

LEG. FINANCE - BILLS 1983 - 1984 2038

SB 151 2038

COMMITTEE REPORT
SENATE

FURTHER:

4/6/83

Date: 4/13/83

Mr. President:

The Committee on FINANCE has had SB 151

Relating to Regional Resources Development Authorities; eff. date

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 151 (Finance) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

APR 14 1983

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99801
507-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 14, 1983

SUBJECT: Regional Resource Development Authorities
(CSSB 151 (Finance))

TO: Senator John C. Sackett

FROM: James H. Lear
Legislative Counsel *JHL*

You requested our office to provide a final CSSB 151 (Finance) since the committee had passed out the committee substitute earlier in the day. Our staff reviewed the committee substitute request and prepared a final version for your committee.

The purpose of this memorandum is to inform the committee that our office made certain technical changes and changes in organization of the material that are within the revisor function of this office. No substantive changes were made. The most notable revision consists of deleting subsections (b) and (c) from sec. 30.13.130 since they are not related to the provisions of this section on equal use and access to facilities of an authority. Those two subsections were relocated as sec. 30.13.055 under the catchline "Consideration of Projects to be Financed".

If you have any questions pertaining to the review by our office and preparation of CSSB 151 (Finance), do not hesitate to contact us.

JHL:ljb
14/028

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/12/83

I. REQUEST

Bill/Resolution No.: SB 151
Title: "An Act relating to RKDAS."
Sponsor: anrenkam, kertula, ferguson,
Requestor: fischer Resources

II. FISCAL DETAIL

Agency Affected: Office of the Governor
Program Category Affected: Exec. Operati
BRU, Program of Subprogram(s) Affected:
Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		.4				
300 CONTRACTUAL		19.6	10.4	11.0		
400 COMMODITIES		.6				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	20.6	10.4	11.0		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.6	10.4	11.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

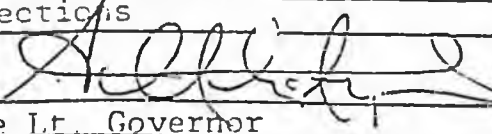
FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Linda Dupere, Administrative Assistant
Division: Division of Elections

Phone: 586-6181
Date: 4/12/83

Approved by Commissioner: 
Department: Office of the Lt. Governor

Date: 4/12/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

SENATE BILL 151

ASSUMPTIONS:

1. An election will be held in one REAA area creating one Regional Resource Development Authority. If the election does not take place at the same time as a regularly scheduled REAA election, there will be a fiscal impact.
2. The above question passes and an election of the initial five member board takes place not less than 60 nor more than 90 days after the order of election. There will be a fiscal impact.
3. Subsequent election of members, after the initial members' terms have expired, takes place at the same date as a regularly scheduled REAA election. Only the Contractual Services category will be affected and is figured at 6% inflation.
4. This analysis is computed for an election of an RRDA and board members for one REAA area. If there should be elections in all 21 REAA areas, multiply \$20.6 x 21 to compute the fiscal impact. (432.6)

CS SB 151 (Fin)

AMENDMENT #4

~~Enacted~~
Adopted

E. A. FCS

page 13, line 10

Add a new section 30.13.125. AUDIT. The legislative auditor shall audit or shall cause to have audited annually the financial records of an authority. The legislative auditor may prescribe the form and content of the financial records of an authority and shall have access to these records at any time.

*4/3/83
Amendment same as
by the Finance, passed
by the Senate and adopted
H.C. 151 (4/3/83)*

CHAPTER 13. REGIONAL RESOURCE DEVELOPMENT AUTHORITIES.

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

applications of the residents of the particular region.

the economic, sociological, cultural, environmental and political development and the permanent features of a project will be consistent with created under this chapter provides a method of assuring that the manner of

(4) The locally elected majority membership of an authority main transportation and port facilities, as provided in this chapter.

ment of transportation and port facilities, and to own, operate and maintain of the state with power to borrow money to provide for the development accelerated by authorizing the creation of instrumentalities in the various continuing development of natural resource enterprises in the state will be

(3) The achievement of full employment and the establishment and state and will directly and indirectly alleviate unemployment in the state.

existing enterprises, to essential to the long-term economic growth of the (2) The development of natural resource enterprises, including

resource enterprises, including mining enterprises. portation and port facilities adequate to permit the development of natural

(1) In most areas of the state, there is a lack of basic transportation and port facilities adequate to permit the development of natural

determine, and declare that:

Section 1. LEGISLATIVE FINDINGS AND POLICY. The legislature finds,

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

authorities, and providing for an alternative base."

For an Act entitled: "An Act relating to Regional Resource Development

A BILL

THIRTIETH LEGISLATURE - FIRST SESSION

IN THE LEGISLATURE OF THE STATE OF ALASKA

CS FOR SENATE BILL NO. 151 (FINANCE)

BY THE FINANCE COMMITTEE

IN THE SENATE

Original Sponsors: Tabor, Karp, Korte

Ferguson and P. Fischer

Referred: Finance
Period: 4-6-83

4-13-83

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 14.03 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] 15 percent of
15 the total number of residents in the regional educational attendance
16 area who cast votes in the last general election. The Department of
17 Community and Regional Affairs shall review petitions for content and
18 signatures. If the Department of Community and Regional Affairs
19 determines that the petition is adequate, it shall transmit the peti-
20 tion to the director of elections.

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

1 desirable method of accomplishing these goals and projects. The
2 governor shall submit findings under this section to the division
3 of elections within 90 days after receipt of the statement.

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

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

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

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

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

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

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

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

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

28 Sec. 10.13.020. BOARD OF GOVERNORS. (a) The authority shall be
29 governed by a board of governors consisting of eight members, five of

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

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

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

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

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

1 by, a firm, partnership, corporation or association that is a party to
2 the agreement. A resolution of the board that is approved by a major-
3 ity of all the members who are not barred from voting under this
4 subsection is a valid action of the authority for all purposes.

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

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

13 (1) sue and be sued;

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

15 (3) adopt and amend bylaws for its organization and in-
16 ternal management;

17 (4) adopt regulations governing the exercise of its corpo-
18 rate powers [IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT (AS
19 44.62)];

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

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

27 (7) accept gifts, loans, or grants, including organization-
28 al grants, from, and enter into contracts or other transactions re-
29 garding them with, any federal, state, municipal or other agency or

instrumentality, private organization, or other person;

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

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

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

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

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

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

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

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

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

(b) Bonds shall be authorized by resolution of the authority,

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

1 instrumentality, private organization, or other person:

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

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

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

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

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

19 → Sec. 30.13.055
20 Sec. 30.13.060. BONDS OF AUTHORITY. (a) An authority may
21 borrow money and may issue bonds, including but not limited to bonds
22 on which the principal and interest are payable,

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

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

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

(b) Bonds shall be authorized by resolution of the authority,

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

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

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

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

21 (f) Before issuing bonds for a project under this chapter an
22 authority shall submit to the state bond committee a description of
23 the bond issue and an independent economic feasibility analysis of the
24 project and expected revenues. This information may be contained in a
25 preliminary prospectus, offering circular or official statement relat-
26 ing to the bond issue. Bonds may not be issued unless the state bond
27 committee finds, based upon the information submitted by the authority
28 under [AS 30.13.050(f)(1)] this subsection and other information that
29 is reasonably available to it, that the project revenues can be

1 reasonably expected to be adequate for payment of the principal and
2 interest on the bonds to be issued, and that issuance of the bonds by
3 the authority would not be expected to adversely affect the ability of
4 the state or its political subdivisions to market bonds.

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

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

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

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

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

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

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

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

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

16 Sec. 10.13.050. VALIDITY OF PLEDGE. It is the intention of the
17 legislature that a pledge made in respect of bonds shall be perfected
18 and shall be valid and binding from the time the pledge is made; that
19 the money or property so pledged and thereafter received by an author-
20 ity shall immediately be subject to the lien of the pledge without
21 physical delivery or further act; and that the lien of the pledge
22 shall be valid and binding against all parties having claims of any
23 kind in tort, contract, or otherwise against the authority irrespec-
24 tive of whether the parties have notice. Neither the resolution,
25 trust agreement or any other instrument by which a pledge is created
26 need be recorded or filed under the provisions of the Uniform Commer-
27 cial Code to be perfected or to be valid, binding, or effective
28 against the parties. This section does not affect title to or convey-
29 ances of real property, and does not limit the applicability of AS

Sec. 30.13.090. NONLIABILITY OF MEMBERS. (a) Whether the members

of an authority not a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by an authority do not constitute an li-

ability or other liability of the state or of a political subdivi- sion of the state, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, in the payment of a bond, and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivi-

sion of the state to apply money from, levy or pledge any form of taxation to the payment of the bond.

Sec. 30.13.100. PLEDGE OF THE STATE. The state pledges to and

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

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1 Sec. 30.13.119. EXEMPTION FROM TAXATION. The real and personal
2 property of an authority and its assets, income and receipts are
3 declared to be the property of a political subdivision of the state
4 and, together with any project financed under this chapter are exempt
5 from all taxes and special assessments of the state or a political
6 subdivision of the state. All bonds of an authority are declared to
7 be issued by a political subdivision of the state and for an essential
8 public and governmental purpose and to be a public instrumentality,
9 and the bonds, and the interest on them, the income from them and the
10 transfer of the bonds, and all assets, income and receipts pledged to
11 pay or secure the payment of the bonds, or interest on them, shall at
12 all times be exempt from taxation by or under the authority of the
13 state, except for inheritance and estate taxes and taxes on transfers
14 by or in contemplation of death. Nothing in this section affects or
15 limits an exemption from license fees, property taxes, or excise,
16 income, or other taxes, provided under any other law, nor does it
17 create a tax exemption with respect to the interest of any business
18 enterprise or other person, other than the authority, in any property,
19 assets, income, receipts, project or lease whether or not financed
20 under this chapter.

21 Sec. 30.13.120. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
22 bonds of an authority are securities in which all public officers and
23 bodies of the state and all municipalities and municipal subdivisions,
24 all insurance companies and associations and other persons carrying on
25 an insurance business, all banks, bankers, trust companies, savings
26 banks, savings associations, including without limitation savings and
27 loan associations and building and loan associations, investment
28 companies and other persons carrying on banking business, all adminis-
29 trators, guardians, executors, trustees and other fiduciaries, and all

1 other persons who are now or may afterward be authorized to invest in
2 bonds or other obligations of the state, may properly and legally
3 invest money including capital in their control or belonging to them.
4 Notwithstanding any other provisions of law, the bonds of an authority
5 are also securities that may be deposited with and may be received by
6 all public officers and bodies of the state and all municipalities and
7 municipal subdivisions for any purpose for which the deposit of bonds
8 or other obligations of the state is now or may afterward be au-
9 thorized.

10 *New Sec. 30.13.125 AUDIT.*

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

(b) Before issuing bonds for any project under this chapter, an

1 authority must find, on the basis of all information reasonably avail-
2 able to it, that

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

7 (2) the project is financially feasible; and

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

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

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

22 Sec. 30.13.150. SUCCESSION. Whenever a borough of the first or
23 second class or a home rule municipality is created with an area
24 coterminous with or inclusive of the area of an authority, the author-
25 ity shall be integrated into the borough or home rule municipality
26 within one year of incorporation. On integration the borough or home
27 rule municipality succeeds to all the rights, powers, duties, assets,
28 and liabilities of the authority, except that any indebtedness of an
29 authority does not constitute a general obligation of the borough or

1 home rule municipality payable from taxes levied by the borough or
2 home rule municipality. The borough or home rule municipality may not
3 levy any taxes to pay the indebtedness.

4 Sec. 30.13.900. DEFINITIONS. In this chapter, unless the con-
5 text otherwise requires,

6 (1) "authority" means a public body created under
7 AS.30.13.010;

8 (2) "bonds" means bonds or other obligations issued under
9 this chapter;

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

19 (4) "district" means the area within the boundaries of an
20 authority;

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

25 (6) "transportation facilities", or "facilities", or "proj-
26 ects" means harbor, port, shipping and transportation facilities of
27 all kinds, including harbors, channels, turning basins, anchorage
28 areas, jetties, breakwaters, waterways, canals, locks, tidal basins,
29 wharves, docks, piers, slips, bulkheads, public landings, warehouses.

1 terminals, refrigerating and cold storage plants, rolling stock, car
2 ferries, tugs, boats, conveyors, tunnels, bridges, highways, roads and
3 railroads, and appliances of all kinds for the handling, storage,
4 inspection and transportation of freight and natural resource prod-
5 ucts; it also includes all property, rights, easements and franchises
6 relative to a facility and necessary or convenient for the acquisi-
7 tion, construction or operation of the facility, but does not include
8 airport facilities.

9 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

STATE OF ALASKA
FISCAL NOTE

4/22/83 F-10 held after bill #13
Revision Date 1983

I. REQUEST

Bill/Resolution No.: CSSB 151 (Finance)
Title: Regional Resource Development Authorities
Sponsor: Fahrenkamp, Kerttula
Requestor: _____

II. FISCAL DETAIL

Agency Affected: _____
Program Category Affected: _____
BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mavis V. Waarvik
Division: Standards and Statewide Programs
Approved by Commissioner: [Signature]
Department: Transportation and Public Facilities

Phone: 364-4331
Date: 4/20/83
Date: 4/22/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

CSSB 151 (FINANCE)
Regional Resource Development Authorities
4/20/83
Mavis V. Waarvik

IV. ANALYSIS

This bill has no fiscal impact on the Department of Transportation and Public Facilities. There may be some review of proposed projects and the supporting analysis done by the authorities to determine compatibility with the existing and proposed transportation infrastructure, adequacy of design and economic viability.

This is anticipated to be accomplished within the normal budgeted planning functions.

STATE OF ALASKA
FISCAL NOTE

Revision Date March 18, 1983

I. REQUEST

Bill/Resolution No.: SB 151
Title: An Act relating to regional Resource Development Authorities; and providing for an effective date.

Sponsor: _____
Requestor: Fahrenkamp, Kerttula, Ferguson and P. Fischer

II. FISCAL DETAIL

Agency Affected: DOT/PF
Program Category Affected: _____

BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING		-0-	-0-	-0-		
CAPITAL		-0-	-0-	-0-		
REVENUE		-0-	-0-	-0-		

FUNDING: (Thousands of Dollars)


	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: See Attached for Analysis.

Prepared By: Mavis Waarvik Phone: 364-4331
Division: Planning and Programming Date: 3/18/83
Approved by Commissioner:  Date: 3/18/83
Department: Transportation and Public Facilities

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different for Sponsor)

IV. ANALYSIS

This bill will have no fiscal impact on DOT/PF.

COMMITTEE REPORT
SENATE

2/25/83

FURTHER: Finance

Date: 3-25-83

Mr. President:

The Committee on Resources has had SB 151

~~An Act relating to~~ Regional Resources Development
Authorities; and eff. date.

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 151 (Res) same title
 new title
- and recommends reports it back as follows
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the as follows Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

3 Paul Frite No Rec.

3 Bob Mulcahy No Rec.

[Signature]
CHAIRMAN *Do Pass with amendments*

LETTER OF INTENT

SENATE RESOURCES COMMITTEE

CSSB 151 (RES)

It is the intent of the Committee to authorize the establishment of regional authorities which will have the ability to issue tax-exempt revenue bonds for the purpose of enhancing the development of resource enterprises which would contribute to the economic growth of the State. It is the intent of the Committee that the authorities established pursuant to this legislation would not create any financial liability or obligation by the state for bonds issued for resource enterprises. Nor is it the intent that the issuance of any such bonds by authorities adversely affect the ability of the state or any of its political subdivisions to market their own bonds. Rather, to the maximum extent possible, liability for bonds issued rest exclusively with the regional authority and the specific resource enterprise involved, not the state, successor boroughs or other municipalities or other projects or citizens in the region or state.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 151
 Title: Regional Resource Development
 Sponsor: Senator Fahrenkamp
 Requestor: Senator Fahrenkamp

II. FISCAL DETAIL

Agency Affected: Community & Regional Affairs
 Program Category Affected: Development
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Sponsor did not indicate source of funds to offset the fiscal impact of this bill.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Terry L. Farley Phone: 465-4730
 Division: Local Government Assistance Date: 3/11/83
 Approved by Commissioner: [Signature] Date: 3/16/83
 Department: Community & Regional Affairs

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA

Bill Sheffield, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 16, 1983

POSITION PAPER

RE: SB 151

SPONSOR: Senator Fahrenkamp

PROGRAM EFFECTS

This bill would provide for the voluntary organization of Regional Resource Development Authorities within the boundaries of the REAA's around the state. The purpose of these authorities would be the improvement, establishment, and development of facilities for transportation purposes.

COMMENTS

The Department feels this is a good concept which should be pursued. We are not sure how many of these authorities would be formed initially without some type of financial assistance.

One idea might be some type of organizational grant or loan program. These initial costs include things like original project planning, staff recruitment and bond preparation.

This proposal appears to be a step in the right direction. It would provide a mechanism that would begin a process that could create the facilities and methods for developing more of the state's natural resources.

The Department is supportive of this bill as a method of developing these structures.

Additionally the provision that the facilities be turned over to a municipality should one incorporate is also a benefit.



Mark Lewis, Commissioner

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 151 Date on Bill: 2/25/83
Title: "An Act relating to Regional Resource Development Authorities."
Sponsor: Fahrenkamp, Kertula, Ferguson, and P. Fischer
Requestor: Resources

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
TOTAL	-0-	10,317	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions: An election will be held in the Regional Educational Attendance Area 1, creating one Regional Resource Development Authority. The election takes place at the same time as a regularly scheduled REAA election so there will be no fiscal impact.

The Regional Resource Development Authority is approved by the voters and an election to elect five members takes place. There will be fiscal impact.

Subsequent election of members takes place on the same date as a regularly scheduled REAA election so there will be no fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the CMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Linda Dupere
Division: Elections

Phone: 586-6181
Date: 5/10/83

Approved by Commissioner: _____
Department: _____

Date: _____

5. Distribution:

- Original to Legislative Finance
- Copy to CMB
- Copy to Sponsor

SENATE BILL 151

ASSUMPTIONS:

1. An election will be held in the REAA 1 area creating one Regional Resource Development Authority. The election takes place at the same time as a regularly scheduled REAA election.
2. The above question passes and election of five members takes place.
3. There will be 11 precincts involved in the election.
4. 2,750 people are registered to vote in this area as of 2/18/83.
5. Subsequent election of members after the initial election of members takes place at the same date as a regularly scheduled REAA election.

CONCLUSIONS:

There will be no fiscal impact for the election concerning the acceptance or rejection of the Regional Resource Development Authority (RRDA) because it will be held on the same date as a regularly scheduled REAA election.

There will be no fiscal impact for the election of officers after the initial election of officers since it will be held on the same date as a regularly scheduled REAA election.

There will be a fiscal impact for the initial election of officers because the election is held 60 to 90 days after the RRDA election. The fiscal impact is as follows:

Printing

1750 Sample and 3,500 Official Ballots	900	
Petitions	25	
Certificate of Posting Notice	200	
Notice of Elections	25	
Tally Books (15 books, 1101b, 5 pages)	150	
Election Envelopes	500	
Miscellaneous Instructions & Notices	250	
Total Printing		2,050

Absentee Ballot Supplies

Envelopes	200	
Instructions	50	
Total Absentee Supplies		250

SENATE BILL 151 (Continued)

Advertising

2 papers, run ads twice	600	
2 radio stations, run twice	100	
Total Advertising		700

Postage

Certified mail for ballots, shipment of supplies	300	
Total Postage		300

Supplies

Pens, Pencils, Tape	200	
Total Supplies		200

Election Workers

11 precincts x 1 Chairperson x \$8.00 x 15 hours	1,320	
11 precincts x 3 judges x \$7.50 x 15 hours	3,713	
Total Election Workers		5,033

Canvass Team

4 members x \$12.5 hr x 24 hours (write-in candidates cause the review process to be complicated)	1,200	
Total Canvass Team		1,200
TOTAL		\$ 9,733

\$9,733 x .06% inflation		584
GRAND TOTAL		\$10,317

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 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 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).

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.

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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.

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12 13.010;

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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).

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

April 6, 1983

Memo

To: Senator Bennett, Co-Chairman Finance Committee
Senator Sackett, Co-Chairman Finance Committee

From: Senator Bettye Fahrenkamp

Subject: CSSB 151, Regional Resource Development Authorities

As you know, the Finance Committee has recently received the above bill for consideration from the Resources Committee. This bill would authorize the establishment of authorities in the unorganized borough for the purpose of developing infrastructures for resource development projects. Funding for the developments would primarily come from the issuance of tax-exempt revenue bonds by the authority to be repaid with user fees from the developments.

In testimony and discussion before the Resources Committee several criticisms of the bill as originally drafted surfaced: 1) lack of guarantees of equal access to facilities which may be developed; 2) the possibility of proliferation of authorities throughout the unorganized borough; 3) the encouragement of less-than-sound economic projects by authorities; 4) the possibility that bonds issued by authorities may in some way create a liability to the state or add to the state's overall bond indebtedness; and 5) the possibility that the issuance of bonds by authorities might in some way affect the ability of the state or its political subdivisions to market their revenue bonds.

In response to these criticisms the Resources Committee adopted several major changes and additions to the bill including:

- 1) Page 2, lines 19-29, the Governor must make a positive finding that an authority's goals and projects would be economically advantageous to the region and state and that the authority is an appropriate and desirable method of accomplishing the goals and projects prior to establishment of an authority.
- 2) Page 2, lines 8-11, the ability to petition for establishment of an authority expires on July 1, 1986.
- 3) Page 2, lines 13-14, a petition to call for an election to establish an authority must be signed by 100 persons of a district.

- 4) Page 4, lines 26-29, the Board of Governors of an authority shall consist of eight members, five elected locally and three Department heads appointed by the Governor.
- 5) Page 8, subsection (f), Prior to issuance of 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 issuance of bonds would not adversely affect the ability of the state or localities to market their bonds.
- 6) Page 11, subsection (b), 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.
- 7) Page 13, subsection (a), ensures fair and equal access and fee assessments for users of facilities.
- 8) Page 13-14, subsection (b), an authority must find that prior to issuance of bonds that a project would be economically advantageous to the state and general public welfare and that the project is economically viable.
- 9) Page 14, section 30.13.150 provides that an 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.

I think that these provisions adequately address the concerns that were raised. However, several other possible amendments were suggested that might further clarify the intent of this legislation which were suggested too late to be properly integrated into the committee substitute. I would urge the Finance Committee to consider the following possible changes:

- 1) Changing the number of petitioners calling for an election to establish an authority from an absolute number of 100 to a percentage formula similar to other regional elections. (Attached is a possible formula suggested by the Division of Elections).
- 2) Any monies received by the state may not be used to satisfy bond obligations or collateral by an authority (attached are draft suggestions from the Department of Law).
- 3) Change a quorum of the Board from a majority to a majority plus one. (Suggested by the Alaska Environmental Lobby; see attached comments).
- 4) Ensure that proposed projects get fair and equal consideration within a district by an authority. (See attached language submitted by the Alaska Miners Association).

In addition, several technical changes should be made in the bill. The following should be made to correct changes which were made by the Legal Division in the CS:

- 1) On page 5, lines 12-13, delete the phrase "at a meeting at which a quorum is present". This simply clarifies that a quorum constitutes a majority of the members of the board of governors,
- 2) On page 6, lines 16-17, delete the phrase "in accordance with the Administrative Procedure Act (AS 44.62)". This phrase was not contained in the CS which passed out of the Resources Committee and could be construed as evidence that authorities are somehow to be viewed as quasi-agencies of the state,
- 3) On page 8, line 25 delete "AS 30.13.060(f)(1)" and insert in lieu thereof "this subsection". There is no subsection (f)(1),
- 4) On page 15, line 18, add a comma after the words "rolling stock".

Finally, I would call your attention to the Letter of Intent which was passed out with the bill. This further clarifies that it is the intent that the bonds issued by the authorities not constitute any liability to the state or local governments or taxpayers in a successor government.

I would be happy to appear before your Committee to further explain this legislation and the actions of the Resource Committee. In addition, I have asked my staff to provide whatever assistance you may need on the bill. I remain convinced that this legislation could be of tremendous value in facilitating the development of resource projects in our state which would have tremendous economic and social benefits to regions as well as the state. I would hope the Finance Committee could expedite its consideration of this important legislation.

SB 151, Creation of Regional Resource Development Authorities.

FORMULA DETERMINATION, Gathering of Signatures

As now proposed in the legislation, 50 signatures would be required from any REAA district to petition for a special election to create a Regional Resource Development Authority (RRDA). After that election, another 50 signature petition would instigate a second election for voting on board members for the new RRDA. The signatures for the petition could be gathered from any one village in the REAA area, proposing an election for the entire area.

A new formula for the gathering of signatures could be devised from elements of present law that would still give equitable access to the ballot, yet more fully inform and involve the residents of the entire area that new elections and an RRDA are proposed.

FORMULA PROPOSAL

Using the Initiative and Referendum formula for municipalities and service areas, AS 29.28.070, this would require that in each REAA (except #4) that signatures be gathered equal to 25% of the number of voters voting in the last REAA election. This would be a greater task than the gathering of 50 signatures, yet give a better measure of the RRDA acceptance in the service area.

To insure that signatures are not gathered from one town or village, an element of the statewide initiative requirements should be incorporated, requiring that signatures be gathered from more than one village, except in REAAs that are composed of just one village. Not to be prohibitive, this section could read, "...with signatures secured from voters residing in more than one village area within an REAA district, except those REAAs composed of one village area."

~~Finally~~, an element of AS 15.25.170 could be incorporated to give the dimensions of the signature gathering task; requiring that any petition requesting a RRDA election contain no less than 50 valid voter signatures

In summary, an RRDA election petition would be based on the present initiative statute for municipalities, AS 29.28.070, would contain signature of voters from more than one village area within an REAA district, and have no less than 50 valid voter signatures from the REAA district.

Finally, in any formula adopted by the legislation, there should be a provision for review of the signatures on the petition, notification of the proper or improper filing, and provision for supplementary petition filing where necessary, elements that are currently authorized in both the municipal statutes, AS 29, and state election law, AS 15.

FORMULA 1

The most direct formula for the creation of Regional Resource Development Authorities in the REAA districts is the initiative formula presently in use for REAAs and CRSAs under AS 29.28.070 (b).

In REAAs smaller than 7500 residents, this would require signatures in a number equal to 25% of the qualified voters voting in the last General Election or special election called for the purpose of electing city, borough (or REAA) officers.

In REAAs greater than 7500 residents, the formula would be 15%. There is no requirement for gathering signatures in any set percentage of the villages in an REAA, such as 50% or 66%.

FORMULA 2

Under 15.25.170, Alaska Election Laws, "Required number of signatures for a district-wide office", petitions for the nomination of a state representative or senator require signatures equal in number to 3% of the number of votes cast in the respective election or senate district in the preceding general election, provided that no nomination petition is required to contain more than 200 or less than 50 signatures for any district.


The same requirements apply for the nomination of candidates not representing a political party, under AS 15.40.440.

Note:

The requirements for a statewide initiative are more demanding; a petition must be signed by qualified voters equal in number to 10% of those who voted in the preceding General Election and resident in at least 2/3 (two-thirds) of the election districts of the state. This is cited in AS 15.45.140. The same requirements hold for the state-wide referendum, contained in AS 15.45.370.

In any formula adopted by the final legislation, there should be provision for review of the signatures on the petition, notification of the proper or improper filing, and provision for supplementary petition filing where necessary, as is currently authorized in both the municipal statutes, AS 29, and the State Election Laws.

from Mary Lou Meiners,
DN. Elections 3-23-



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

April 1, 1983

Alaska Miners Association proposed substitute for:

Page 16

Before Sec. 30.13.140, insert the following new language:

(C) An authority shall give fair and reasonable consideration to a project presented to it for financing. The determination to finance or assist in the financing of the project will be based upon that certain engineering, economic and feasibility information presented to the authority and/or requested by it. The authority may commission independent studies of a project. If the authority determines not to finance or assist in the financing of the project, the authority shall state the reasons for its determinations in a written resolution.

*JP 151 - The above language delivered
to [unclear] 3-29-83
[Signature]*

SB-151

LETTER OF INTENT

It is the intent of the Committee to authorize the establishment of regional authorities which will have the capability to issue tax-exempt revenue bonds for the purpose of enhancing the development of resource enterprises which would contribute the economic growth of the state and various regions. It is the intent of the Committee that the authorities established pursuant to this legislation would not create any financial liability or obligation by the state for bonds issued for resource enterprises. Nor is it the intent that the issuance of any such bonds by authorities adversely affect the ability of the state or any of its political subdivisions to market their own bonds. Rather, it is the intent that to the maximum extent possible that liability for bonds issued rest with the regional authority and the specific resource enterprise involved, not the state, successor boroughs or other municipalities or other projects or citizens in the region or state.

MEMORANDUM

State of Alaska

TO: Honorable Richard Lyon
Commissioner
Department of Commerce & Economic
Development

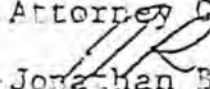
DATE: March 23, 1983

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Proposed amendments
to SB 151

By: 
Jonathan B. Rubini
Assistant Attorney General

The following proposed amendments to SB 151 are more conceptual models than draft legislative language. As we discussed, the revisions are intended (1) to assure, to the extent possible, that the general assets of the state are not utilized to support bond issues, and (2) to provide a modicum of centralized oversight over bonding activities.

Review would be provided by a five member committee, consisting of the members of the State Bond Committee (commissioners of administration, revenue, and CED), and the commissioners of DOT/PF and DNR. Establishment of the oversight committee would require additional amendments to the bill. Additionally, other more technical amendments would be required, most notably the deletion of gubernatorial appointments to the boards and any corresponding references. One last caveat. Except for the proposed amendment of sec. 65(a)(5), little, if any, provision is made for centralized control of other regulatory policy decisions.

PROPOSED AMENDMENTS TO SB 151

Section _____ Any state grants, appropriations or other transfers from the state may only be used for organization purposes. Monies received from the state may not be used to satisfy bond obligations or otherwise establish collateral or security for bonds issued by an authority.

Section 060(b). However, notwithstanding the manner in which principal and interest are payable on bonds issued by an authority as described in this section, an authority may not issue bonds unless the authority obtains a sufficient pledge of collateral, to guarantee satisfaction of all bond obligations. A pledge of security may include, but is not limited to,

State and Local Governments
 Outstanding, FY 1979-80

\$9,000

\$8,000

\$7,000

\$6,000

\$5,000

\$4,000

\$3,000

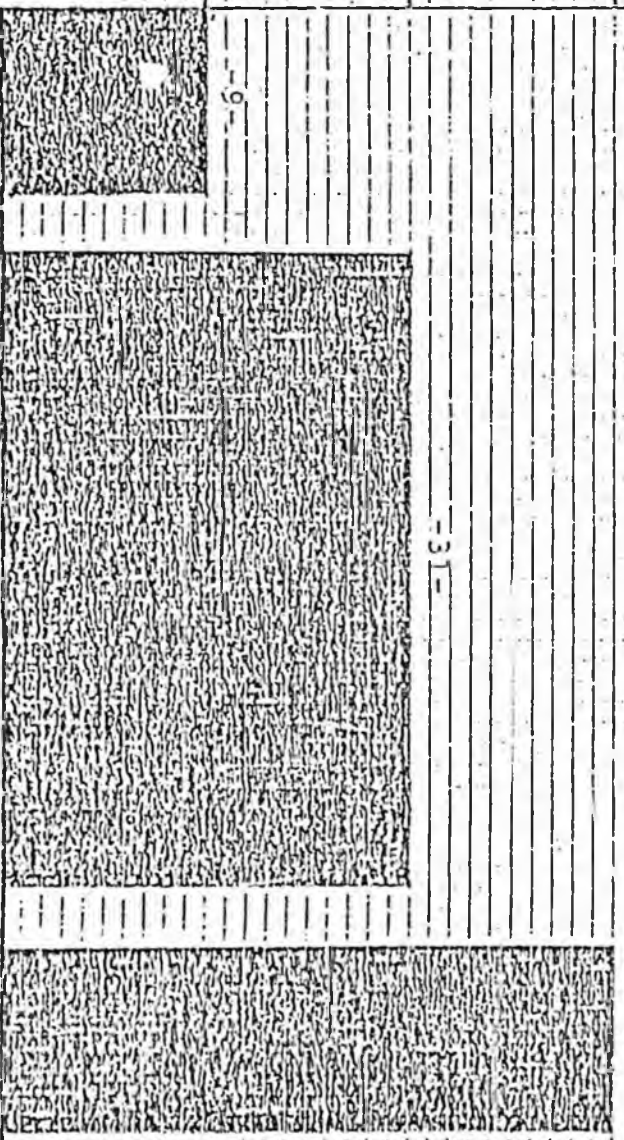
\$2,000

\$1,000

0

DEBT PER
 CAPITA

ALASKA



-31-

9

NUMBER OF STATES

OTHER STATE SUBSIDIES

In Senate Bill 151, elections for Regional Resource Development Authorities will be paid for by the state. The operating expenses for the authorities are not specifically provided for. The door is left open for gifts, grants, loans, and payments for contracts from the state, as well as from individuals, private organizations, municipal governments and the federal government.

LOCAL CONTROL

One of the attractive points of SB 151 is that it provides for a measure of local control of road and port development. The RRDA's will be governed by a board of eight members. Five are elected by voters in the region (a region has the same boundaries as one of the regional educational attendance areas) and three are appointed by the governor. The authority has been likened to a single purpose local government. It is established to build roads and ports, but it does not have powers of land use planning, zoning, permitting, or taxation. The bond issues are approved by the Board, but are not voted on by the members of the region.

A development authority may be succeeded by a first or second class borough. If an authority fails and goes bankrupt, the subsequent formation of a borough may be complicated or prevented by the legal and financial wreckage of the authority.

ALTERNATIVES TO REGIONAL RESOURCE DEVELOPMENT AUTHORITIES

There are several alternatives to RRDA's which provide tax exempt bonding and local control, without risking the state's credit rating.

1. One alternative is to form a new borough in the area(s) that wants to develop roads and ports. The revenue bonds would be issued by the borough or an intramentality of the borough, as was done in Valdez. Because the borough has powers of planning, zoning, and permitting, greater local control is possible than with RRDA's.
2. Another alternative is to modify the Alaska Industrial Development Authority statutes so that they can fund larger projects, and fund roads projects. (Ports are already included.) Local control language is already in place for local governments; it could be extended to include rural areas.
3. Finally, tax free revenue bonds could be issued by the Department of Transportation. This technique is already used for airport construction. With this approach, areawide transportation planning is encouraged, and the chaos of 21 separate transportation authorities is avoided. Additional statutory provisions for local review of state projects would be needed.

*borough has
multiplicity of
concerns, whereas
IOA is mission-
oriented.*

*but:
Borough
could go
bankrupt -
state would
be liable*

PAYING OFF REVENUE BONDS

The tolls from the roads and port facilities normally would pay the interest and principle due on the bonds. If the mining company fails to pay the tolls and charges required to pay for the road, the authority will be able to take legal action against the mining company. If, however, there is a deep slump in mineral prices, the mining company may go bankrupt, and the authority will have no way to pay off the bonds--except by going back to the state of Alaska and asking for more money.

Under SB 151, the state of Alaska has no legal obligation to help authorities in trouble. As a practical matter, however, the state must come to the rescue, or suffer the consequences of having the reputation of Alaska's bonds all being suspect. This is a problem common to all state authorities. An article in the Sunday, March 20, edition of the Anchorage Times, "Separate Agencies Rely on State Backup" investigated this problem. Harold Kuplesky, of the Bankers Trust Company, authorized a \$50 million line of credit to the Alaska Power Authority. The Times reported:

Harold Kuplesky isn't worried. Why? "As a backup, we have the state of Alaska standing behind the project." And if Tye isn't finished and the state refuses to pay off the loan? "The market looks very dimly on people who do not honor their obligations," Kuplesky replied.

Kuplesky then illustrated his point. "A good example is the New York Urban Development Authority," he said. "They defaulted, and we shut off the credit to the state of New York."

"What happened? "The Legislature came up with the money, and fairly quickly, too."

THE BABY ELEPHANT PHENOMENON

A report to the Legislative Budget and Audit Committee, "Alaska's Public Corporations," by the Institute of Public Administration (Jan. 1982) described this situation in more vivid terms on page 48:

History has shown very clearly that unless state governments become involved in any bail out arrangements for their corporate subsidiaries, state credit will be damaged if not cut off by bond market participants. Market analysts call this the 'baby elephant phenomenon'. The elephant (the indebted corporation in trouble) stumbles up on the state's front porch and says, "feed me or I'll fall down dead on your doorstep."



Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801

907-586-2345

24 March 1983

REGIONAL RESOURCE DEVELOPMENT AUTHORITIES: ISSUES AND PROBLEMS

INTRODUCTION

Senate Bill 151 allows the creation of 21 Regional Resource Development Authorities in Alaska, with full powers to issue revenue bonds for mining roads and ports. This bill would immediately benefit the development of the proposed Red Dog mine in northwest Alaska. But the larger issue is whether the state needs to create a new form of government in the unorganized borough which can issue unlimited amounts of tax exempt revenue bonds.

TAX EXEMPT BONDS

Bonds are usually tax exempt when they are issued by a state or local government (or an agent of a state or local government) and are used for a public purpose. Because the interest on these bonds is exempt from federal taxes, they are popular with investors, and hence have lower interest rates. General Obligation Bonds require approval by the voters and are usually paid off by taxes or any other state revenues. Revenue bonds should pay for themselves, out of the revenues from the project that was financed by the bonds, in this case a "toll" on mining developments and roads. Since these bonds are supposed to be paid off through user fees, they do not require voter approval. 65% of Alaska's \$8.5 billion debt was incurred by revenue bonds--in other words, without voter approval.

After RRDA's are established by local elections, they can issue tax exempt revenue bonds for roads and harbor development. The issuing of these bonds does not require either state approval or voter approval, according to the current committee bill. Because the interest rates on these bonds would be lower than the rates for bonds issued by private corporations, they could encourage mining development that might not otherwise be possible. The effect is marginal, as the current difference in interest rates is about 3%, but the mining companies insist that this advantage is essential for profitability.

corporate assets, unrestricted assets of the authority, and "take or pay contracts."

Section 065(a).

The state regional resource development review board shall review and approve any resolution adopted by an authority to issue bonds to determine whether

(1) there is a sufficient pledge of collateral to adequately support issuance of the bonds and to

(2) that issuance of the bonds will not impair or impede the issuance of bonds by the state, its political subdivisions, or other public authorities;


(3) adequate provision has been made to regulate any tariff schedule, public access, maintenance, and other function typically regulated;

(4) adequate coordination between two or more authorities has been obtained, if a completed, functional facility is located within the jurisdiction of more than one authority;

(5) the resolution adopted in accordance with 130(b) is consistent with the reasonably available evidence.

(b) An authority may not issue bonds without the approval, as described in this section, of the state regional resource development review board.

JBR:md



Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801

907-586-2345

25 March 1983


Senate Resources Committee

Amendment 1

Section 30.13.040 (9) accept gifts, grants, or loans from, and enter into contracts or other transactions regarding them, with any federal, [STATE] municipal or other agency or instrumentality, private organization, or other person;

Rational:

Section 30.13.090 says the state is not directly or indirectly obligated to pay off RRDA revenue bonds. Striking the word "state" further emphasizes the intent of this legislation that the RRDA's not rely on state subsidy.



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907-586-2345

25 March 1983

Senate Resources Committee

in CS


Amendment 3

Add: Section 30.13.065 Bond sales by authority are subject to AS 37.15.020.

(Section 37.15.020 MANNER AND AMOUNT OF SALE. The state bond committee shall sell bonds of each authorization in the amounts and series and at the times which it finds are for the best interests of the state and its inhabitants.)

Rational:

With a potential addition of 21 revenue bonding authorities, timing of actual sales is critical to insure the best rates. This provision would provide coordination among various bond sales by requiring the Bond Committee to oversee all sales.



Alaska Environmental Lobby, Inc.

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907-586-2345

25 March 1983

Senate Resources Committee

Amendment 2

Page 5, Line 3-5: A majority of the members of an authority plus one constitutes a quorum for the transaction of business.

Rational:

Without this provision an authority board could conceivably carry on business without any of the three governor's appointees present. It eliminates a potential abuse by the authority board.



Alaska Environmental Lobby, Inc.

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Juneau, Alaska 99801

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25 March 1983

Senate Resources Committee

Amendment 4

Add: Sec. 30.13.0?? ANNUAL AUDIT. An authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of an authority and shall have access to these records at any time.

Rational:

Legislative oversight of any authority is essential. The case of the Alaska Power Authority is illustrative. This amendment is based on AIDA statutes (AS 44.88.200).



Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801

907-586-2345

25 March 1983

Senate Resources Committee


taken care of in CS

Amendment 5

Add: Sec. 30.13.0?? Prior to any bond sale over \$10,000,000, an authority will obtain an independent feasibility study and plan of finance in accordance with AS 44.83.181.

Rational:

(AS 44.83.181. attached) An independent economic analysis is essential to insuring that each issue of revenue bonds can reasonably be expected to be paid back in full, from revenues generated by the development project. This provision was recently added to the Alaska Power Authority statutes - for obvious reasons.



Alaska Environmental Lobby, Inc.

419 6th Street, Suite 328 Juneau, Alaska 99801

907-586-2345

25 March 1983

Senate Resources Committee

Amendment 6:

Add: Sec. 30.13.0?? An authority may not issue revenue bonds other than refunding bonds for a project under this chapter in an amount greater than \$50,000,000 during any 2 year period unless the legislature, by law, approves the issuance.

Rational:

Similar to AS 44.88.090 (g) (2) of the Alaska Industrial Development statutes. Legislative oversight of the debt of the state of Alaska is essential if the debt burden of Alaska is to be kept to the lowest level necessary.

Alaska State Legislature

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



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
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Senate

Committee on Resources

March 24, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Amendments to CS for SB 151

Attached is the CS for SB 151 which was adopted at the meeting of the Committee on March 18, 1983. Contained in this CS are underlined changes intended to meet the concerns of several Members which were raised at the meeting on the 18th. The proposed amendments to the CS address the following:

- 1) In section 1 the word "nonrenewable" was deleted to permit authorities to be formed for both nonrenewable and renewable resource enterprises;
- 2) In section 2 a statement was required to be submitted to the Governor in addition to the petition to the DC&RA to establish an authority. The Governor is required to issue a finding prior to the holding of an election to establish an authority that the authority would contribute to the economic growth of the region and the state, and that the authority is a desirable method of accomplishing the goals and projects.
- 3) The number of petitioners for an authority was raised from 50 to 100.
- 4) Elections are to be held coincidental to other regional elections when possible.
- 5) Section 30.13.020 (h) was added to sunset the ability to petition and hold elections for establishment of an authority on June 30, 1986.
- 6) Section 30.13.060 (f) was added to require an authority to submit economic information on a project to the State Bond Committee prior to the issuance of bonds. The committee must find that the project revenues can be expected to repay the bonds, and that the authority's bond issue will not adversely affect state and local bond issues.
- 7) Changes were made in Sec. 30.13.150 which clarify that when a borough or a home-rule municipality is created for a resource authority area or includes an authority's area, the authority shall be integrated

into the borough or home-rule municipality, that any indebtedness of an authority does not constitute an indebtedness to the municipality and that the municipality may not levy any taxes to pay for any such indebtedness.

- 8) References to an authority's "jurisdiction" have been replaced throughout the bill with references to the area within which an authority may exercise its powers. This change was to clarify the language to closely reflect the character of the authorities.
- 9) The words "ex officio" at the end of section 30.13.010(e) have been deleted as unnecessary and possibly confusing.
- 10) Section 30.13.030 has been changed by adding "in connection with natural resource enterprises" after "transportation purposes" to clarify the purpose to be served by the authorities.
- 11) Section 30.13.040 has been changed by adding "set forth in AS 30.13.030" after "corporate purposes" to clarify the purposes for which an authority may exercise its powers.
- 12) The reference in section 30.13.130(b)(2) to the project sponsor has been changed to a reference to the project itself believed to be the more important consideration.

The Committee will again consider this legislation at its meeting on Friday, March 25, at 3:00pm in the Beltz Room.



Senator Vic Fischer

Alaska State Legislature

Pouch V • Juneau, Alaska 99811 • (907) 465-4954

March 22, 1983

TO: Senator Bettye Fahrenkamp
Chair, Senate Resources Committee

FROM: Senator Vic Fischer

Thank you for the opportunity to consider possible amendments to SB 151.

Amendment 1 does not entirely reflect my concerns about the possibility of a proliferation of authorities. The intent of my suggestion was that the Governor be required to find that the creation of a particular authority is necessary and desirable. This would seem to require a new subsection in Sec. 2 to require submittal of a statement to the Governor to include (1) purpose of the proposed authority, (2) the goals it would seek to meet, (3) analysis of the options other than an authority for obtaining the desired goals, and (4) justification for the choice of an authority over other options for meeting the stated goals. This step would logically come at the same time as petition to C&RA. The Governor would then be required to find that (1) meeting the proposed authority's goals would be advantageous to the state and the region's economic growth, and (2) the authority's creation would be necessary to obtain those goals.

In light of the attached article, which describes the problem of independent authorities and corporations incurring debt for which the state may become at least morally liable, I would like to suggest a further amendment. This would be a new section requiring the Commissioner of Revenue to approve the sale of revenue bonds by an authority. The authority would submit a statement detailing (1) the prospectus of the bond issue and (2) an economic feasibility analysis of the proposed development project and its expected revenues. The Commissioner of Revenue would then be required to find that (1) the project appeared to be capable of producing adequate revenues to repay the bonds and (2) bonds of the authority would not be expected to negatively affect the ability of the state or its subdivisions to market their own bonds and meet their financial obligations.

I'm sure that the legal people can put these suggested amendments into their proper form. Feel free to contact either me or my staff if you need further clarification.

SENATOR
ARLISS STURGULEWSKI

2957 SHELDON JACKSON
ANCHORAGE, ALASKA 99506
SENATE DISTRICT F, SEAT A

Alaska State Legislature



Senate

State of Alaska
POUCH 1
JUNEAU, ALASKA 99801
(907) 465-3016

MAR 2 - 1983

MEMORANDUM

March 23, 1983

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Arliss Sturgulewski *AS*
Senate District F, Seat A

RE: Senate Bill 151 Regional Resource Development Authorities

I will not be able to attend the Friday Resources Committee meeting at which you will be considering SB 151. I raised a number of questions in earlier meetings and wanted to share a few additional thoughts with you. I feel the Red Dog development in the Nana Region is an exciting project that I would like to see go forward. The basic issue is, of course, the consideration of a financial structure that would be a positive benefit to the economic viability of the development.

Because of my interest in local government and delivery systems I wanted further clarification of the status of the proposed development authorities, so I have requested an opinion from the Attorney General as to the relationship of the authorities to Article X of the Alaska State Constitution. Case law dealing with limited purpose political subdivisions is sparse and yet it seems to me necessary to try to think ahead to determine what the impacts of the creation of limited political subdivisions might cause. I'm sending you a copy of a memorandum Tamara Cook issued to the Senate Advisory Council dealing with the state and regional educational attendance areas as an example of some of the concerns I see in establishing the new authorities.

I feel that we will see proposals in other areas of the unorganized borough that need assistance in development along the lines of those proposed for the nana region--that is the ability to sell bonds to finance infrastructure. It would seem to me that several approaches other than the regional resource development authorities merit consideration.

1. I think further consideration should be given to possible utilization of the Alaska Industrial Development Authority. Certain amendments would have to be made to the Authority to allow them to finance roads and possibly raise limits on single projects and total limits per year.