, after this in this  
2 section referred to as "trust agreement", by means of which the autho-  
3 rity may

4 (1) make and enter into the covenants and agreements with  
5 the trustee or the holders of the bonds that the authority determines  
6 necessary or desirable, including, without limitation, covenants,  
7 provisions, limitations and agreements as to

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

12 (B) the fixing and collection of rents or other con-  
13 sideration for, and the other terms to be incorporated in an  
14 agreement with respect to a project;

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

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

20 (E) the vesting in a trustee of rights, powers,  
21 duties, funds, or property in trust for the benefit of bond-  
22 holders, including, without limitation, the right to enforce  
23 payment, performance and all other rights of the authority or of  
24 the bondholders, under a lease, contract of sale, mortgage,  
25 security agreement, or trust agreement with respect to a project  
26 by mandamus or other proceeding or by taking possession of by  
27 agent or otherwise and operating a project and collecting rents  
28 or other consideration and applying the same in accordance with  
29 the trust agreement;

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

4           (3) provide for any other matters that in any way affect  
5 the security or protection of the bonds.

6           Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
7 legislature that a pledge made in respect of bonds shall be perfected  
8 and shall be valid and binding from the time the pledge is made; that  
9 the money or property so pledged and thereafter received by an author-  
10 ity shall immediately be subject to the lien of the pledge without  
11 physical delivery or further act; and that the lien of the pledge  
12 shall be valid and binding against all parties having claims of any  
13 kind in tort, contract, or otherwise against the authority irrespec-  
14 tive of whether the parties have notice. Neither the resolution,  
15 trust agreement or any other instrument by which a pledge is created  
16 need be recorded or filed under the provisions of the Uniform Commer-  
17 cial Code to be perfected or to be valid, binding, or effective  
18 against the parties. This section does not affect title to or convey-  
19 ances of real property, and does not limit the applicability of  
20 AS 34.15.290.

21           Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members  
22 of an authority nor a person executing the bonds are liable personally  
23 on the bonds or are subject to personal liability or accountability by  
24 reason of the issuance of the bonds.

25           (b) The bonds issued by an authority do not constitute an in-  
26 debtedness or other liability of the state or of a political subdivi-  
27 sion of the state, but shall be payable solely from the income and  
28 receipts or other funds or property of the authority. The authority  
29 may not pledge the faith or credit of the state or of a political

1 subdivision of the state, except the authority, to the payment of a  
2 bond, and the issuance of a bond by the authority does not directly or  
3 indirectly or contingently obligate the state or a political subdivi-  
4 sion of the state to apply money from, levy or pledge any form of  
5 taxation to the payment of the bond.

6 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and  
7 agrees with the holders of bonds issued under this chapter and with  
8 the federal agency which loans or contributes funds in respect to a  
9 project, that the state will not limit or alter the rights and powers  
10 vested in an authority by this chapter to fulfill the terms of a  
11 contract made by the authority with the holders or federal agency, or  
12 in any way impair the rights and remedies of the holders until the  
13 bonds, together with the interest on them with interest on unpaid  
14 installments of interest, and all costs and expenses in connection  
15 with an action or proceeding by or on behalf of the holders, are fully  
16 met and discharged. The authority is authorized to include this  
17 pledge and agreement of the state, insofar as it refers to holders of  
18 bonds of the authority, in a contract with the holders, and insofar as  
19 it relates to a federal agency, in a contract with the federal agency.

20 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal  
21 property of an authority and its assets, income and receipts are  
22 declared to be the property of a political subdivision of the state  
23 and, together with any project financed under this chapter are exempt  
24 from all taxes and special assessments of the state or a political  
25 subdivision of the state. All bonds of an authority are declared to  
26 be issued by a political subdivision of the state and for an essential  
27 public and governmental purpose and to be a public instrumentality,  
28 and the bonds, and the interest on them, the income from them and the  
29 transfer of the bonds, and all assets, income and receipts pledged to

1 pay or secure the payment of the bonds, or interest on them, shall at  
2 all times be exempt from taxation by or under the authority of the  
3 state, except for inheritance and estate taxes and taxes on transfers  
4 by or in contemplation of death. Nothing in this section affects or  
5 limits an exemption from license fees, property taxes, or excise,  
6 income, or other taxes, provided under any other law, nor does it  
7 create a tax exemption with respect to the interest of any business  
8 enterprise or other person, other than the authority, in any property,  
9 assets, income, receipts, project or lease whether or not financed  
10 under this chapter.

11 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
12 bonds of an authority are securities in which all public officers and  
13 bodies of the state and all municipalities and municipal subdivisions,  
14 all insurance companies and associations and other persons carrying on  
15 an insurance business, all banks, bankers, trust companies, savings  
16 banks, savings associations, including without limitation savings and  
17 loan associations and building and loan associations, investment  
18 companies and other persons carrying on banking business, all adminis-  
19 trators, guardians, executors, trustees and other fiduciaries, and all  
20 other persons who are now or may afterward be authorized to invest in  
21 bonds or other obligations of the state, may properly and legally  
22 invest money including capital in their control or belonging to them.  
23 Notwithstanding any other provisions of law, the bonds of an authority  
24 are also securities that may be deposited with and may be received by  
25 all public officers and bodies of the state and all municipalities and  
26 municipal subdivisions for any purpose for which the deposit of bonds  
27 or other obligations of the state is now or may afterward be autho-  
28 rized.

29 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or

1 shall cause to have audited annually the financial records of an  
2 authority. The legislative auditor may prescribe the form and content  
3 of the financial records of an authority and shall have access to  
4 these records at any reasonable time.

5       Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,  
6 leases, or otherwise operates or controls, or participates in the  
7 financing of, a facility, the authority shall, to the maximum extent  
8 possible, provide for equal rights of access to and use of the facil-  
9 ity by members of the public and other persons or entities upon terms  
10 and conditions that are fair and reasonable. However, this subsection  
11 does not prevent an authority from establishing fair and reasonable  
12 limitations on use of or access to a facility to the extent the limi-  
13 tations are necessary in connection with the nature of the facility or  
14 the demand for use of or access to the facility. This section applies  
15 to the establishment of rates and rate structures as well as all other  
16 factors, terms, and conditions relating to the use of or access to the  
17 facility, including without limitation the design and location of the  
18 facility. The members of the authority shall make a written finding  
19 concerning compliance of the facility with the provisions of this  
20 section. A written finding signed by at least three of the five  
21 elected members and two of the three appointed members that the facil-  
22 ity complies with the provisions of this section shall constitute a  
23 conclusive presumption of compliance.

24       Sec. 30.13.140. JURISDICTION. An authority is not subject to  
25 the jurisdiction of the Alaska Transportation Commission.

26       Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or  
27 second class or a home rule municipality is created with an area  
28 coterminous with or inclusive of the area of an authority, the author-  
29 ity shall be integrated into the borough or home rule municipality

1 within one year of incorporation. On integration the borough or home  
2 rule municipality succeeds to all the rights, powers, duties, assets,  
3 and liabilities of the authority, except that any indebtedness of an  
4 authority does not constitute a general obligation of the borough or  
5 home rule municipality payable from taxes levied by the borough or  
6 home rule municipality. The borough or home rule municipality may not  
7 levy any taxes to pay the indebtedness.

8 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-  
9 text otherwise requires,

10 (1) "authority" means a public body created under AS 30.-  
11 13.010;

12 (2) "bonds" means bonds or other obligations issued under  
13 this chapter;

14 (3) "cost" includes the cost of acquisition or construction  
15 of all or any part of transportation facilities and of all or any  
16 property, rights, easements and franchises considered by an authority  
17 to be necessary, useful, or convenient, including without limitation  
18 reimbursements to the authority or any other person of money expended  
19 for the purposes of the authority and interest or discount on bonds to  
20 finance those expenses, engineering and inspection costs and legal  
21 expenses, the cost of financial, professional and other advice, and  
22 the cost of issuance of bonds;

23 (4) "district" means the area within the boundaries of an  
24 authority;

25 (5) "person" includes a corporation, company, partnership,  
26 firm, association, organization, business trust, society, state or  
27 agency or subdivision of the state, municipality of the state, or an  
28 authority, as well as a natural person;

29 (6) "transportation facilities", or "facilities", or

1 "projects" means harbor, port, shipping and transportation facilities  
2 of all kinds, including harbors, channels, turning basins, anchorage  
3 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,  
4 wharves, docks, piers, slips, bulkheads, public landings, warehouses,  
5 terminals, refrigerating and cold storage plants, rolling stock, car  
6 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and  
7 railroads, and appliances of all kinds for the handling, storage, in-  
8 spection and transportation of freight and natural resource products;  
9 it also includes all property, rights, easements and franchises rela-  
10 tive to a facility and necessary or convenient for the acquisition,  
11 construction or operation of the facility, but does not include air-  
12 port facilities.

13 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
14 10.070(c).

Offered: 5/26/83  
Referred: Resources and  
Finance

Original sponsors: Fahrenkamp, Kerttula,  
Ferguson and P.Fischer

1 IN THE SENATE BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 151 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Regional Resource Development  
7 Authorities; and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,  
10 determines, and declares that:

11 (1) In most areas of the state, there is a lack of basic trans-  
12 portation and port facilities adequate to permit the development of natural  
13 resource enterprises, including mining enterprises.

14 (2) The development of natural resource enterprises, including  
15 mining enterprises, is essential to the long-term economic growth of the  
16 state and will directly and indirectly alleviate unemployment in the state.

17 (3) The achievement of full employment and the establishment and  
18 continuing development of natural resource enterprises in the state will be  
19 accelerated by authorizing the creation of instrumentalities in the various  
20 areas of the state with powers to borrow money to provide for the develop-  
21 ment of transportation and port facilities, and to own, operate and main-  
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority  
24 created under this chapter provides a method of assuring that the manner of  
25 development and the permanent features of a project will be consistent with  
26 the economic, sociological, cultural, environmental, and political aspira-  
27 tions of the residents of the particular region.

28 \* Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1           Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of  
2 each area of the state within the boundaries of a regional educational  
3 attendance area established under AS 14.08 may create a public body  
4 corporate and politic under the name and style of the "  
5 \_\_\_\_\_ Resource Development Authority" with all or any  
6 significant part of the name of the region of the state inserted. The  
7 boundaries of the authority created shall be coterminous with the  
8 boundaries of the regional educational attendance area. Creation of  
9 an authority is initiated by a petition filed with the Department of  
10 Community and Regional Affairs and a statement submitted to the gover-  
11 nor before July 1, 1986. The petition must include the proposed name  
12 of the authority, its boundaries, and a statement of the facilities  
13 proposed to be provided by the authority. The petition must be signed  
14 by 15 percent of the total number of residents in the regional educa-  
15 tional attendance area who cast votes in the preceding general  
16 election. The Department of Community and Regional Affairs shall  
17 review petitions for content and signatures. If the Department of  
18 Community and Regional Affairs determines that the petition is ade-  
19 quate, it shall transmit the petition to the director of elections.

20           (b) The statement required under (a) of this section to be  
21 submitted to the governor must include the purposes for which the  
22 authority is to be created, the goals and potential projects the  
23 authority intends to accomplish, and an analysis of alternative  
24 methods of accomplishing the goals and projects of the proposed au-  
25 thority. The governor shall determine whether the accomplishment of  
26 the goals and potential projects of the proposed authority would be  
27 advantageous to the economic growth of the region and the state and  
28 whether the creation of the proposed authority would be an appropriate  
29 and desirable method of accomplishing those goals and projects. The

1 governor shall submit findings under this subsection to the division  
2 of elections within 90 days after receipt of the statement.

3 (c) The director of elections shall order an election in the  
4 area of the proposed authority to determine whether the voters desire  
5 the creation of the authority if the director has received the peti-  
6 tion and

7 (1) the governor has submitted affirmative findings to the  
8 director under (b) of this section; or

9 (2) more than 90 days have elapsed since the statement was  
10 submitted to the governor under (a) of this section and the governor  
11 has failed to submit negative findings to the division of elections.

12 (d) An order for an election shall be made within 30 days after  
13 the requirements of (c) of this section have been met. The election  
14 shall be held not less than 30 or more than 120 days after the date of  
15 the election order. To the extent practicable, the election shall be  
16 held on a date coinciding with the date for other elections in the  
17 region. The election order shall specify the dates after which nomi-  
18 nation petitions for election of initial officers may be filed.

19 (e) A registered voter who has been a resident within the area  
20 of the proposed authority for 30 days before the date of election may  
21 vote.

22 (f) If creation of an authority is approved, the director of  
23 elections shall, within 10 days of certification, order an election to  
24 choose the five initially elected members of the board of governors of  
25 the authority. The election shall be held not less than 60 or more  
26 than 90 days after the date of the election order. The initially  
27 elected members of the board of governors shall take office on the  
28 first Monday following certification of their election. Two of the  
29 initially elected members shall be designated by lot to serve for a

1 term expiring on the first day of the second November after the date  
2 of their election; two of the initially elected members shall be  
3 designated by lot to serve for a term expiring on the first day of the  
4 third November after the date of their election, and one of the ini-  
5 tially elected members shall be designated by lot to serve for a term  
6 expiring on the first day of the fourth November after the date of  
7 election.

8 (g) Nominations for elected members are made by petition. The  
9 petition shall be in the form prescribed by the director of elections  
10 and include the name and address of the nominee and the statement of  
11 the nominee that the nominee is qualified under this chapter for the  
12 office of member of the board of governors of the authority. A  
13 nomination petition shall include the signature and resident address  
14 of 20 voters in the area of the authority. The director of elections  
15 shall supervise the elections in the general manner prescribed by the  
16 Alaska Election Code (AS 15). The state shall pay all election costs  
17 under this chapter.

18 (h) A copy of each petition for the creation of an authority and  
19 of the certificate of the director of elections as to the election  
20 shall be filed in the office of the director of elections. Upon proof  
21 of filing the authority referred to shall, in any suit, action or  
22 proceeding involving the validity or enforcement of, or relating to,  
23 any contract or obligation or act of the authority, be conclusively  
24 presumed to have been lawfully and properly created as a public body  
25 corporate and politic and established and authorized to transact  
26 business and exercise its powers under this chapter.

27 Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be  
28 governed by a board of governors consisting of eight members, five of  
29 whom shall be elected and three of whom shall be appointed by the

1 governor. Elections of members to succeed those initially elected  
2 under AS 30.13.010(f) shall be held on the first Tuesday of October of  
3 each year in which a term expires. Terms of elected members shall be  
4 two years.

5 (b) Nominations for elected members to succeed those initially  
6 elected under AS 30.13.010(f) shall be in accordance with the proce-  
7 dures set out in AS 30.13.010(g).

8 (c) The three members appointed by the governor shall be heads  
9 of principal departments of the executive branch and shall serve at  
10 the pleasure of the governor.

11 (d) The members of the board of governors shall elect a chair-  
12 person and a vice chairperson from among its members. Six members of  
13 the board of governors constitute a quorum for the transaction of  
14 business. Action may be taken and motions or resolutions adopted by  
15 the board of governors at a meeting at which a quorum is present by  
16 vote of a majority of the members present, unless the bylaws of an  
17 authority require a larger number. The board of governors may  
18 delegate to one or more of its officers, agents or employees the  
19 powers and duties that it considers proper. The board of governors  
20 may appoint persons as officers it considers advisable, including an  
21 executive director, and may employ professional advisors, counsel,  
22 technical experts, agents, and other employees it considers advisable.

23 (e) A member of the board of governors of an authority may not  
24 vote on a resolution of the board relating to any agreement to be  
25 entered into by the authority under this chapter if the member is a  
26 party to the agreement or has a direct ownership or equity interest,  
27 beneficially or of record, exceeding one percent in, or is employed  
28 by, a firm, partnership, corporation or association that is a party to  
29 the agreement. A resolution of the board that is approved by a

1 majority of all the members who are not barred from voting under this  
2 subsection is a valid action of the authority for all purposes.

3 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an  
4 authority shall be the improvement, establishment and development of  
5 facilities in its district for transportation purposes in connection  
6 with natural resource enterprises, either directly or by agreement  
7 with any public or private entity or person.

8 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050  
9 and AS 30.13.130, in furtherance of its corporate purposes under  
10 AS 30.13.030, an authority has the power to

11 (1) sue and be sued;

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

13 (3) adopt and amend bylaws for its organization and inter-  
14 nal management;

15 (4) adopt regulations governing the exercise of its corpo-  
16 rate powers;

17 (5) acquire, rent, hold, use and dispose of projects and  
18 other real and personal property necessary, useful, or convenient for  
19 its purposes upon the terms and conditions the authority may consider  
20 advisable;

21 (6) provide for and secure the payment of bonds and the  
22 rights of the holders of them, and to purchase, hold and dispose of  
23 bonds;

24 (7) accept gifts, loans, or grants, including organiza-  
25 tional grants, from, and enter into contracts or other transactions  
26 regarding them with, any federal, state, municipal or other agency or  
27 instrumentality, private organization, or other person;

28 (8) deposit or invest its funds, subject to agreements with  
29 bondholders;

1                   (9) charge and collect rents, rates, fees, or other charges  
2 for its services and facilities;

3                   (10) enter into contracts or other transactions with any  
4 federal, state, municipal or other agency, or instrumentality, private  
5 organization, or person consistent with the exercise of any powers  
6 under this chapter; and

7                   (11) do all things necessary and convenient to carry out its  
8 corporate purposes and exercise the powers granted in this chapter.

9                   Sec. 30.13.050. LIMITATION ON POWERS. An authority has only  
10 those powers expressly granted in this chapter, reasonably implied  
11 from this chapter, or reasonably necessary or convenient to carry out  
12 its corporate purposes and to exercise the powers expressly granted in  
13 or reasonably implied from this chapter. An authority does not have  
14 powers of eminent domain, taxation, land use planning, zoning, permit-  
15 ting, or other similar governmental powers. An authority may not use  
16 state grants, appropriations, or other transfers from the state to  
17 satisfy bond obligations or otherwise establish collateral or security  
18 for bonds issued by the authority or to finance the improvement,  
19 establishment, or development of transportation facilities or  
20 projects.

21                   Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)  
22 Before issuing bonds for any project under this chapter, an authority  
23 must find, on the basis of all information reasonably available to it,  
24 that

25                   (1) the project and its development under this chapter will  
26 be economically advantageous to the state and the general public  
27 welfare and will contribute to the economic growth of the state and  
28 the region within which the authority may exercise its powers;

29                   (2) the project is financially feasible and, able to

1 produce revenue adequate to repay the bonds with which it is financed;  
2 and

3 (3) the scope of the project is sufficient to provide a  
4 reasonable expectation of a benefit to the region and the economy of  
5 the state.

6 (b) An authority shall give fair and reasonable consideration to  
7 a project presented to it for financing. When the authority deter-  
8 mines whether to finance or assist in the financing of the project,  
9 the authority shall state the reasons for its determination in a  
10 written resolution upon request by a person who presented the project  
11 to the authority or a person who presented opposition to the project.  
12 The authority shall base its reasons on the information presented to  
13 it concerning the project and on other information considered appro-  
14 priate by the authority.

15 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the  
16 provisions of AS 30.13.055(a), an authority may borrow money and may  
17 issue bonds, including but not limited to bonds on which the principal  
18 and interest are payable,

19 (1) exclusively from the income and receipts or other money  
20 derived from the project financed with the proceeds of the bonds;

21 (2) exclusively from the income and receipts or other money  
22 derived from designated projects whether or not they are financed in  
23 whole or in part with the proceeds of the bonds; or

24 (3) from its income and receipts or other assets generally,  
25 or a designated part or parts of them.

26 (b) Bonds shall be authorized by resolution of the authority,  
27 and be dated and shall mature as the resolution may provide, except  
28 that no bond may mature more than 40 years from the date of its issue.  
29 Bonds shall bear interest at the rate or rates, be in the denomina-

1           tions, be in the form, either coupon or registered, carry the regis-  
2           tration privileges, be executed in the manner, be payable in the  
3           medium of payment, at the place or places, and be subject to the terms  
4           of redemption which the resolution or a subsequent resolution may  
5           provide.

6           (c) All bonds, regardless of form or character, shall be nego-  
7           tiable instruments for the purposes of the Uniform Commercial Code.

8           (d) All bonds may be sold at public or private sale in the  
9           manner, for the price or prices, and at the time or times that the  
10          authority may determine.

11          (e) The superior court shall have jurisdiction to hear and  
12          determine suits, actions or proceedings relating to an authority,  
13          including without limitation suits, actions or proceedings brought to  
14          foreclose or otherwise enforce a mortgage, pledge, assignment or  
15          security interest or brought by or for the benefit or security of a  
16          holder of its bonds or by a trustee for or other representative of the  
17          holders.

18          (f) Before issuing bonds for a project under this chapter an  
19          authority shall submit to the state bond committee a description of  
20          the bond issue and an independent economic feasibility analysis of the  
21          project and expected revenues. This information may be contained in a  
22          preliminary prospectus, offering circular or official statement relat-  
23          ing to the bond issue. Bonds may not be issued unless the state bond  
24          committee finds, based upon the information submitted by the authority  
25          under this subsection and other information that is reasonably avail-  
26          able to it, that the project revenues can be reasonably expected to be  
27          adequate for payment of the principal and interest on the bonds to be  
28          issued, and that issuance of the bonds by the authority would not be  
29          expected to adversely affect the ability of the state or its political

1 subdivisions to market bonds.

2 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
3 discretion of the authority, an issue of bonds may be secured by a  
4 trust indenture or trust agreement between the authority and a  
5 corporate trustee, that may be a trust company, bank, or national  
6 banking association, with corporate trust powers, located inside or  
7 outside the state, or by a secured loan agreement or other instrument  
8 or under a resolution giving powers to a corporate trustee, after this  
9 in this section referred to as "trust agreement", by means of which  
10 the authority may

11 (1) make and enter into the covenants and agreements with  
12 the trustee or the holders of the bonds that the authority determines  
13 necessary or desirable, including, without limitation, covenants,  
14 provisions, limitations and agreements as to

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

19 (B) the fixing and collection of rents or other con-  
20 sideration for, and the other terms to be incorporated in an  
21 agreement with respect to a project;

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

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

27 (E) the vesting in a trustee of rights, powers,  
28 duties, funds, or property in trust for the benefit of bond-  
29 holders, including, without limitation, the right to enforce

1 payment, performance and all other rights of the authority or of  
2 the bondholders, under a lease, contract of sale, mortgage,  
3 security agreement, or trust agreement with respect to a project  
4 by mandamus or other proceeding or by taking possession of by  
5 agent or otherwise and operating a project and collecting rents  
6 or other consideration and applying the same in accordance with  
7 the trust agreement;

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

11 (3) provide for any other matters that in any way affect  
12 the security or protection of the bonds.

13 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
14 legislature that a pledge made in respect of bonds shall be perfected  
15 and shall be valid and binding from the time the pledge is made; that  
16 the money or property so pledged and thereafter received by an author-  
17 ity shall immediately be subject to the lien of the pledge without  
18 physical delivery or further act; and that the lien of the pledge  
19 shall be valid and binding against all parties having claims of any  
20 kind in tort, contract, or otherwise against the authority irrespec-  
21 tive of whether the parties have notice. Neither the resolution,  
22 trust agreement or any other instrument by which a pledge is created  
23 need be recorded or filed under the provisions of the Uniform Commer-  
24 cial Code to be perfected or to be valid, binding, or effective  
25 against the parties. This section does not affect title to or convey-  
26 ances of real property, and does not limit the applicability of  
27 AS 34.15.290.

28 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members  
29 of an authority nor a person executing the bonds are liable personally

1 on the bonds or are subject to personal liability or accountability by  
2 reason of the issuance of the bonds.

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

13 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and  
14 agrees with the holders of bonds issued under this chapter and with  
15 the federal agency which loans or contributes funds in respect to a  
16 project, that the state will not limit or alter the rights and powers  
17 vested in an authority by this chapter to fulfill the terms of a  
18 contract made by the authority with the holders or federal agency, or  
19 in any way impair the rights and remedies of the holders until the  
20 bonds, together with the interest on them with interest on unpaid  
21 installments of interest, and all costs and expenses in connection  
22 with an action or proceeding by or on behalf of the holders, are fully  
23 met and discharged. The authority is authorized to include this  
24 pledge and agreement of the state, insofar as it refers to holders of  
25 bonds of the authority, in a contract with the holders, and insofar as  
26 it relates to a federal agency, in a contract with the federal agency.

27 Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal  
28 property of an authority and its assets, income and receipts are  
29 declared to be the property of a political subdivision of the state

1 and, together with any project financed under this chapter are exempt  
2 from all taxes and special assessments of the state or a political  
3 subdivision of the state. All bonds of an authority are declared to  
4 be issued by a political subdivision of the state and for an essential  
5 public and governmental purpose and to be a public instrumentality,  
6 and the bonds, and the interest on them, the income from them and the  
7 transfer of the bonds, and all assets, income and receipts pledged to  
8 pay or secure the payment of the bonds, or interest on them, shall at  
9 all times be exempt from taxation by or under the authority of the  
10 state, except for inheritance and estate taxes and taxes on transfers  
11 by or in contemplation of death. Nothing in this section affects or  
12 limits an exemption from license fees, property taxes, or excise,  
13 income, or other taxes, provided under any other law, nor does it  
14 create a tax exemption with respect to the interest of any business  
15 enterprise or other person, other than the authority, in any property,  
16 assets, income, receipts, project or lease whether or not financed  
17 under this chapter.

18 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
19 bonds of an authority are securities in which all public officers and  
20 bodies of the state and all municipalities and municipal subdivisions,  
21 all insurance companies and associations and other persons carrying on  
22 an insurance business, all banks, bankers, trust companies, savings  
23 banks, savings associations, including without limitation savings and  
24 loan associations and building and loan associations, investment  
25 companies and other persons carrying on banking business, all adminis-  
26 trators, guardians, executors, trustees and other fiduciaries, and all  
27 other persons who are now or may afterward be authorized to invest in  
28 bonds or other obligations of the state, may properly and legally  
29 invest money including capital in their control or belonging to them.

1 Notwithstanding any other provisions of law, the bonds of an authority  
2 are also securities that may be deposited with and may be received by  
3 all public officers and bodies of the state and all municipalities and  
4 municipal subdivisions for any purpose for which the deposit of bonds  
5 or other obligations of the state is now or may afterward be autho-  
6 rized.

7 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or  
8 shall cause to have audited annually the financial records of an  
9 authority. The legislative auditor may prescribe the form and content  
10 of the financial records of an authority and shall have access to  
11 these records at any reasonable time.

12 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,  
13 leases, or otherwise operates or controls, or participates in the  
14 financing of, a facility, the authority shall, to the maximum extent  
15 possible, provide for equal rights of access to and use of the facil-  
16 ity by members of the public and other persons or entities upon terms  
17 and conditions that are fair and reasonable. However, this subsection  
18 does not prevent an authority from establishing fair and reasonable  
19 limitations on use of or access to a facility to the extent the limi-  
20 tations are necessary in connection with the nature of the facility or  
21 the demand for use of or access to the facility. This section applies  
22 to the establishment of rates and rate structures as well as all other  
23 factors, terms, and conditions relating to the use of or access to the  
24 facility, including without limitation the design and location of the  
25 facility. The members of the authority shall make a written finding  
26 concerning compliance of the facility with the provisions of this  
27 section. A written finding signed by at least three of the five  
28 elected members and two of the three appointed members that the facil-  
29 ity complies with the provisions of this section shall constitute a

1 conclusive presumption of compliance.

2 Sec. 30.13.140. JURISDICTION. An authority is not subject to  
3 the jurisdiction of the Alaska Transportation Commission.

4 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or  
5 second class or a home rule municipality is created with an area  
6 coterminous with or inclusive of the area of an authority, the author-  
7 ity shall be integrated into the borough or home rule municipality  
8 within one year of incorporation. On integration the borough or home  
9 rule municipality succeeds to all the rights, powers, duties, assets,  
10 and liabilities of the authority, except that any indebtedness of an  
11 authority does not constitute a general obligation of the borough or  
12 home rule municipality payable from taxes levied by the borough or  
13 home rule municipality. The borough or home rule municipality may not  
14 levy any taxes to pay the indebtedness.

15 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-  
16 text otherwise requires,

17 (1) "authority" means a public body created under AS 30.-  
18 13.010;

19 (2) "bonds" means bonds or other obligations issued under  
20 this chapter;

21 (3) "cost" includes the cost of acquisition or construction  
22 of all or any part of transportation facilities and of all or any  
23 property, rights, easements and franchises considered by an authority  
24 to be necessary, useful, or convenient, including without limitation  
25 reimbursements to the authority or any other person of money expended  
26 for the purposes of the authority and interest or discount on bonds to  
27 finance those expenses, engineering and inspection costs and legal  
28 expenses, the cost of financial, professional and other advice, and  
29 the cost of issuance of bonds;

1           (4) "district" means the area within the boundaries of an  
2 authority;

3           (5) "person" includes a corporation, company, partnership,  
4 firm, association, organization, business trust, society, state or  
5 agency or subdivision of the state, municipality of the state, or an  
6 authority, as well as a natural person;

7           (6) "transportation facilities", or "facilities", or "pro-  
8 jects" means harbor, port, shipping and transportation facilities of  
9 all kinds, including harbors, channels, turning basins, anchorage  
10 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,  
11 wharves, docks, piers, slips, bulkheads, public landings, warehouses,  
12 terminals, refrigerating and cold storage plants, rolling stock, car  
13 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and  
14 railroads, and appliances of all kinds for the handling, storage, in-  
15 spection and transportation of freight and natural resource products;  
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19 port facilities.

20       \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

Offered: 5/27/83  
Referred: Finance

Original sponsors: Fahrenkamp, Kerttula,  
Ferguson and P.Fischer

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 151 (Resources)  
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4 THIRTEENTH LEGISLATURE - FIRST SESSION  
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20 areas of the state with powers to borrow money to provide for the develop-  
21 ment of transportation and port facilities, and to own, operate and main-  
22 tain transportation and port facilities, as provided in this chapter.

23 (4) The locally elected majority membership of an authority  
24 created under this chapter provides a method of assuring that the manner of  
25 development and the permanent features of a project will be consistent with  
26 the economic, sociological, cultural, environmental, and political aspira-  
27 tions of the residents of the particular region.

28 \* Sec. 2. AS 30 is amended by adding a new chapter to read:

29 CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

1           Sec. 30.13.010. CREATION OF AUTHORITY. (a) The residents of  
2 each area of the state within the boundaries of a regional housing  
3 authority established under AS 18.55.996 which is located in whole or  
4 in part in the unorganized borough of the state may create a public  
5 body corporate and politic under the name and style of the "  
6 \_\_\_\_\_ Resource Development Authority" with all or any  
7 significant part of the name of the region of the state inserted. The  
8 boundaries of the authority created shall be coterminous with the  
9 portion of the applicable regional housing authority that lies in the  
10 unorganized borough. Creation of an authority is initiated by a  
11 petition filed with the Department of Community and Regional Affairs  
12 and a statement submitted to the governor before July 1, 1986. The  
13 petition must include the proposed name of the authority, its bound-  
14 aries, and a statement of the facilities proposed to be provided by  
15 the authority. The petition must be signed by 15 percent of the total  
16 number of residents in the portion of the applicable regional housing  
17 authority that lies in the unorganized borough who cast votes in the  
18 preceding general election. The Department of Community and Regional  
19 Affairs shall review petitions for content and signatures. If the  
20 Department of Community and Regional Affairs determines that the  
21 petition is adequate, it shall transmit the petition to the director  
22 of elections.

23           (b) The statement required under (a) of this section to be  
24 submitted to the governor must include the purposes for which the  
25 authority is to be created, the goals and potential projects the  
26 authority intends to accomplish, and an analysis of alternative  
27 methods of accomplishing the goals and projects of the proposed au-  
28 thority. The governor shall determine whether the accomplishment of  
29 the goals and potential projects of the proposed authority would be

1           advantageous to the economic growth of the region and the state and  
2           whether the creation of the proposed authority would be an appropriate  
3           and desirable method of accomplishing those goals and projects. The  
4           governor shall submit findings under this subsection to the division  
5           of elections within 90 days after receipt of the statement.

6           (c) The director of elections shall order an election in the  
7           area of the proposed authority to determine whether the voters desire  
8           the creation of the authority if the director has received the peti-  
9           tion and

10                   (1) the governor has submitted affirmative findings to the  
11           director under (b) of this section; or

12                   (2) more than 90 days have elapsed since the statement was  
13           submitted to the governor under (a) of this section and the governor  
14           has failed to submit negative findings to the division of elections.

15           (d) An order for an election shall be made within 30 days after  
16           the requirements of (c) of this section have been met. The election  
17           shall be held not less than 30 or more than 120 days after the date of  
18           the election order. To the extent practicable, the election shall be  
19           held on a date coinciding with the date for other elections in the  
20           region. The election order shall specify the dates after which nomi-  
21           nation petitions for election of initial officers may be filed.

22           (e) A registered voter who has been a resident within the area  
23           of the proposed authority for 30 days before the date of election may  
24           vote.

25           (f) If creation of an authority is approved, the director of  
26           elections shall, within 10 days of certification, order an election to  
27           choose the five initially elected members of the board of governors of  
28           the authority. The election shall be held not less than 60 or more  
29           than 90 days after the date of the election order. The initially

1       elected members of the board of governors shall take office on the  
2       first Monday following certification of their election. Two of the  
3       initially elected members shall be designated by lot to serve for a  
4       term expiring on the first day of the second November after the date  
5       of their election; two of the initially elected members shall be  
6       designated by lot to serve for a term expiring on the first day of the  
7       third November after the date of their election, and one of the ini-  
8       tially elected members shall be designated by lot to serve for a term  
9       expiring on the first day of the fourth November after the date of  
10      election.

11       (g) Nominations for elected members are made by petition. The  
12      petition shall be in the form prescribed by the director of elections  
13      and include the name and address of the nominee and the statement of  
14      the nominee that the nominee is qualified under this chapter for the  
15      office of member of the board of governors of the authority. A nom-  
16      ination petition shall include the signature and resident address of  
17      20 voters in the area of the authority. The director of elections  
18      shall supervise the elections in the general manner prescribed by the  
19      Alaska Election Code (AS 15). The state shall pay all election costs  
20      under this chapter.

21       (h) A copy of each petition for the creation of an authority and  
22      of the certificate of the director of elections as to the election  
23      shall be filed in the office of the director of elections. Upon proof  
24      of filing the authority referred to shall, in any suit, action or  
25      proceeding involving the validity or enforcement of, or relating to,  
26      any contract or obligation or act of the authority, be conclusively  
27      presumed to have been lawfully and properly created as a public body  
28      corporate and politic and established and authorized to transact  
29      business and exercise its powers under this chapter.

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Sec. 30.13.020. BOARD OF GOVERNORS. (a) The authority shall be governed by a board of governors consisting of eight members, five of whom shall be elected and three of whom shall be appointed by the governor. Elections of members to succeed those initially elected under AS 30.13.010(f) shall be held on the first Tuesday of October of each year in which a term expires. Terms of elected members shall be two years.

(b) Nominations for elected members to succeed those initially elected under AS 30.13.010(f) shall be in accordance with the procedures set out in AS 30.13.010(g).

(c) The three members appointed by the governor shall be the commissioner of transportation and public facilities and the heads of two other principal departments of the executive branch.

(d) The members of the board of governors shall elect a chairperson and a vice chairperson from among its members. Six members of the board of governors constitute a quorum for the transaction of business. Action may be taken and motions or resolutions adopted by the board of governors at a meeting at which a quorum is present by vote of a majority of the members present, unless the bylaws of an authority require a larger number. The board of governors may delegate to one or more of its officers, agents or employees the powers and duties that it considers proper. The board of governors may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable.

(e) A member of the board of governors of an authority may not vote on a resolution of the board relating to any agreement to be entered into by the authority under this chapter if the member is a

1 party to the agreement or has a direct ownership or equity interest,  
2 beneficially or of record, exceeding one percent in, or is employed  
3 by, a firm, partnership, corporation or association that is a party to  
4 the agreement. A resolution of the board that is approved by a major-  
5 ity of all the members who are not barred from voting under this  
6 subsection is a valid action of the authority for all purposes.

7 Sec. 30.13.030. PURPOSE OF AN AUTHORITY. The purpose of an  
8 authority shall be the improvement, establishment and development of  
9 facilities in its district for transportation purposes in connection  
10 with natural resource enterprises, either directly or by agreement  
11 with any public or private entity or person.

12 Sec. 30.13.040. POWERS OF AN AUTHORITY. Subject to AS 30.13.050  
13 and AS 30.13.130, in furtherance of its corporate purposes under  
14 AS 30.13.030, an authority has the power to

15 (1) sue and be sued;

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

17 (3) adopt and amend bylaws for its organization and inter-  
18 nal management;

19 (4) adopt regulations governing the exercise of its corpo-  
20 rate powers;

21 (5) acquire, rent, hold, use and dispose of projects and  
22 other real and personal property necessary, useful, or convenient for  
23 its purposes upon the terms and conditions the authority may consider  
24 advisable;

25 (6) provide for and secure the payment of bonds and the  
26 rights of the holders of them, and to purchase, hold and dispose of  
27 bonds;

28 (7) accept gifts, loans, or grants, including organiza-  
29 tional grants, from, and enter into contracts or other transactions

1 regarding them with, any federal, state, municipal or other agency or  
2 instrumentality, private organization, or other person;

3 (8) deposit or invest its funds, subject to agreements with  
4 bondholders;

5 (9) charge and collect only those rents, rates, fees, or  
6 other charges that are necessary to pay for capital, maintenance, and  
7 operating costs of the services and facilities of the authority;

8 (10) enter into contracts or other transactions with any  
9 federal, state, municipal or other agency, or instrumentality, private  
10 organization, or person consistent with the exercise of any powers  
11 under this chapter; and

12 (11) do all things necessary and convenient to carry out its  
13 corporate purposes and exercise the powers granted in this chapter.

14 Sec. 30.13.050. LIMITATION ON POWERS. An authority has only  
15 those powers expressly granted in this chapter, reasonably implied  
16 from this chapter, or reasonably necessary or convenient to carry out  
17 its corporate purposes and to exercise the powers expressly granted in  
18 or reasonably implied from this chapter. An authority does not have  
19 powers of eminent domain, taxation, land use planning, zoning, permit-  
20 ting, or other similar governmental powers. An authority may not use  
21 state grants, appropriations, or other transfers from the state to  
22 satisfy bond obligations or otherwise establish collateral or security  
23 for bonds issued by the authority. An authority may not use rents,  
24 rates, fees, or other charges collected through operation of a facil-  
25 ity to finance the improvement, establishment, and development of  
26 unrelated facilities.

27 Sec. 30.13.055. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)  
28 Before issuing bonds for any project under this chapter, an authority  
29 must find, on the basis of all information reasonably available to it,

1 that

2 (1) the project and its development under this chapter will  
3 be economically advantageous to the state and the general public  
4 welfare and will contribute to the economic growth of the state and  
5 the region within which the authority may exercise its powers;

6 (2) the project is financially sound and, can be expected  
7 to produce revenue adequate to repay the bonds with which it is  
8 financed; and

9 (3) the scope of the project is sufficient to provide a  
10 reasonable expectation of a benefit to the region and the economy of  
11 the state.

12 (b) An authority shall give fair and reasonable consideration to  
13 a project presented to it for financing. When the authority deter-  
14 mines whether to finance or assist in the financing of the project,  
15 the authority shall state the reasons for its determination in a  
16 written resolution upon request by a person who presented the project  
17 to the authority or a person who presented opposition to the project.  
18 The authority shall base its reasons on the information presented to  
19 it concerning the project and on other information considered appro-  
20 priate by the authority.

21 Sec. 30.13.060. BONDS OF AN AUTHORITY. (a) Subject to the  
22 provisions of AS 30.13.055(a), an authority may borrow money and may  
23 issue bonds, including but not limited to bonds on which the principal  
24 and interest are payable,

25 (1) exclusively from the income and receipts or other money  
26 derived from the project financed with the proceeds of the bonds;

27 (2) exclusively from the income and receipts or other money  
28 derived from designated projects whether or not they are financed in  
29 whole or in part with the proceeds of the bonds; or

1                   (3) from its income and receipts or other assets generally,  
2 or a designated part or parts of them.

3                   (b) Bonds shall be authorized by resolution of the authority,  
4 and be dated and shall mature as the resolution may provide, except  
5 that no bond may mature more than 40 years from the date of its issue.  
6 Bonds shall bear interest at the rate or rates, be in the denomina-  
7 tions, be in the form, either coupon or registered, carry the regis-  
8 tration privileges, be executed in the manner, be payable in the  
9 medium of payment, at the place or places, and be subject to the terms  
10 of redemption which the resolution or a subsequent resolution may  
11 provide.

12                   (c) All bonds, regardless of form or character, shall be nego-  
13 tiable instruments for the purposes of the Uniform Commercial Code.

14                   (d) All bonds may be sold at public or private sale in the  
15 manner, for the price or prices, and at the time or times that the  
16 authority may determine.

17                   (e) The superior court shall have jurisdiction to hear and  
18 determine suits, actions or proceedings relating to an authority,  
19 including without limitation suits, actions or proceedings brought to  
20 foreclose or otherwise enforce a mortgage, pledge, assignment or  
21 security interest or brought by or for the benefit or security of a  
22 holder of its bonds or by a trustee for or other representative of the  
23 holders.

24                   (f) Before issuing bonds for a project under this chapter an  
25 authority shall submit to the state bond committee a description of  
26 the bond issue and an independent economic feasibility analysis of the  
27 project and expected revenues. This information may be contained in a  
28 preliminary prospectus, offering circular or official statement relat-  
29 ing to the bond issue. Bonds may not be issued unless the state bond

1 committee finds, based upon the information submitted by the authority  
2 under this subsection and other information that is reasonably avail-  
3 able to it, that the project revenues can be reasonably expected to be  
4 adequate for payment of the principal and interest on the bonds to be  
5 issued, and that issuance of the bonds by the authority would not be  
6 expected to adversely affect the ability of the state or its political  
7 subdivisions to market bonds.

8 Sec. 30.13.070. TRUST INDENTURES AND TRUST AGREEMENTS. In the  
9 discretion of the authority, an issue of bonds may be secured by a  
10 trust indenture or trust agreement between the authority and a corpo-  
11 rate trustee, that may be a trust company, bank, or national banking  
12 association, with corporate trust powers, located inside or outside  
13 the state, or by a secured loan agreement or other instrument or under  
14 a resolution giving powers to a corporate trustee, after this in this  
15 section referred to as "trust agreement", by means of which the autho-  
16 rity may

17 (1) make and enter into the covenants and agreements with  
18 the trustee or the holders of the bonds that the authority determines  
19 necessary or desirable, including, without limitation, covenants,  
20 provisions, limitations and agreements as to

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

25 (B) the fixing and collection of rents or other con-  
26 sideration for, and the other terms to be incorporated in an  
27 agreement with respect to a project;

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

1 project to a trustee for the benefit of bondholders;

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

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

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

17 (3) provide for any other matters that in any way affect  
18 the security or protection of the bonds.

19 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
20 legislature that a pledge made in respect of bonds shall be perfected  
21 and shall be valid and binding from the time the pledge is made; that  
22 the money or property so pledged and thereafter received by an author-  
23 ity shall immediately be subject to the lien of the pledge without  
24 physical delivery or further act; and that the lien of the pledge  
25 shall be valid and binding against all parties having claims of any  
26 kind in tort, contract, or otherwise against the authority irrespec-  
27 tive of whether the parties have notice. Neither the resolution,  
28 trust agreement or any other instrument by which a pledge is created  
29 need be recorded or filed under the provisions of the Uniform

1 Commercial Code to be perfected or to be valid, binding, or effective  
2 against the parties. This section does not affect title to or convey-  
3 ances of real property, and does not limit the applicability of  
4 AS 34.15.290.

5 Sec. 30.13.090. NONLIABILITY ON BONDS. (a) Neither the members  
6 of an authority nor a person executing the bonds are liable personally  
7 on the bonds or are subject to personal liability or accountability by  
8 reason of the issuance of the bonds.

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

19 Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and  
20 agrees with the holders of bonds issued under this chapter and with  
21 the federal agency which loans or contributes funds in respect to a  
22 project, that the state will not limit or alter the rights and powers  
23 vested in an authority by this chapter to fulfill the terms of a  
24 contract made by the authority with the holders or federal agency, or  
25 in any way impair the rights and remedies of the holders until the  
26 bonds, together with the interest on them with interest on unpaid  
27 installments of interest, and all costs and expenses in connection  
28 with an action or proceeding by or on behalf of the holders, are fully  
29 met and discharged. The authority is authorized to include this

1 pledge and agreement of the state, insofar as it refers to holders of  
2 bonds of the authority, in a contract with the holders, and insofar as  
3 it relates to a federal agency, in a contract with the federal agency.

4       Sec. 30.13.110. EXEMPTION FROM TAXATION. The real and personal  
5 property of an authority and its assets, income and receipts are  
6 declared to be the property of a political subdivision of the state  
7 and, together with any project financed under this chapter are exempt  
8 from all taxes and special assessments of the state or a political  
9 subdivision of the state. All bonds of an authority are declared to  
10 be issued by a political subdivision of the state and for an essential  
11 public and governmental purpose and to be a public instrumentality,  
12 and the bonds, and the interest on them, the income from them and the  
13 transfer of the bonds, and all assets, income and receipts pledged to  
14 pay or secure the payment of the bonds, or interest on them, shall at  
15 all times be exempt from taxation by or under the authority of the  
16 state, except for inheritance and estate taxes and taxes on transfers  
17 by or in contemplation of death. Nothing in this section affects or  
18 limits an exemption from license fees, property taxes, or excise,  
19 income, or other taxes, provided under any other law, nor does it  
20 create a tax exemption with respect to the interest of any business  
21 enterprise or other person, other than the authority, in any property,  
22 assets, income, receipts, project or lease whether or not financed  
23 under this chapter.

24       Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
25 bonds of an authority are securities in which all public officers and  
26 bodies of the state and all municipalities and municipal subdivisions,  
27 all insurance companies and associations and other persons carrying on  
28 an insurance business, all banks, bankers, trust companies, savings  
29 banks, savings associations, including without limitation savings and

1 loan associations and building and loan associations, investment  
2 companies and other persons carrying on banking business, all adminis-  
3 trators, guardians, executors, trustees and other fiduciaries, and all  
4 other persons who are now or may afterward be authorized to invest in  
5 bonds or other obligations of the state, may properly and legally  
6 invest money including capital in their control or belonging to them.  
7 Notwithstanding any other provisions of law, the bonds of an authority  
8 are also securities that may be deposited with and may be received by  
9 all public officers and bodies of the state and all municipalities and  
10 municipal subdivisions for any purpose for which the deposit of bonds  
11 or other obligations of the state is now or may afterward be autho-  
12 rized.

13 Sec. 30.13.125. AUDIT. The legislative auditor shall audit or  
14 shall cause to have audited annually the financial records of an  
15 authority. The legislative auditor may prescribe the form and content  
16 of the financial records of an authority and shall have access to  
17 these records at any reasonable time.

18 Sec. 30.13.130. EQUAL USE AND ACCESS. If an authority owns,  
19 leases, or otherwise operates or controls, or participates in the  
20 financing of, a facility, the authority shall, to the maximum extent  
21 possible, provide for equal rights of access to and use of the facil-  
22 ity by members of the public and other persons or entities upon terms  
23 and conditions that are fair and reasonable. However, this subsection  
24 does not prevent an authority from establishing fair and reasonable  
25 limitations on use of or access to a facility to the extent the limi-  
26 tations are necessary in connection with the nature of the facility or  
27 the demand for use of or access to the facility. This section applies  
28 to the establishment of rates and rate structures as well as all other  
29 factors, terms, and conditions relating to the use of or access to the

1 facility, including without limitation the design and location of the  
2 facility. The members of the authority shall make a written finding  
3 concerning compliance of the facility with the provisions of this  
4 section. A written finding signed by at least three of the five  
5 elected members and two of the three appointed members that the facil-  
6 ity complies with the provisions of this section shall constitute a  
7 conclusive presumption of compliance.

8 Sec. 30.13.140. JURISDICTION. An authority is not subject to  
9 the jurisdiction of the Alaska Transportation Commission.

10 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or  
11 second class or a home rule municipality is created with an area  
12 coterminous with or inclusive of the area of an authority, the author-  
13 ity shall be integrated into the borough or home rule municipality  
14 within one year of incorporation. On integration the borough or home  
15 rule municipality succeeds to all the rights, powers, duties, assets,  
16 and liabilities of the authority, except that any indebtedness of an  
17 authority does not constitute a general obligation of the borough or  
18 home rule municipality payable from taxes levied by the borough or  
19 home rule municipality. The borough or home rule municipality may not  
20 levy any taxes to pay the indebtedness.

21 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-  
22 text otherwise requires,

23 (1) "authority" means a public body created under AS 30.-  
24 13.010;

25 (2) "bonds" means bonds or other obligations issued under  
26 this chapter;

27 (3) "cost" includes the cost of acquisition or construction  
28 of all or any part of transportation facilities and of all or any  
29 property, rights, easements and franchises considered by an authority

1 to be necessary, useful, or convenient, including without limitation  
2 reimbursements to the authority or any other person of money expended  
3 for the purposes of the authority and interest or discount on bonds to  
4 finance those expenses, engineering and inspection costs and legal  
5 expenses, the cost of financial, professional and other advice, and  
6 the cost of issuance of bonds;

7 (4) "district" means the area within the boundaries of an  
8 authority;

9 (5) "person" includes a corporation, company, partnership,  
10 firm, association, organization, business trust, society, state or  
11 agency or subdivision of the state, municipality of the state, or an  
12 authority, as well as a natural person;

13 (6) "transportation facilities", or "facilities", or "pro-  
14 jects" means harbor, port, shipping and transportation facilities of  
15 all kinds, including harbors, channels, turning basins, anchorage  
16 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,  
17 wharves, docks, piers, slips, bulkheads, public landings, warehouses,  
18 terminals, refrigerating and cold storage plants, rolling stock, car  
19 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and  
20 railroads, and appliances of all kinds for the handling, storage, in-  
21 spection and transportation of freight and natural resource products;  
22 it also includes all property, rights, easements and franchises rela-  
23 tive to a facility and necessary or convenient for the acquisition,  
24 construction or operation of the facility, but does not include air-  
25 port facilities.

26 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).