

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86 / 2

265 SCOMM 9: HOUSE SPEC. COMM. ON PERMANENT FUND 1977-78

amortization of class A and B certificates. No sinking or amortization fund may be created for class B certificates until an amount equal to the total principal amount of the three largest annual maturities on the class A certificates is set aside to secure the payment of class A certificates. Surplus money may be transferred to the development loan fund. (§ 23 b ch 135 SLA 1961; am § 28 ch 52 SLA 1962)

Sec. 44.59.270. Loan loss reserve fund. The corporation shall maintain a loan loss reserve fund. Each year the board shall credit a sum equal to one-fourth per cent of all outstanding loans to the fund. Loan losses shall be charged to the loan loss reserve fund. If a loan loss charged to the fund is recovered, it shall be credited to the loan loss reserve fund. Money in the general fund exceeding the estimated expenses of the following fiscal year shall be transferred to the loan loss reserve fund. (§ 23 c ch 135 SLA 1961; am § 29 ch 52 SLA 1962)

Sec. 44.59.280. Development loan fund. The corporation shall maintain a development loan fund. Money not required by other funds shall be credited to the development loan fund. Loans by the corporation shall be charged to the development loan fund. (§ 23 d ch 135 SLA 1961; am § 30 ch 52 SLA 1962)

Sec. 44.59.290. Investments by corporation. (a) The corporation shall place money held in the reserve funds in one or more of the following: deposits in banks or trust companies having their principal places of business in the state; or obligations of the United States, the state, or its political subdivisions if the obligations are secured by the general taxing power of the obligor.

(b) The corporation may place the proceeds from the sale of class A and B certificates and money held in the development loan fund in one or more of the following: deposits in banks or trust companies having their principal places of business in the United States; or obligations of the United States, the state, or its political subdivisions. However, the board shall, when it is possible and financially sound, make deposits in banks and trust companies having their principal places of business in the state. (§ 23 e ch 135 SLA 1961; am § 31 ch 52 SLA 1962)

Sec. 44.59.300. Tax exemption. Because the purpose of the corporation, as an instrumentality of the state, is to benefit the people of Alaska by increasing their commerce, prosperity, and general well-being, the corporation is exempt from all taxes and assessments in the state. Debenture certificates issued by the corporation, their transfer, and their income are exempt from taxes and assessments. (§ 26 ch 135 SLA 1961; am § 33 ch 52 SLA 1962)

Constitutionality. — This section does not violate art. IX, § 4, of the Alaska Constitution. *DeArmond v. Alaska State*

Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

This section has been upheld as

constitutional under the third sentence of § 4, art. IX of the state constitution. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

Exemption in section derives from third sentence of Alaska Const. art. IX, § 4. — The exemption accorded to the Alaska State Development Corporation by the legislature in this section derives from the third sentence of § 4, art. IX of the Alaska Constitution. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

When the legislature chose to exempt the Alaska State Development Corporation from "all taxes and assessments," it meant to draw upon its full powers under the third sentence of Alaska Const. art. IX, § 4, and thereby to grant the corporation an exemption for both its real and personal property. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

The third sentence of § 4, art. IX of the state constitution authorizes the

legislature to grant exemptions similar to the exemptions granted to the state by the first sentence of that section. Such exemptions may thus be for both real and personal property. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

There is no reason for limiting the range of the exemption provided in this section. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

In this section, the phrase "all taxes" means all taxes. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

The actions of the Alaska State Development Corporation to keep a foreclosed property saleable by continuing its operations are in consonance with its powers and in furtherance of its valid public purpose, and constitute use of the property for a public purpose. *City of Nome v. Block No. H, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).*

Sec. 44.59.310. Corporate lending. (a) The corporation may accept applications for development loans and extend credit on the basis of no greater than 90 per cent participation by the corporation and no less than 10 per cent participation by a bank.

(b) The corporation and the participating bank shall share the same ratable interest in the collateral securing a loan. (§ 27 a ch 135 SLA 1961; am § 34 ch 52 SLA 1962)

Sec. 44.59.320. Short-term loans. The corporation may participate with banks in existing, short-term, development loans with its surplus funds on the same basis as provided in § 310 of this chapter. The intention of this section is to permit the corporation to use funds not immediately necessary for long-term development loan purposes and to receive income to meet its financial obligations. (§ 27 b ch 135 SLA 1961; am § 35 ch 52 SLA 1962)

Sec. 44.59.330. Corporation's interest. The rate of interest charged for the corporation's share of a development loan shall be determined by the board, except that it may not be greater than the legal contract rate of interest as set by state law. The corporation may also charge reasonable loan commitment fees. (§ 27 c ch 135 SLA 1961; am § 36 ch 52 SLA 1962)

Sec. 44.59.340. Bank's rate of interest. The participating bank shall fix the rate of interest charged by it. However, the rate of interest may not exceed the legal contract rate of interest prescribed by law. (§ 27 d ch 135 SLA 1961; am § 37 ch 52 SLA 1962)

Sec. 44.59.350. Maximum term of loan. The maximum term of a development loan is 20 years. However, a loan may not mature later than the final maturity date of the class A and B certificates outstanding at the time of the loan. (§ 27 e ch 135 SLA 1961; am § 38 ch 52 SLA 1962)

Sec. 44.59.360. Application for loan. Development loans must be applied for and presented to the corporation for approval through the participating bank. (§ 27 f ch 135 SLA 1961; am § 39 ch 52 SLA 1962)

Sec. 44.59.370. Bank's fees. (a) The participating bank shall administer the loans and may charge the borrower a reasonable loan fee for this service.

(b) The corporation shall enter into a servicing agreement with a participating bank. The servicing agreement may provide a participating bank with a fee equal to one-quarter of one per cent interest on the corporation's share of the loan. (§ 27 g ch 135 SLA 1961; am § 40 ch 52 SLA 1962)

Sec. 44.59.380. Maximum amount of individual loans. The corporation may not have more than 10 per cent of the principal amount of outstanding class A and B certificates or \$750,000, whichever is less, outstanding at one time to any one borrower. The borrowing of individuals who hold a controlling interest in a borrowing company is added to the debt of the company to determine this limitation. (§ 27 i ch 135 SLA 1961; am § 42 ch 52 SLA 1962)

Sec. 44.59.390. General limitations on loans. (a) In making development loans, the board shall consider the proposed collateral, the integrity and the management ability of the borrower, and the borrower's past and prospective earnings.

(b) Before approving a development loan, the board shall consider the purpose of the loan. The board may make only loans that are economically advantageous to the state and the general public welfare.

(c) The board may make a development loan to a responsible borrower only if other credit is not readily available on reasonable terms. Before granting a development loan, the board shall determine, so far as it is reasonably possible, that the first opportunity to grant the loan is given to banking or financial institutions in the state. (§ 27 j—l ch 135 SLA 1961; am § 43 ch 52 SLA 1962)

Sufficiency of standards. — The statement of purpose contained in AS 44.59.430 and the general limitations on loans contained in this section, particularly the requirement of subsection (b) that before approving a development loan the board shall consider the purpose and make only loans that are economically

advantageous to the state and the general public welfare, supply sufficient standards to guide the board in adopting regulations and procedure for loan policy as required by AS 44.59.400. *DeArmond v. Alaska State Dev. Corp.*, Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

Sec. 44.59.400. Regulations for loans. The board may adopt regulations for loan policy and procedure, except that a regulation may not conflict with an indenture agreement or a provision of this chapter. (§ 27 m ch 135 SLA 1961; am § 44 ch 52 SLA 1962)

Sufficiency of standards. — See same catchline in note to AS 44.59.390.

Sec. 44.59.410. Additional securities. The legislature may amend this chapter to permit the corporation to issue additional series of securities, except that additional securities may not rely on assets accumulated in connection with the issuance of a previous series of securities, unless the reserves provided by agreements, this chapter, or legislation have been met. (§ 28 ch 135 SLA 1961; am § 45 ch 52 SLA 1962)

Article 4. General Provisions.

Section
420. Dissolution
430. Purpose

Section
440. Definitions
450. Severability

Sec. 44.59.420. Dissolution. After payment in full of its debentures and other obligations or after depositing in a trust sufficient money to secure the payment of its obligations, the board may dissolve the corporation by the majority vote of its directors. Dissolution is not effective until the legislature confirms it. The effective date of dissolution is the date the legislature confirms the dissolution or a date determined by the legislature at the time of confirmation. Assets remaining after satisfaction of liabilities and obligations of the corporation shall be deposited to the credit of the general fund of the state. (§ 29 ch 135 SLA 1961; am § 47 ch 52 SLA 1962)

Cited in *DeArmond v. Alaska State Dev. Corp.*, Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

Sec. 44.59.430. Purpose. The purpose of this chapter is to create an instrumentality of the state to develop, stimulate, and advance the business prosperity and economic welfare of Alaska and its citizens. This shall be accomplished by providing critically needed development loans to encourage and assist the wholesome development of new business and industry in Alaska and to rehabilitate and expand existing business and industry. By providing development loans to all types of business activity, whether of an industrial, agricultural, or recreational nature, the economic stability of the state will be strengthened, the employment opportunities of its citizens enlarged, and their standard of living and general welfare enhanced. (§ 1 ch 135 SLA 1961; am § 48 ch 52 SLA 1962)

44.59.430

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chapter.

§ 44.59.440

STATE GOVERNMENT

§ 44.60.010

The announced purpose of this chapter has a sound basis in fact and dominant purpose is a public one. DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962).

Sufficiency of standards. — See same catchline in note to AS 44.59.390.

Sec. 44.59.440. Definitions. In this chapter

- (1) "the corporation" means the Alaska state development corporation;
- (2) "the state" means the State of Alaska;
- (3) "the board" means the board of directors of the corporation. (§ 62 ch 135 SLA 1961; added by § 49 ch 52 SLA 1962)

Sec. 44.59.450. Severability. The provisions of this chapter are severable, and if a provision is held invalid by a court of competent jurisdiction, the invalidation shall not affect or impair any of the remaining provisions. (§ 63 ch 135 SLA 1961; added by § 49 ch 52 SLA 1962)

Chapter 60. Small Business Development Corporation of Alaska.

Article

1. Creation and Organization (§§ 44.60.010 — 44.60.120)
2. Powers (§§ 44.60.130 — 44.60.150)
3. Financial Provisions (§§ 44.60.160 — 44.60.260)
4. General Provisions (§§ 44.60.270 — 44.60.390)

Article 1. Creation and Organization.

Section

10. Purpose
20. Small Business Development Corporation of Alaska
30. Governing body
40. Appointment and composition of board
50. Conflict of interests

Section

60. Compensation and expenses
70. Legal adviser
80. Public board meetings
90. Quorum and notice of meetings
100. Minutes of meetings
110. Executive vice president
120. Employees' bonds

Sec. 44.60.010. Purpose. The purpose of this chapter is to create a further instrumentality of the state to develop, stimulate, and advance the business prosperity and economic welfare of Alaska and its citizens and to relieve seasonal unemployment problems in Alaska by assisting the new financing of industrial and manufacturing plant construction, conversion or expansion, including the acquisition of land, by means of loans, where critically needed, to local development companies of a portion of the cost of such construction, conversion, expansion or acquisition to the extent necessary to secure a loan for a portion of the cost by the Small Business Administration pursuant to 15 U.S.C. § 636 (Section 502 of the Act of Congress entitled "Small Business Investment Company Act of 1958" as amended). By providing loans for such types

of business activity the economic stability of the state will be strengthened, the employment opportunities of its citizens enlarged, and their standard of living and general welfare enhanced. (§ 1 ch 162 SLA 1966)

Sec. 44.60.020. Small Business Development Corporation of Alaska. The Small Business Development Corporation of Alaska is a public corporation of the state. The corporation is an instrumentality of the state within the Department of Commerce and Economic Development, but has a legal existence independent of and separate from the state. (§ 1 ch 162 SLA 1966; am § 1 ch 129 SLA 1967; am § 15 ch 143 SLA 1968; am § 101 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Economic Development" in the second sentence.

Legislative committee report. — For legislative committee report on ch. 143, SLA 1968 (HB 707), see House Journal (1968), p. 836.

Sec. 44.60.030. Governing body. The corporation's board of directors shall conduct the business of the corporation. (§ 1 ch 162 SLA 1966)

Sec. 44.60.040. Appointment and composition of board. The board consists of six residents of the state none of whom may be public employees or officials, and the commissioner of commerce and economic development. Members of the board are appointed by the governor and serve at his pleasure. Appointments to the board shall be made without regard to political affiliation and shall represent the state's geographic and economic interests. (§ 1 ch 162 SLA 1966; am § 2 ch 129 SLA 1967; am § 102 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of economic development" at the end of the first sentence.

Sec. 44.60.050. Conflict of interests. Upon appointment and during his term of office, a board member shall declare privately in writing to the governor and the board any financial or business interest he has which might conflict with the public nature of his membership on the board. If there is a serious conflict, the board may ask him to abstain from decisions resulting in a conflict or to resign from the board. (§ 1 ch 162 SLA 1966)

Sec. 44.60.060. Compensation and expenses. Members of the board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards. (§ 1 ch 162 SLA 1966)

Sec. 44.60.070. Legal adviser. The attorney general is the legal counsel for the corporation. He shall advise the corporation in legal matters and represent it in suits. (§ 1 ch 162 SLA 1966)

Sec. 44.60.080. Public board meetings. The meetings of the board are public except meetings to discuss and pass on loan applications. (§ 1 ch 162 SLA 1966)

Sec. 44.60.090. Quorum and notice of meetings. Four members, which may include the commissioner of commerce and economic development, constitute a quorum for the transaction of business unless the bylaws require a larger number, except that notice of a meeting of the board must be given to each member. (§ 1 ch 162 SLA 1966; am § 3 ch 129 SLA 1967; am § 103 ch 218 SLA 1976)

Effect of amendment. — The 1976 commerce and economic development" for amendment substituted "commissioner of "commissioner of economic development."

Sec. 44.60.100. Minutes of meetings. The board shall keep minutes of each meeting and send a certified copy to the governor. (§ 1 ch 162 SLA 1966)

Sec. 44.60.110. Executive vice president. The board may employ an executive vice president to manage the corporation. He must be professionally trained and experienced in the performance of his duties. His selection is subject to the approval of the governor. The executive vice president may not have any financial or business interest that might conflict with the management of the corporation in the best public interest. The board may delegate powers and duties to the executive vice president. (§ 1 ch 162 SLA 1966)

Sec. 44.60.120. Employees' bonds. The corporation shall bond its employees. The amount of a bond is determined by the board. (§ 1 ch 162 SLA 1966)

Article 2. Powers

Section

- 130. Powers
- 140. Annual report
- 150. Annual audits

Sec. 44.60.130. Powers. (a) In the effectuation of its corporate purposes stated in § 10 of this chapter, the corporation may

- (1) exist continuously as a corporation;
- (2) adopt a seal;
- (3) adopt bylaws and regulations governing the business of the corporation;
- (4) sue and be sued;
- (5) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;
- (6) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(7) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(8) borrow money and issue secured and unsecured evidence of indebtedness, including negotiable revenue debentures, for a corporate purpose, or fund, refund, pay, or discharge outstanding obligations, and enter into agreements and contracts concerning these obligations;

(9) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property, except that it may not incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity, except endorsement of checks, bank drafts, or other commercial paper in the ordinary course of business;

(10) accept grants on loans from and contract with the federal government, the state, or its political subdivisions, and to that end comply with the provisions of federal, state, or local programs when necessary;

(11) lease, alienate, and dispose of property;

(12) acquire, hold, and dispose of stocks, memberships, contracts, bonds, or other interests in another corporation or legal entity, and exercise the powers or rights in connection with these interests which are provided in contracts or agreements and which are allowed by law concerning the satisfaction of debts;

(13) do what is necessary to carry out the powers granted by this chapter or other laws of the state, or the laws and regulations of the federal government.

(b) The corporation may not pledge the credit or the taxing power of the state or its political subdivisions. The state and its political subdivisions are not liable for the debts of the corporation. (§ 1 ch 162 SLA 1966)

Sec. 44.60.140. Annual report. Before December 1 of each year, the board shall submit to the governor and the legislature a comprehensive report describing the operations, fiscal transactions, financial condition, and future plans of the board. The governor may prescribe the form of the report. (§ 1 ch 162 SLA 1966)

Sec. 44.60.150. Annual audits. (a) The board shall have its financial records audited annually. The legislative auditor shall conduct the annual audit. If an audit conducted by a certified public accountant is satisfactory in the judgment of the legislative auditor, it may be accepted instead of the state audit. The legislative auditor may prescribe the form and content of the financial records of the board and may have access to these records at any time.

(b) The state bank examiner shall examine the records of the corporation at least annually. (§ 1 ch 162 SLA 1966)

Article 3. Financial Provisions.

Section

160. Capital

170. Bonds, notes, and debentures

190. Nature of corporation obligations

200. Negotiability of obligations

210. Authorization and contents of
issuance

Section

220. Additional provisions of resolution
authorizing obligations

230. Manner of sale

240. Nonliability of corporation members

250. Nonliability of state

260. Rights of obligation holders

Sec. 44.60.160. Capital. Appropriations and loans from the state general fund necessary for the operation of the corporation are authorized. (§ 1 ch 162 SLA 1966)

Sec. 44.60.170. Bonds, notes, and debentures. The corporation may issue negotiable bonds, notes and debentures in such principal amounts as is considered necessary to provide sufficient funds for achieving its corporate purposes stated in § 10 of this chapter, including the payment of interest of bonds of the corporation, the establishment of reserves to secure bonds, notes and debentures, and all other expenditures of the corporation incidental to and necessary or convenient to carry out the corporate purposes. (§ 1 ch 162 SLA 1966)

Sec. 44.60.190. Nature of corporation obligations. Except as otherwise expressly provided by the corporation, every issue of its notes, debentures or bonds is a general obligation of the corporation payable out of any revenues or money of the corporation, subject only to agreements with the holders of particular notes, debentures or bonds pledging particular receipts or revenues. (§ 1 ch 162 SLA 1966)

Sec. 44.60.200. Negotiability of obligations. Whether or not the notes, debentures, or bonds are of the form and character to be negotiable instruments under the provisions of the negotiable instruments law, the notes, debentures or bonds of the corporation are negotiable instruments within the meaning of and for the purposes of the negotiable instruments law. (§ 1 ch 162 SLA 1966)

Sec. 44.60.210. Authorization and contents of issuance. The notes, debentures, and bonds shall be authorized by resolution of the board of directors of the corporation. The notes, debentures, and bonds shall bear the date or dates, and mature at the time or times in the case of a note or debenture or renewals not to exceed five years from the date of issue of the original note or debenture, and in the case of a bond, not to exceed 50 years from the date of issue, as the resolution or resolutions may provide. The notes, debentures, and bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, be executed in the manner, be payable in the medium of payment at the place or places, be subject to the terms of redemption and carry the registration pledges which the resolution or resolutions may provide. (§ 1 ch 162 SLA 1966)

Sec. 44.60.220. Additional provisions of resolution authorizing obligations. The resolutions authorizing issuance of notes, debentures or bonds may contain provisions which shall be a part of the contract with the holder as to

(1) pledging all or part of the money received in payment of the loans made by the corporation and interest on the loans, and other money received or to be received, to secure the payment of the notes, debentures or bonds or of any issue of them subject to existing agreements with bondholders or noteholders, or debenture holders;

(2) pledging all or a part of the assets of the corporation, including any mortgages or other documents or agreements, to secure the payment of the notes, debentures or bonds or any issue of notes, debentures, or bonds, subject to existing agreements with noteholders, debenture holders, or bondholders;

(3) the application, use and disposition of the revenues and receipts to be derived by the corporation from its loans;

(4) the setting aside of reserves or sinking funds and the regulation and disposition of them;

(5) limitations on the purpose to which the proceeds of sale of notes, debentures or bonds may be applied and pledging the proceeds to secure the payment of notes, debentures or bonds or of an issue of them;

(6) limitations on the issuance of additional notes, debentures or bonds, the terms upon which additional notes, debentures or bonds may be issued and secured, or the refunding of outstanding or other notes, debentures or bonds;

(7) the procedure, if any, by which the terms of a contract with noteholders, bondholders or debenture holders may be amended or abrogated, the amount of notes, debentures, or bonds the holders of which must consent thereto, and the manner in which the consent may be given;

(8) vesting in a trustee or trustees the property, rights, powers, and duties in trust as the corporation may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders under this section, and limiting or abrogating the right of the bondholders to appoint a trustee under this section, or limiting the rights, powers and duties of the trustee;

(9) The replacement of lost, destroyed or mutilated bonds, notes and debentures;

(10) any other matter which affects the security or protects the notes, bonds or debentures. (§ 1 ch 162 SLA 1966)

Sec. 44.60.230. Manner of sale. The notes, debentures, and bonds of the corporation may be sold at public or private sale at a price determined by the corporation. (§ 1 ch 162 SLA 1966)

Sec. 44.60.240. Nonliability of corporation members. The members of the corporation and persons executing the notes, debentures or bonds

are not liable personally on the notes, debentures or bonds or subject to personal liability or accountability by reason of their issuance. It is the intention of the legislature that a pledge made with respect to the bonds, notes or debentures shall be valid and binding from the time the pledge is made that the money or property so pledged thereafter received by the corporation shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the parties have notice thereof. Either the resolution, trust indenture or any other instrument by which a pledge is made may be recorded. (§ 1 ch 162 SLA 1966)

Sec. 44.60.250. Nonliability of state. The state is not liable on notes, bonds or debentures of the corporation and the notes, bonds, or debentures are not a debt of the state. (§ 1 ch 162 SLA 1966)

Sec. 44.60.260. Rights of obligation holders. Subject to contractual limitations or restrictions under §§ 170 — 250 of this chapter, the holder of bonds, notes or debentures, in addition to other remedies, may by appropriate action, require the corporation to carry out its covenants and agreements made with or for the holder's benefit. (§ 1 ch 162 SLA 1966)

Article 4. General Provisions.

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Sec. 44.60.270. Small business development revolving fund. There is established a small business development revolving fund which shall be administered by the board of directors exclusively for the purposes of this chapter. The fund is composed of money appropriated by the legislature to the corporation for the purposes of this chapter. Expenditures may be made from this fund for the administration of this chapter as well as for the loans authorized by the provisions of this chapter. The corporation may pledge any money in this fund to secure the payment of any bonds, notes or debentures issued under this chapter. (§ 1 ch 162 SLA 1966)

Sec. 44.60.280. Repayment to general fund. All money made available to the small business development revolving fund from the general fund of the state is a loan from the general fund. All surplus at the end of a fiscal year over amounts made available to the fund from

the general fund of the state shall be repaid to the general fund until the loan is repaid in full. Repayments need not begin until after the first five complete fiscal years after the fund is created. (§ 1 ch 162 SLA 1966)

Sec. 44.60.290. Investments by association. The corporation shall place money held in the reserve funds or in the small business development revolving fund in one or more of the following: deposits in banks or trust companies having their principal places of business in the United States; or obligations of the United States, the state, or its political subdivisions if the obligations are secured by the general taxing power of the obligor. (§ 1 ch 162 SLA 1966)

Sec. 44.60.300. Tax exemption. Because the purpose of the corporation, as an instrumentality of the state, is to benefit the people of Alaska by increasing their commerce, prosperity, and general well-being, the corporation is exempt from all taxes and assessments in the state. Bonds, notes and debentures issued by the corporation, their transfer and their income are exempt from all taxes and assessments in the state. (§ 1 ch 162 SLA 1966)

Sec. 44.60.310. Corporation's interest. The rate of interest charged for the corporation's share of a development loan shall be determined by the board and may exceed the legal contract rate of interest as set by state law, but the average rate of interest of the loan shall not exceed the legal rate of interest. The corporation may also charge reasonable loan commitment fees. (§ 1 ch 162 SLA 1966)

Sec. 44.60.320. General limitations on loans. (a) In making loans, the board shall consider the proposed collateral, the purpose of the loan, the integrity and management ability of the borrower, and the borrower's past and prospective earnings.

(b) The board may make only loans that are economically advantageous to the state and the general public welfare. No loans shall be made unless the local development company has obtained a firm commitment, satisfactory to the corporation, from the Small Business Administration under the provisions of the Small Business Investment Company Act of 1958 as amended (15 U.S.C. § 696) and from other sources for the total cost of the project, exclusive of loans requested from the corporation.

(c) The board may make a development loan to a responsible borrower only if other credit, in addition to that of the Small Business Administration, is not readily available on reasonable terms. Before making a loan, the board shall determine, so far as it is reasonably possible, that the first opportunity to grant the loan is given to banking or financial institutions of the state and that the Alaska State Development Corporation cannot or does not desire to make the loan. (§ 1 ch 162 SLA 1966)

Sec. 44.61.010. Legislative finding and policy. (a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exist;

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing and industrial enterprises necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment of industrial and manufacturing plants in Alaska is essential to the development of the natural resources and the long term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) The achievement of the goal of full employment, and of establishment and continuing operation and development of industrial and manufacturing plants in the state, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt for acquiring or constructing industrial and manufacturing plants for private operation and thus provide financial assistance for the establishment, operation and development of these plants on a basis offsetting in whole or in part the construction, marketing or other costs involved in the projects.

(b) It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment of manufacturing and industrial enterprises by creating the public corporation with power, duties and functions as provided in this chapter. (§ 1 ch 64 SLA 1967)

Sec. 44.61.020. Creation of authority. There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. (§ 1 ch 64 SLA 1967; am § 104 ch 213 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Economic Development" in the second sentence.

Sec. 44.61.030. Membership of the authority. (a) The membership of the authority consists of the commissioner of commerce and economic development, the commissioner of revenue and the commissioner of natural resources, serving ex officio. If a state officer who is a member of the authority is unable for any reason to attend a meeting of the authority, he may by an instrument in writing filed with the authority, designate his deputy or assistant commissioner to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting.

(b) After each time a certified copy of the resolution of the governing body of the political subdivision of the state, if any, in which a project is to be located consenting to a location as provided in § 160 of this chapter is filed with the authority, and the authority has made the findings regarding the project set out in the section, the governing body may by resolution appoint three persons who shall in connection only with subsequent action by the authority found by the chairman to concern the project, constitute membership of the authority. Persons so appointed shall be residents of the political subdivision and may be members of its governing body, and are considered members of the authority for purposes of § 50 of this chapter only in connection with action by the authority concerning the project.

(c) Each further member of the authority appointed by the governing body serves as, and for all purposes of this chapter is, a member of the authority serving at the pleasure of the governing body until such time as bonds of the authority are issued under this chapter to finance any part of the project described in the resolution of the governing body consenting to the location, or the authority determines by resolution that the bonds will not be issued. (§ 1 ch 64 SLA 1967; am § 7 ch 207 SLA 1975)

Effect of amendment. — The 1975 development" and substituted amendment in the first sentence of "commissioner of revenue" for subsection (a), inserted "and economic "commissioner of economic development."

Sec. 44.61.040. Chairman and vice-chairman. The commissioner of commerce and economic development is the chairman of the authority, presides over all meetings, and has the duties which the authority may direct. A vice-chairman may be elected by the authority from among its other members for one or more terms of one year each. The vice-chairman presides over all meetings in the absence of the commissioner of commerce and economic development and has other duties which the authority may direct. (§ 1 ch 64 SLA 1967; am § 105 ch 218 SLA 1976)

Effect of amendment. — The 1976 "commissioner of economic development" amendment substituted "commissioner of in the first and third sentences. commerce and economic development" for

Sec. 44.61.050. Meetings, compensation, officers and employees. (a) A majority of the members of the authority constitutes a quorum for the transaction of business or the exercise of a power or function at a meeting of the authority. In case of a tie vote on a motion or resolution pending before the authority the motion or resolution shall be presented to the governor and if approved by him, is considered adopted by the authority.

(b) The members of the authority serve without salary but each member is entitled to reimbursement from authority funds for actual and necessary expenses incurred in the performance of his official duties as a member of the authority.

(c) The authority may appoint persons as officers it considers advisable, including an executive director or executive vice-president, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable. (§ 1 ch 64 SLA 1967)

Article 2. Purpose and Powers.

Section

70. Purpose of the authority

80. Powers of the authority

Sec. 44.61.070. Purpose of the authority. The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment and to create additional employment by providing a means of financing industrial and manufacturing plant construction, conversion or expansion within the state, including the acquisition of real property, for lease or sale to business enterprises for industrial or manufacturing purposes. (§ 1 ch 64 SLA 1967)

Sec. 44.61.080. Powers of the authority. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

- (1) to sue and be sued;
- (2) to have a seal and alter it at pleasure;
- (3) to make and alter bylaws for its organization and internal management;
- (4) to make rules and regulations governing the exercise of its corporate powers;
- (5) to acquire, whether by construction, purchase, gift or lease, and to improve and equip projects in the state;
- (6) to lease to others a project acquired by it for the rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew;

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(7) to issue bonds to pay the cost of acquiring by construction, purchase or lease or improving and equipping a project and to secure payment of the bonds as provided in this chapter;

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

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

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

(11) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter. (§ 1 ch 64 SLA 1967)

Article 3. Financial Provisions.

Section

90. Bonds of the authority

100. Trust indentures and trust agreements

110. Validity of pledge

120. Nonliability on bonds

Section

130. Pledge of the state

140. Exemption from taxation

150. Bonds legal investments for fiduciaries

Sec. 44.61.090. Bonds of the authority. (a) The authority may borrow money and may issue bonds therefor, 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, and be dated and shall mature as the resolution may provide, except that no bond may mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

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

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

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects being financed by the issue of the bonds for rentals or other considerations at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves therefor as the authority considers necessary or desirable and to meet all obligations in connection with the lease or other agreement and all costs necessary to service the bonds unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(f) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment or security interest or brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders. (§ 1 ch 64 SLA 1967)

Sec. 44.61.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

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

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

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project;

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

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

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without

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

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

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967)

Sec. 44.61.110. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

Sec. 44.61.120. Nonliability on bonds. (a) Neither the members of the authority nor 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 the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

Sec. 44.61.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and

remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967)

Sec. 44.61.140. Exemption from taxation. (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a leasehold interest created in a project occupant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section shall affect or limit an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law.

(b) The authority may enter into agreements with a proposed project occupant or project occupant providing for payments, computed on a formula basis or otherwise, in lieu of taxes, which the authority may consider appropriate. The agreement may provide that the payments be made to the political subdivision of the state in which a project is or is to be located or to any other taxing unit of the state including, without limitation, a borough, city, municipality, school district or public utility district, the area of which is coterminous in whole or in part with that of the political subdivision.

(c) For the purposes of AS 14.17 relating to the computation of the required local effort by a district as defined in AS 14.17.250(3), all property exempted from taxation by this chapter shall be considered taxable real and personal property. (§ 1 ch 64 SLA 1967)

Cited in City of Nome v. Block No. H,
Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No.
1652), 502 P.2d 124 (1972).

Sec. 44.61.150. Bonds legal investments for fiduciaries. The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 64 SLA 1967)

Article 4. General Provisions.

Section

160. Findings of the authority
170. Purchase of project and leases
180. Conflicts of interest
190. Operation of certain statutes excepted

Section

200. Annual audit
210. Annual report
220. Definitions

Sec. 44.61.160. Findings of the authority. Before entering into a lease or other agreement regarding a project as mentioned in § 90(e) of this chapter there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project occupant), and the authority must find, on the basis of all information reasonably available to it, that

(1) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;

(2) the project occupant is financially responsible; and

(3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured. (§ 1 ch 64 SLA 1967)

Sec. 44.61.170. Purchase of project and leases. (a) No provision of this chapter may prevent the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Sec. 44.61.180. Conflicts of interest. (a) No member of the authority may vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if he is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership, corporation or association which may be a party to the contract or lease. If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition: commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of public safety.

(b) The state officer serves as a member from time to time and for all purposes of this chapter is a member for the purpose of voting on the resolution but after each vote the authority shall again consist of members referred to in § 30 of this chapter only, until one or more members may not again vote on a resolution because of the prohibition. (§ 1 ch 64 SLA 1967)

Sec. 44.61.190. Operation of certain statutes excepted. (a) The authority shall not be considered or constitute (1) a political subdivision of the state as the term is used in AS 37.10.085, (2) a municipal corporation or political subdivision of the state as the terms are used in AS 29, or (3) a state agency as the term is used in AS 37, but for all other purposes the authority constitutes a political subdivision and an instrumentality of the state as provided in this chapter.

(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution. (§ 1 ch 64 SLA 1967)

Sec. 44.61.200. Annual audit. The 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 the authority and shall have access to these records at any time. (§ 1 ch 64 SLA 1967)

Sec. 44.61.210. Annual report. Before December 1 of each year, the authority shall submit to the governor and the legislature a comprehensive report, in form prescribed by the governor, describing operations, income and expenditures for the preceding 12-month period. (§ 1 ch 64 SLA 1967)

Sec. 44.61.220. Definitions. In this chapter

(1) "authority" means the Alaska Industrial Development Authority created by this chapter;

(2) "business enterprise" means a corporation, firm, partnership or other association of persons organized in any manner, or a single proprietorship;

(3) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(4) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the borough assembly if the project is to be located in an organized borough;

(5) "industrial plant" or "manufacturing plant" means a plant used or intended for use in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature;

(6) "plant" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, whether above, at or below ground or water level, and may include fixtures, machinery and equipment on it or in it;

(7) "project" means a manufacturing or industrial plant or plants, the construction or acquisition of which is to be financed in whole or in part by the authority under this chapter and the reasonable aggregate project cost of which to be financed by the authority under this chapter will exceed, in the opinion of the authority, \$500,000;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction or acquisition of a project, including without limitation the cost of acquiring real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project, the cost of financing the project, including, without limitation, interest charges before, during or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses,

the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction or acquisition;

(9) "project occupant" means a business enterprise or enterprises proposing to use and occupy a project;

(10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, real property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy real property. (§ 1 ch 64 SLA 1967)

Part 5. Administrative Procedure.

Chapter

62. Administrative Procedure Act (§§ 44.62.010 — 44.62.650)

Chapter 62. Administrative Procedure Act.

Article

1. Application and Effect (§§ 44.62.010 — 44.62.030)
2. Submission, Filing and Publication of Regulations (§§ 44.62.040 — 44.62.125)
3. The Alaska Administrative Register and Code (§§ 44.62.130 — 44.62.170)
4. Procedure for Adopting Regulations (§§ 44.62.180 — 44.62.290)
5. Judicial Review (§ 44.62.300)
6. Agency Meetings Public (§§ 44.62.310 — 44.62.312)
7. Legislative Review of Rules (§ 44.62.320)
8. Administrative Adjudication (§§ 44.62.330 — 44.62.630)
9. General Provisions (§§ 44.62.640 — 44.62.650)

Revisor's note (1971). — In this chapter the 1970 Alaska constitutional amendment "secretary of state" has been changed to (SJR 2) changing the designation of that "lieutenant governor" in conformity with office.

Article 1. Application and Effect.

Section

10. Application to State Organization Act of 1959
20. Authority to adopt, administer, or enforce regulations

Section

30. Consistency between regulation and statute

Sec. 44.62.010. Application to State Organization Act of 1959. Rule-making power conferred by ch. 64 SLA 1959 is subject to this chapter. (§ 2(4) art 1 (ch 1) ch 143 SLA 1959)

Revisor's note. — It is not possible to eliminate the reference to ch 64 SLA 1959 in the above section. The rule-making powers referred to are scattered throughout this revision. However, most of ch 64 SLA 1959 is found in part 2 of this title.

Legislative committee report. — For legislative committee report on original bill, see House Journal (1959), pp. 394-397.

This chapter applies to the Alaska State Housing Authority. Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 649 (1972).

commissioner on the judgment shall be deposited to the fund. (§ 1 ch 143 SLA 1974)

Sec. 45.85.100. Purchase of bond.

Repealed by § 1 ch 51 SLA 1977.

Editor's note. — The repealed section derived from § 1, ch. 143, SLA 1974.

Sec. 45.85.110. Disciplinary action against brokers and salesmen. This chapter neither limits the authority of the Real Estate Commission to take disciplinary action against any person licensed under AS 08.88, nor does repayment in full of all obligations to the real estate surety fund nullify or modify the effect of disciplinary proceedings brought under the provisions of AS 08.88. (§ 1 ch 143 SLA 1974)

Chapter 86. Water Resources Revolving Loan Fund.

Section

10. Fund established
20. Fund utilization
30. Loan fund source

Section

40. Administration of loans
50. Eligibility for project loans
60. Definitions

Effective date of chapter. — Section 2, effective on July 3, 1975, in accordance with ch. 218, SLA 1975, makes this chapter AS 01.10.070(c).

Sec. 45.86.010. Fund established. There is established as a separate fund the water resources revolving loan fund. Loans from this fund are to be used to develop and conserve in the public interest the water resources of Alaska. (§ 1 ch 218 SLA 1975; am § 1 ch 124 SLA 1977)

Effect of amendment. — The 1977 amendment deleted "using state revenues from mineral development" from the end of the section.

Legislative committee report. — For report on ch. 124, SLA 1977 (HR 356am), see 1977 Senate Journal, p. 1296.

Sec. 45.86.020. Fund utilization. (a) Loans from the fund shall be for a term not to exceed 50 years, and the rate of interest shall be not less than three nor more than five per cent a year on the unpaid balance. The repayment schedule shall be as determined by the department. Repayment of a loan shall commence at the date of commercial operation of the project or 10 years from the date the loan is granted, whichever is sooner.

(b) The loans may be used for capital construction projects, for hydroelectric generation and potable water supply including surface

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storage and groundwater sources and transmission of water from surface storage to the existing distribution system, and development of hydroelectric generating facilities including transmission of power to the load center. Loans may be made to applicants for new or existing projects including feasibility and preconstruction engineering studies, expenses incurred in securing necessary permits and licenses, design of the project and construction of capital improvements. Existing hydroelectric and water supply projects may be expanded or rehabilitated with loan funds under this chapter if the rehabilitation and expansion is a capital improvement project.

(c) Loans shall be repaid to the fund by the borrower from revenue derived from the sale of electric power or water. (§ 1 ch 218 SLA 1975; am § 2 ch 124 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

Sec. 45.86.030. Loan fund source. Receipts from mineral rentals and royalties shall be appropriated annually and deposited in the water resources revolving loan fund. (§ 1 ch 218 SLA 1975; am § 16 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "and from the Alaska mineral lease bonus permanent fund" following "rentals and royalties."

Sec. 45.86.040. Administration of loans. (a) Administration of the water resources revolving loan fund shall be performed by the Department of Commerce which is empowered to adopt procedures and promulgate the regulations necessary to carry out the provisions of this chapter.

(b) There is created within the department the Water Resources Revolving Loan Fund Committee chaired by the commissioner or his deputy, and including as members the director of the division of energy and power development and the director of the division of business loans. The committee shall review all applications referred to it for approval by the department.

(c) The department shall establish a priority list for the approval of project applications based upon a determination of which projects will better serve the interests of the state. An applicant may appeal the level of priority assigned to his application by requesting a review of the list of priorities by the committee. The committee, upon sufficient notice and a public hearing, may change an assigned priority. Applications not approved due to a lack of funds will retain the priority assigned and may be held for reconsideration. (§ 1 ch 218 SLA 1975; am § 3 ch 124 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote subsections (b) and (c).

Sec. 45.86.050. Eligibility for project loans. A public utility is an eligible borrower for a project loan under this chapter if

- (1) it is a public utility as defined in AS 42.05.701(2)(A) and (C);
- (2) the utility can demonstrate in its loan application that the project is economically and technically feasible and, taking into account the low interest on loans under this chapter, is the most economical means of furnishing the proposed service. (§ 1 ch 218 SLA 1975; am § 4 ch 124 SLA 1977)

Effect of amendment. — The 1977 commas following "feasible and" and amendment, in paragraph (2), deleted following "this chapter." "and" following "technically" and inserted

Sec. 45.86.060. Definitions. In this chapter,

- (1) "commissioner" means the commissioner of the Department of Commerce and Economic Development;
- (2) "department" means the Department of Commerce and Economic Development. (§ 5 ch 124 SLA 1977)

Chapter 90. Tourism Revolving Fund.

Section

10. Creation of a tourism revolving fund
20. Powers and duties of the Department of Commerce

Section

30. Limitations on loans
40. Sale or transfer of mortgages and notes

Legislative committee report. — For CSHB 312, see 1971 House Journal, pp. 617, 618; 1972 House Journal, p. 556.

Sec. 45.90.010. Creation of a tourism revolving fund. There is created in the Department of Commerce a tourism revolving fund. (§ 1 ch 171 SLA 1972)

Sec. 45.90.020. Powers and duties of the Department of Commerce.
(a) The department may

- (1) make loans to a business directly involved in the tourist industry;
- (2) designate agents and delegate powers to them as is necessary;
- (3) promulgate rules and regulations necessary to carry out its functions;
- (4) establish amortization plans for the repayment of loans not to exceed 20 years.

(b) The Department of Commerce shall consult with the state division or department having jurisdiction over tourism on regulations and procedures established under this chapter. (§ 1 ch 171 SLA 1972)

Sec. 45.90.030. Limitations on loans. (a) State participation in a loan to a business may not be more than \$3,000,000.

(b) The loan shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security.

(c) The rate of interest may not exceed eight per cent a year on the unpaid balance of the state's share of the loan.

(d) A loan of \$150,000 or more under this chapter must be participated in by a financial institution in an amount which is not less than 20 per cent of the total amount of the loan. A loan of less than \$150,000 does not require participation by a financial institution.

(e) The participating financial institution shall administer and service the loan for a reasonable fee not exceeding one-half of one per cent.

(f) The lien of the state is a first lien to the extent of its portion of the total loan and the participating financial institution shall have a first lien to the extent of its portion of the total loan. (§ 1 ch 171 SLA 1972; am §§ 1, 2 ch 4 SLA 1973; am § 5 ch 139 SLA 1977)

Effect of amendments. — The 1973 amendment substituted "State participation in a" for "No" in subsection (a), inserted "not" in that subsection, and added "of the state's share of the loan" to the end of subsection (c).

The 1977 amendment, effective September 16, 1977, substituted "\$3,000,000" for "\$1,000,000" in subsection (a).

Editor's note. — Section 1, ch. 139, S.A. 1977, provides: "INTENT. It is the intent of the legislature to foster an awareness of the need to preserve our historic past; to protect those visible aspects of our invaluable heritage so that present and future generations may continue to be enriched by the originality and strength of Alaska's architectural and cultural beginnings."

Sec. 45.90.040. Sale or transfer of mortgages and notes. (a) The commissioner of commerce may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of Commerce as security for loans made under this chapter.

(b) The commissioner of commerce may sell or transfer at par value to the Department of Revenue the mortgages and notes held by the Department of Commerce as security for loans made under this chapter. The Department of Revenue shall purchase the mortgages and notes offered. (§ 1 ch 171 SLA 1972; am § 1 ch 141 SLA 1974)

Effect of amendment. — The 1974 amendment, in the second sentence of subsection (b), deleted "may purchase all the mortgages and notes offered and" following "Department of Revenue" and

"until the current principal amount of all the mortgages and notes purchased and held by the Department of Revenue equals \$5,000,000" from the end.

Chapter 95. Small Business Loans.

Section

10. Powers and duties of Department of Commerce and Economic Development in general
 20. Small business loans
 30. Sale or transfer of preferred commercial paper
 40. Sale or transfer of mortgages and notes

Section

50. Power of commissioner to assign and sell mortgages
 60. Creation of fund
 70. Eligibility for loans
 80. Definitions

Sec. 45.95.010. Powers and duties of Department of Commerce and Economic Development in general. (a) The Department of Commerce and Economic Development shall formulate general policies and adopt regulations.

(b) The department may hold hearings and subpoena witnesses and documents, and administer oaths in connection with hearings.

(c) The department shall

(1) cooperate with the state and its political subdivisions and agencies;
 (2) adopt regulations necessary for the conduct of its business and for carrying out the provisions of this chapter, and make necessary regulations to maintain such standards;

(3) require bonds and undertakings from persons employed by it as shall in its judgment be necessary, and pay the premiums on them;

(4) establish such regional and local offices and such advisory groups as may be necessary or considered expedient to carry out or assist in carrying out its duties and authority. (§ 8 ch 109 SLA 1971; am § 109 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in subsection (a).

Sec. 45.95.020. Small business loans. (a) The commissioner shall, under regulations and policies adopted by him, make small business loans to acquire, finance or refinance or equip businesses, including farming equipment, mining and fishing, not exceeding \$300,000. The loans shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security. The rate of interest may not exceed eight per cent a year on the unpaid balance.

(b) The commissioner may enter into agreements with private banks, other lending institutions and individuals for the purpose of guaranteeing loans made to qualified applicants. The guarantees may not exceed 90 per cent of the amount loaned and the loans shall be secured in the same manner provided for direct loans under this section.

A loan made under this subsection and guaranteed by the commissioner

and the state shall bear an interest rate not exceeding eight per cent a year on the unpaid balance.

(c) No loans authorized by this section may be made unless the commissioner is satisfied that no money is available to the applicant from private lending institutions on a guaranteed basis as set out in (b) of this section.

(d) Money loaned shall be delivered to the borrower in the form of a warrant drawn on the treasury, vouchered in the manner prescribed for state disbursing officers, and charged against the small business revolving loan fund. Each voucher shall be approved by the commissioner or any bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money so received shall be turned over to the commissioner of revenue for deposit in the small business revolving loan fund. (§ 8 ch 109 SLA 1971; am § 1 ch 103 SLA 1974; am § 110 ch 218 SLA 1976; am § 6 ch 139 SLA 1977)

Effect of amendments. — The 1974 amendment substituted "farming equipment, mining and fishing not exceeding \$100,000" for "mining and fishing but not including farming, not exceeding \$50,000" in the first sentence of subsection (a).

The 1976 amendment deleted "of commerce" following "commissioner" in the first sentence of subsection (a), in the first and third sentences of subsection (b), in subsection (c), and in the second sentence of subsection (d).

The 1977 amendment substituted "\$300,000" for "\$100,000" at the end of the first sentence of subsection (a).

Editor's note. — Section 1, ch. 139, SLA 1977, provides: "INTENT. It is the intent of the legislature to foster an awareness of the need to preserve our historic past; to protect those visible aspects of our invaluable heritage so that present and future generations may continue to be enriched by the originality and strength of Alaska's architectural and cultural beginnings."

Sec. 45.95.030. Sale or transfer of preferred commercial paper. The commissioner may negotiate with and transfer or sell to and repurchase from the Department of Revenue, its preferred commercial paper, not to exceed \$1,000,000 for cash, when cash shall be used only for the purposes of making loans to persons eligible under this chapter. Money loaned under this section is subject to interest at the rate of two and one-half per cent a year until all principal and interest are fully paid. (§ 8 ch 109 SLA 1971; am § 111 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "of commerce" following "commissioner" in the first sentence.

Sec. 45.95.040. Sale or transfer of mortgages and notes. (a) The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of

Commerce and Economic Development as security for loans made under this chapter.

(b) The commissioner may sell or transfer at par value to the Department of Revenue the mortgages and notes held by the Department of Commerce and Economic Development as security for loans made under this chapter. The Department of Revenue shall purchase all of these mortgages and notes offered, allowing the Department of Commerce and Economic Development a one-half of one per cent service fee. (§ 8 ch 109 SLA 1971; am § 112 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "of commerce" following "commissioner" near the beginning of subsection (a) and near the beginning of the first sentence of subsection (b), and substituted

"Department of Commerce and Economic Development" for "Department of Commerce" near the end of subsection (a) and in the first and second sentences of subsection (b).

Sec. 45.95.050. Power of commissioner to assign and sell mortgages. The commissioner may assign and sell small business loan mortgages to the Alaska State Mortgage Association in consideration of receiving its cash, bonds, debentures and notes upon conditions which he considers advantageous to the state small business lending program. (§ 8 ch 109 SLA 1971; am § 113 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "of commerce" following "commissioner" near the beginning of the section.

Sec. 45.95.060. Creation of fund. There is created the small business revolving loan fund to carry out the purposes of this chapter. This fund shall be used for no other purpose. (§ 8 ch 109 SLA 1971)

Sec. 45.95.070. Eligibility for loans. A person is eligible for a loan under this chapter if

- (1) he can establish or demonstrate good character, capacity for financial responsibility, ability to provide sufficient collateral and knowledge of Alaska economic conditions;
- (2) he is a resident of the state; and
- (3) in the judgment of the Department of Commerce and Economic Development
 - (A) the business shows a definite potential for growth;
 - (B) the borrower will be able to repay the loan; and
 - (C) the loan will potentially create more jobs and provide additional services in the community. (§ 8 ch 109 SLA 1971; am § 1 ch 17 SLA 1974; am § 114 ch 218 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote paragraph (1).

The 1976 amendment substituted "Department of Commerce and Economic

Development" for "Department of Commerce" in the introductory language of paragraph (3).

and the state shall bear an interest rate not exceeding eight per cent a year on the unpaid balance.

(c) No loans authorized by this section may be made unless the commissioner is satisfied that no money is available to the applicant from private lending institutions on a guaranteed basis as set out in (b) of this section.

(d) Money loaned shall be delivered to the borrower in the form of a warrant drawn on the treasury, vouchered in the manner prescribed for state disbursing officers, and charged against the small business revolving loan fund. Each voucher shall be approved by the commissioner or any bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money so received shall be turned over to the commissioner of revenue for deposit in the small business revolving loan fund. (§ 8 ch 109 SLA 1971; am § 1 ch 103 SLA 1974; am § 110 ch 218 SLA 1976; am § 6 ch 139 SLA 1977)

Effect of amendments. — The 1974 amendment substituted "farming equipment, mining and fishing not exceeding \$100,000" for "mining and fishing but not including farming, not exceeding \$60,000" in the first sentence of subsection (a).

The 1976 amendment deleted "of commerce" following "commissioner" in the first sentence of subsection (a), in the first and third sentences of subsection (b), in subsection (c), and in the second sentence of subsection (d).

The 1977 amendment substituted "\$300,000" for "\$100,000" at the end of the first sentence of subsection (a).

Editor's note. — Section 1, ch. 139, SLA 1977, provides: "INTENT. It is the intent of the legislature to foster an awareness of the need to preserve our historic past; to protect those visible aspects of our invaluable heritage so that present and future generations may continue to be enriched by the originality and strength of Alaska's architectural and cultural beginnings."

Sec. 45.95.030. Sale or transfer of preferred commercial paper. The commissioner may negotiate with and transfer or sell to and repurchase from the Department of Revenue, its preferred commercial paper, not to exceed \$1,000,000 for cash, which cash shall be used only for the purposes of making loans to persons eligible under this chapter. Money loaned under this section is subject to interest at the rate of two and one-half per cent a year until all principal and interest are fully paid. (§ 8 ch 109 SLA 1971; am § 111 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "of commerce" following "commissioner" in the first sentence.

Sec. 45.95.040. Sale or transfer of mortgages and notes. (a) The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of

Sec. 45.95.080. Definitions. In this chapter, "commissioner" means the commissioner of commerce and economic development. (§ 115 ch 218 SLA 1976)

Chapter 98. Historical District Revolving Loan Fund.

Section	Section
10. Creation of historical district revolving loan fund	50. Sale or transfer of mortgages and notes
20. Historical district loans	60. Penalty provision
30. Powers and duties of the department	70. Short title
40. Limitations on loans	

Cross references. — As to the creation of historical district commissions, see AS 29.48.108. As to the establishment of historical districts, see AS 29.48.110. As to the duty of the Historic Sites Advisory Committee with regard to historical district loans, see AS 41.35.180 (5).

Editor's note. — Section 1, ch. 139, SLA 1977, provides: "INTENT. It is the intent

of the legislature to foster an awareness of the need to preserve our historic past; to protect those visible aspects of our invaluable heritage so that present and future generations may continue to be enriched by the originality and strength of Alaska's architectural and cultural beginnings."

Sec. 45.98.010. Creation of historical district revolving loan fund. There is created in the Department of Commerce and Economic Development a historical district revolving loan fund. (§ 3 ch 139 SLA 1977)

Sec. 45.98.020. Historical district loans. Upon endorsement and plan approval by a local historical district commission established under AS 29.48.108 and the recommendation of a majority of the members of the Historic Sites Advisory Committee, the Department of Commerce and Economic Development may make loans to a person, firm, business or municipality subject to applicable laws for the restoration, improvement, rehabilitation, or maintenance of a structure which is

- (1) within the boundaries of a historical district established under AS 29.48.110;
- (2) identified as important in state or national history as provided for in AS 29.48.110(b); and
- (3) another building or structure within a historical district, and suitable for superficial modification so that it can conform to the period or motif of the surrounding buildings or structures that are the reason for the area's designation as a historical district. (§ 3 ch 139 SLA 1977)

Sec. 45.98.030. Powers and duties of the department. For purposes of administering this chapter, the Department of Commerce and Economic Development may

- (1) prescribe the form and procedure for submitting loan applications under this chapter;
- (2) designate agents and delegate powers to them as is necessary;
- (3) in consultation with the Historic Sites Advisory Committee, adopt regulations necessary to carry out its functions, including regulations for the process of plan approval by the committee;
- (4) establish amortization plans for the repayment of loans not to exceed 30 years. (§ 3 ch 139 SLA 1977)

Sec. 45.98.040. Limitations on loans. Loans made under this chapter are subject to the following limitations:

- (1) state participation in all loans in the aggregate, for any one historical district qualifying under this chapter may not exceed \$1,500,000;
- (2) state participation in a loan for the restoration, improvement, rehabilitation or maintenance of any one building or structure qualifying under this chapter may not exceed \$100,000;
- (3) the loans shall be secured by acceptable collateral and may not exceed 85 per cent of the appraised value of the collateral offered as security;
- (4) the rate of interest may not exceed six and one-half per cent a year on the unpaid balance of the state's share of the loan;
- (5) a participating financial institution shall administer and service the loan for a reasonable fee not exceeding one-quarter of one per cent;
- (6) the state has a lien on the property accepted as collateral to the extent of its portion of the loan; when the lien or notice of the lien is properly recorded it is superior to all other liens except those for taxes and special assessments; a lien of the participating financial institution, to the extent of its portion of the loan after it is properly recorded, is superior to all other liens except liens for taxes, special assessments, and the lien of the state. (§ 3 ch 139 SLA 1977)

Cross reference. — As to duty of the commissions regarding the approval of Historic Sites Advisory Committee to project alterations under this section, see consult with local historical district 15-41.35.11-9051.

Sec. 45.98.050. Sale or transfer of mortgages and notes. (a) The commissioner of commerce and economic development or his designee may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of Commerce and Economic Development as security for loans made under this chapter.

(b) The commissioner of commerce and economic development or his designee may sell or transfer at par value to the Department of Revenue, the mortgages and notes held by the Department of Commerce and Economic Development as security for loans made under this

chapter. The Department of Revenue may purchase the mortgages and notes offered. (§ 3 ch 139 SLA 1977)

Sec. 45.98.060. Penalty provision. After a project for which a loan is granted is commenced, if the Department of Commerce and Economic Development or a local historical district commission, in consultation with the Historic Sites Advisory Committee, determines that the project is inconsistent with the guidelines or stipulations for construction, or otherwise fails to conform to the requirements of the loan, the interest rate on the state's share of the loan shall be increased to the highest rate of interest allowed at that time as provided in AS 45.45.010. In addition, a penalty in the amount of two per cent of the balance of the loan shall be assessed by the Department of Commerce and Economic Development. (§ 3 ch 139 SLA 1977)

Sec. 45.98.070. Short title. This chapter may be cited as the Historical District Loan Act. (§ 3 ch 139 SLA 1977)

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MINUTES

House Special Committee on
the Alaska Permanent Fund

February 22, 1978 7:00 PM
Room 124, Capitol Building

Chairman Gruening called the meeting to order. Present were Committee members Rep. Gardiner, Rep. Miles, Rep. Haugen and Rep. Meekins and Committee staff Mike Doogan and Tom Singer.

Amendments to HB 596 from Keith Specking were entered into the record and discussed.

Additional testimony from Mr. Joe McLean, the Association of Villiage Council Presidents and the Alaska Conservation Society has been received in the last week's time and were entered into the record.

Committee Substitute for HB 596 was presented to the Committee for their consideration and discussion followed.

Rep. Gardiner moved to adopt the Committee Substitute for HB 596 and report it out of the Committee and a majority concurred. CS for HB 596 was signed and passed out of Committee.

HB 682 was brought up for discussion. Two flow charts have been presented:

Rep. Gardiner moved and asked unanimous consent to add after "source" on page 3, line 7-8 "except earnings received from the corporation's investments". It was adopted in concept without objection.

Discussion was continued on Tom Singer's memo of 2/9/78.

Items 10 & 11: Rep. Gardiner moved to delete the entire subsection 11 (page 6, lines 13-17) and it was adopted without objection.

Item 12: Rep. Gardiner moved to delete "or" and add "and" (p6, l. 22). Meekins objected. Gardiner withdrew the motion. Gardiner moved to delete "are commercially promising or" and it was adopted without objection.

Item 13: Rep. Gardiner moved and it was adopted without objection.

Item 14: Rep. Gardiner moved this item be adopted. Chm. Gruening amended it to delete "permanent fund" and add "Alaska Permanent Fund Corporation" (p 6, l 25). Rep. Gardiner moved Item 14 be adopted as amended and there was no objection.

Item 15: Page 12, line 29, Rep. Gardiner moved to delete "in accordance with AS 37.10.070 (investment of surplus state funds)." and substitute "by the Alaska Permanent Fund Corporation." and it was adopted without objection.

Item 16: Rep. Gardiner moved to adopt and there was no objection.

Item 17: Rep. Gardiner moved to adopt and there was no objection.

Item 18: No action.

Item 21: Rep. Meekins moved to adopt and there was no objection.

Item 22: Rep. Meekins moved to adopt and there was no objection.

Item 24: Rep. Gardiner moved to adopt a three year residency requirement and there was no objection.

Item 25: Rep. Gruening moved to adopt and there was no objection.

Item 27: Rep. Gardiner moved to adopt and there was no objection.

Item 28: Rep. Gardiner moved to adopt and there was no objection.

Item 29:

Sec. 37.12.23 TAX EXEMPTION: Rep. Gardiner moved to adopt and there was no objection.

Sec. 37.12.240 EMPLOYMENT PRACTICES: It was held for revision.

Sec. 37.12.250 TECHNICAL ASSISTANCE: Rep. Gruening moved to adopt the section on page 5 of the memo as contained in HB 298 and there was no objection.

Sec. 27.13.260 PUBLIC ACCESS TO INFORMATION: Rep. Gardiner moved to adopt and there was no objection.

Item.30: Rep. Gardiner moved to adopt and there was no objection.

Item 31, 32 and 33: were deferred.

Item 34: Rep. Gruening moved to adopt and there was no objection.
The Committee meeting adjourned at 9:30 PM.

Minutes

House Special Committee on
the Alaska Permanent Fund

February 21, 1978, 4:00 PM
Room 123, Capitol

Chairman Gruening called the informal meeting to order.

Present were Committee members Rep. Hayes, Rep. Haugen, Rep. Gardiner and Rep. Meekins; committee staff; and Eric Yould, James Williamson, Mr. Ted Swick, Mr. Sam Plaia and others.

Mr. Swick brought an illustration of the use of the proposed "guarantee agreement" as embodied in HB 595 to the Committee. Discussion centered around this illustration. Possible additions to the bill could provide for entrance requirements, feasibility study (generation and economic) and a "laundry list" of facts that should exist before projects are guaranteed.

Mr. Eric Yould, Executive Director of the Alaska Power Authority, accompanied by Mr. Jim Curley and Mr. Argetsinger, suggested the Alaska Power Authority be the means to evaluate initial projects. The need is for front end planning funding and an entity to determine initial feasibility.

Mr. James Williamson of R. W. Beck and Associates informally listed projects which have shown a need for funding this year

<u>Project</u>	<u>Millions of \$</u>
Ketchikan	1.5
Craig	.100
Port Lyons (Kodiak)	.100
Seward	.100
Cordova	.450
Kenai	.200
Thomas Bay	.200
AEL&P (Haines & Juneau)	.250
Anchorage	3.5
	7.100

The meeting adjourned at 6:00 PM.

No tape of this meeting

MINUTES

House Special Committee on
the Alaska Permanent Fund

February 21, 1978 11:00 AM
Room 124, Capitol

The meeting was called to order by Chairman Gruening.
Committee members Rep. Haugen, Rep. Hayes, Rep. Meekins and
Committee staff Mike Doogan and Tom Singer were present.

Under discussion was HB 682 and Tom Singer's memo consolidating
changes to 682 of 2/9/78.

Item 1: It was moved by Rep. Gruening to substitute
"seasonal" for "unstable" and "non-stable" on p.1, l. 24 &
27. After discussion, it was decided to find another word
and the motion was withdrawn.

Item 2: Rep. Gardiner moved to adopt and there was no
objection.

Item 3: Rep. Meekins moved to adopt and there was no
objection.

Items 4 and 5: Rep. Gardiner moved to adopt and there was
no objection.

Item 6: After discussion the item was deferred.

Item 9: Rep. Gardiner moved to delete "board" from
p.5, line 14 and there was no objection.

Item 10: Rep. Gruening moved to delete "public" p. 6, l. 14
and to delete "groups" and strike the rest of the subsection
after "state" on line 15. There was no objection.

Item 11: Rep. Gardiner moved to delete "have" and add "are"
and after "income producing" add "and economically viable"
on page 6, line 19. There was no objection.

Rep. Meekins moved to reserve item 10 until next meeting and
there was no objection.

The meeting adjourned at 12:00 PM.

Minutes

House Special Committee on the Alaska Permanent Fund

Room 124, Capitol Building
February 14, 1978

Chairman Gruening called the meeting to order and welcomed those present. Committee members attending were: Rep. Miles, Rep. Haugen, Rep. Gardiner and Rep. Hayes. Rep. Haugen introduced members of the audience to the Committee: Bob Loescher, John Halloway, Chuck Folley, Mr. Cashen, Ferral Campbell, Sterling Gallagher, Bill Maerig, Don Bouy, Mr. James Williamson, Mr. Long, Bob Cross, Ed Zastral, Art Morgan, Jim Edenso, Art Perry and Bill Corbus most of whom had been invited by Rep. Haugen to inform the Committee of the needs for electric utility funding.

Mr. Don Bowie, Asst. Utilities Manager in Ketchikan indicated that financing for power projects could best be assisted by either long term low interest loans or a state guarantee of bonds.

Mr. Jim Williamson, of R. W. Beck and Ass., presented two papers to the Committee: "Role of the Alaska Permanent Fund in Funding the Water Resources Revolving Loan Fund" and "Financing of Water Resource Projects in Alaska" both of which were developed for the Southeastern Conference. His suggested methods for financing were direct dedication of funds from the Permanent Fund to water resources or outside loans guaranteed by the state (perm. fund).

Mr. Robert Loescher of SeaAlaska Corp, brought with him a copy of a "Preliminary Feasibility Study on Hydroelectric Potential" (in S. E.). The study (funded by REA) consolidates areas with good potential for projects. He cited the need for funds to continue into engineering phases. His suggestions for financing were long term low interest loans for plants and transmission lines and deferred payments during the first 3-5 years to allow for feasibility.

Mr. Bill Corbus, Manager of AEL&P cited Juneau's unique situation in having a sufficient power supply and urged the Committee's help in resolving the other SE communities' problems. He suggested adding a section in 595 allowing for use of funds to upgrade existing facilities as well as for construction of new facilities and allowing rural electric cooperatives and private utilities to be eligible to receive loans.

Mr. Bill Maerig of the Petersburg Electric Utility suggested the Committee look at the increased return in taxes and jobs generated by funding electric utilities. If the principal of the Permanent Fund were used to invest in long term low interest rate loans for small projects then the increase return would benefit the state as a whole with increased stability and jobs as well as increased tax base.

In conclusion of the testimony on funding of public utilities, Chairman Gruening indicated a strong personal commitment to finding a way to fund these projects.

The Committee recessed at 8:40 PM and reconvened at 9:00 PM for a work session on HB 596.

Mike Doogan's memo on the technical and grammatical corrections suggested by White, Weld was given to Mr. Berrier to incorporate into a committee substitute bill he is drafting.

Chairman Gruening asked that Committee members having suggested language for setting an upper dollar limit before legislative approval is necessary (enterprise fund) submit it by the end of the week. Rep. Hayes indicated that he would have a suggestion to submit.

Mike Doogan's memo on policy changes suggested by White, Weld was taken up:

Item 2 was moved by Rep. Miles and adopted unanimously.

Item 3: Chairman Gruening moved to clarify whether a suspension creates a vacancy.

Item 4: Chairman Gruening moved this amendment be adopted and there was no objection.

Item 6: Rep. Hayes moved for adoption and there was no objection.

Item 8: Mr. Berrier was directed to resolve this and assure a liaison between the APFC and AEIC and a letter of intent to accompany 596 was suggested by Rep. Gardiner.

Item 10: Rep. Hayes moved to adopt and there was no objection.

Item 11: It was decided no change was needed here.

Item 12: Mr. Berrier's memo of 2-14 was presented relating to this and items 1 and 2 were moved by Chm. Gruening. The motion passed with Rep. Hayes objecting.

Item 13: "Amendment to 596" was presented and Chm. Gruening moved for adoption. There was no objection.

Rep. Gardiner presented an amendment (Page 11, line 5 of 596) and moved that it be adopted in concept. There was no objection and Mr. Berrier was directed to draft it.

The Committee will try to meet after session each day this week. There is a tentative meeting with White, Weld set up for Tuesday, February 21.

The meeting adjourned at 10:05 PM.

MINUTES OF
The House Special Committee
on the Alaska Permanent
Fund

PUBLIC HEARING

Room 124, Capitol Building
February 9, 1978 7 PM

Chairman Gruening called the meeting to order at 7:15 PM and invited testimony from the public on House Bills 4, 298, 595, 596 and 682.

Present were Chairman Gruening, Rep. Haugen, Rep. Miles, Rep. Meekins, Rep. Schaeffer, Rep. Hayes, and Rep. Gardiner members of the Committee. Also present were Representatives Malone, Osterback and Snider, Commissioner Gallagher and Deputy Commissioner Edenso.

Dr. Joe Sonneman testified that the Permanent Fund should be used as a fiscal policy tool.

Mr. Joe McLean brought two major points on House Bill 596 before the Committee. Accounting of losses should be obvious on an annual basis (37.13.140, p.11) and that members of the Alaska Enterprise Investment Corporation Policy Board should have "recognized business competency" instead of "wide experience in investment finance" (Pg. 14, 1.29), be limited to one or two terms and be residents for more than seven years.

Mr. Phil Holdsworth testified that the Permanent Fund should support public utilities and protect the Trust Land's interests.

Ms. Virginia Del Piaz of the Alaska Conservation Society presented the Society's position statement which sets goals for the Permanent Fund to provide for the future, minimize immigration, protect renewable resources and assure the quality of life. The Society supports an increase in the Fund to 50% of revenues, addition of mineral severance taxes to the Fund's sources, re-investment of part of the interest allocation of principal to outside investments and modest investment in renewable resources and opposes investment in large scale energy projects and high risk small investments with significant environmental impact.

Representative Osterback suggested using the fund for bottom fishery support.

There was a short recess at 9:20 PM and the Committee reconvened at 9:30 PM for a working session

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House Permanent Fund Comm

It was moved by Rep. Meekins and adopted without objection:

Page 1, lines 6 and 7, following the word "revenues" on line 6, add "and to legislative oversight."

It was moved by Rep. Meekins and adopted without objection:

Page 12, line 25 through page 13, line 4, delete all material.

It was moved by Rep. Meekins and adopted without objection:

Page 12, line 25, add:

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

It was moved by Rep. Meekins and adopted without objection:

Page 14, lines 10-13, delete all material and substitute:

(2) there is a shortage of investment capital available from other sources on reasonable terms for financially sound small and medium scale productive private enterprise and community development projects;

Page 14, lines 17-21 delete all material and substitute:

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

It was moved by Rep. Hayes and adopted without objection:

Page 15, line 12, following "(d)" insert the word "Public".

It was moved by Rep. Gruening and adopted without objection:

Page 19, line 10, delete the word "it" and substitute "the investment committee".

It was moved by Rep. Hayes and adopted without objection:

Page 19, line 27, following the word "of" add "financially sound small and medium scale".

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It was moved by Reps. Gardiner and Meekins and adopted without objection:

Page 20, line 11, delete "resources of the bank" and substitute "assets of the corporation".

It was moved by Rep. Gardiner and adopted without objection:

Page 23, lines 13 and 14, following the word "members" delete "of the board of trustees" and substitute "of the policy board and investment committee".

Page 23, line 15, following the word "members" delete "of the board of trustees" and substitute "of the policy board and investment committee".

Page 23, lines 22 and 23, following the word "member" delete "of the board of trustees" and substitute "of the policy board and investment committee".

It was moved by Rep. Gruening and adopted without objection:

Page 18, line 29 through page 19, line 1 delete ", in such form and such amounts not to exceed \$100,000,000,".

It was moved by Rep. Gruening to adopt the same residency requirement for the Investment and Policy Boards as specified for the Board of Trustees. The motion was deferred.

A Committee mark-up session was scheduled for Tuesday night, February 14 at 7:00 PM in Room 124 Capitol Building and the meeting was adjourned at 9:50 PM.

##

MINUTES OF
THE HOUSE SPECIAL COMMITTEE
ON THE ALASKA PERMANENT FUND

COMMITTEE MEETING
Capitol Building

January 24, 1978

PRESENT: Clark Gruening, Chairman; Russ Meekins, Bill Miles,
Joe Hayes, Terry Gardiner, members.

The meeting convened at 1:20 PM.

The schedule for next week's public meetings was discussed. Members present indicated they would be able to attend and approved the following schedule:

Fairbanks	Friday, February 3 at 10:30 AM
Anchorage	Saturday, February 4 at 10:00 AM
Wrap-up hearing Juneau	Wednesday, February 8
Mark up and report out bills	Friday, February 10

Chairman Gruening noted that the bills discussed during the hearings will be HR 298, HR 595, HR 596 and the renewable resources fund bill.

Rep. Gardiner presented a working draft copy with back-up for "An Act relating to nonrenewable resources revenues" to the Committee and discussed the changes that had been made.

Chairman Gruening moved and asked unanimous consent "to adopt this draft for introduction by the House Special Committee for the Alaska Permanent Fund". There being no objection, the motion passed unanimously.

The meeting adjourned at 1:40 PM.

PRESENT: Clark Gruening, Chairman; Terry Gardiner, Vice
Chairman; Ernie Haugen, Russ Meekins, Bill Miles,
members.

The meeting convened at 1:30 p.m. The first order of business was a report from the Institute of Social and Economic Research.

Mr. Lee Gorsuch and Mr. Scott Goldsmith presented a summary of findings from research over the past three months. Included in the report were the following four points:

1. Looking at effects of varying contribution levels of the fund.
2. Looking at uses of the fund.
3. Examining alternative types of investments of the fund.
4. Looking at what happened to in-state placement of the \$900 million bonus monies received in 1969.

Mr. Bill Berrier reviewed changes in the draft bill from the last meeting.

The meeting adjourned at 5:00 p.m. and reconvened at 9:00 a.m. the following day, December 13, 1977.

The following changes were made in the draft bill:

To drop the word "state" from State Investment Oversight Committee.

Rearrange subsection (f) so that the first sentence is a separate subsection; re-letter subsections following. (Page 8, lines 24 -25).

Add word "surplus" to sentence deposit surplus funds, or invest surplus funds through the permanent fund in such obligations as it may determine; (page 16, line 19).

Change language in subsection (3) to read, "review periodic reports from all other agencies of the state performing lending, borrowing and investment functions." And in (4) to read, "present a complete report of all other agencies of the state performing lending, borrowing, and investment functions."

Draft a findings and purposes section for the Investment Oversight Committee.

Under staff of the Investment Oversight Committee add Legislative Finance Division and in the same section add "or contract for services" after "the committee may hire."

Add "financial and economic planning" on page 2, line 22 after the word "fiscal."

In the duties section the language will be altered to give overview of long range fiscal planning, prescribe procedures.

Finding 3 (page 5) changed to "the permanent fund should be used as a savings device managed to allow the maximum use of disposable income from the fund as needed for purposes designated by law."

On line 8, page 5 add "with respect to fund established in this chapter."

The term of office of the members of the board changed from three years to four years.

Section dealing with qualifications of trustees in (c) remove words "be knowledgeable" and substitute "have recognized competence and wide experience."

Changes in removal and vacancies to be consistent with salaries, etc. Pay is \$250 as an honorarium.

State \$250 per meeting day in compensation of trustees.

Change language in section 37.13.040 to "ALASKA PERMANENT FUND CORPORATION BOARD OF TRUSTEES. There is established the Alaska Permanent Fund Corporation Board of Trustees. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with the guidelines established in this chapter."

The Alaska Enterprise Investment Fund Investment Committee changed to Corporation Investment Committee.

On page 8, beginning with line 15 (f) is changed to (b) and the lettering altered to read, "(b) The corporation assets shall be used only for income-producing investments. (c) The board shall seek to maintain a reasonable diversification in its investments unless under the circumstances it

is clearly prudent not to do so. (d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee. (e) The corporation may not borrow funds or guarantee the obligations of others. (f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the fund except it may not contract with agencies of the state."

On page 8, line 8, changed to read, "fund assets. The prudent man rule with respect to making investments means the board shall exercise" and continue with the rest of language.

On page 8, line 29 add the word "full" before "faith."

On page 9, line 5 delete after "used" to the word "nor" after the semicolon on line 7.

On page 9 delete from line 15 through line 4 on page 10.

Insert new section on averaging income to read "the board shall establish and from time to time as needed modify guidelines for the corporation's assets. Prior to adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment."

On page 9 delete section (2) and insert language limiting investments to no more than 30% in stocks.

In the section concerning audits (page 10) the Legislative Budget and Audit Committee is changed to Oversight Committee. Language for outside audits in all three funds is added.

Under the section concerning reports and publications the financial statements will be audited by an outside CPA in lieu of the Legislative Budget and Audit Committee. Also in the same section the time frame for reports requirement is changed to 90 days after the end of the fiscal year.

In section 37.13.010 add language to have money paid in at least monthly.

A transition must be added for transfer to permanent fund of monies now held by the Department of Revenue.

New language for conflicts of interest will be written to state a member or employee acquiring a conflicting interest shall disclose the interest but does not have to disqualify himself.

Add transition section for both corporations.

Add language to use earnings up to 25% of outstanding loans in guarantee account.

Salary language changed to read, "members of the investment committee other than the president receive an annual salary within Range 30 in the salary schedule for state employees established by AS 39.27.011."

Remove the Commissioner of Revenue from the audit committee.

Add section on president's staff of 298 to this bill.

Add investment requirements.

COMMITTEE MEETING
Anchorage Committee Office

December 12 and 13, 1977
Page 6

Page 16, line 13--49% changed to 25%.

Page 17, line 19--\$1,500,000 changed to \$2,500,000.

Page 15, line 24--maximum of one (changed from one half).

The renewable resources draft bill was discussed and
several changes made.

The meeting adjourned at 10:30 p.m.

PRESENT: Clark Gruening, Chairman; Terry Gardiner, Vice Chairman; Ernie Haugen, Bill Miles, Leo Schaeffer, members; Hugh Malone, Speaker of the House; Alvin Osterback.

The meeting convened at 9:00 a.m.

The committee agreed to adopt the bill which was presented as a working draft. The bill creates the permanent fund as a separate trust investment whose sole function is a high grade investment money-making vehicle. It also creates an Alaska Enterprise Investment Fund to invest in financially-sound medium and small scale enterprises.

A note was made of the Alaska Enterprise Investment Fund inadvertently called the Alaska Development Bank in several sections of the draft. The changes will be made.

The following changes in the draft were made by the committee:

To drop the words "in the Department of Revenue" in Sec. 37.13.010.

To change Finding 2 to read: "the primary goal of the fund should be to maximize total return while maintaining safety of principal;"

It was decided to define capital gains as return to capital and not as earnings and to add language allowing the trust fund managers to spread gains and losses over a five-year period.

Finding 4 was deleted.

Rep. Gruening suggested that something be drafted for use of the income of the fund. His suggestion was to re-inject 50% of earnings back into the permanent fund; and use the remaining 50% to finance alternate energy development--hydro and other non-fossil--to be used to secure a lever of private financing with capital gains returned to principal. It was agreed that the committee members would consider this suggestion.

After a short break, the following changes were made:

For the next meeting, the three-man board of trustees is retained. Staff to draft language putting operation into effect when a total of \$50 million accumulates in trust fund.

Page 8, line 19 to be amended to general language to chose persons to perform services.

Language to be added to 37.13.160 to show performance based on goals and objectives.

Section (f) on page 8 to be rewritten by staff and advisors to allow broad manager discretion.

Operating budget on page 9, lines 13 and 14 to come from general fund.

Language to be added to page 8, lines 5 and on to compare trust fund performance to institutions of similar size.

After a break for lunch, the following changes were made in the draft:

Section 44.55.010(b) will be changed to be consistent with permanent fund heading (Sec. 37.13.010).

Finding 3 under Alaska Enterprise Investment Fund be re-written so that it is not limited from working with federal agencies.

Finding 2 under Alaska Enterprise Investment Fund be written to modify enterprises, small and medium scale, productive, private and community development enterprises. (The same language will be used each time "enterprises" appears.)

The Finding and Purpose sections will be broadened from the limitation of private sector and will allow the community development sector in both.

The commissioners are removed from the Alaska Enterprise Investment Fund Policy Board and one member from the executive branch is added. Also in that section the language will be changed to "six public members appointed by the governor with due regard to geographic location within the state--two of which have broad investment financial background and two have broad experience in community and regional development." There will be one governor's appointee (a voting member) who will be responsible for coordination with other funds. In total the board will have 7 voting members. The terms will be four-year staggered terms.

"The chairman of the governing body of the renewable resources development fund serves as chairman of the policy board but is not a voting member" is deleted and that section will state that the board elect a chairman.

In the section dealing with the quorum of the board,

the sentence "decisions of the board shall be taken by a majority vote, including not less than a majority of the appointed members" the sentence will now end after "vote."

The monetary amount board members receive will be blank.

The section on the investment committee is to remain the same until the next meeting.

Operating budget will be specified in the section pertaining to the investment fund's budget.

The investment fund has the power to borrow up to 150% of its paid-in capital--changed from 50%.

The investment fund may not undertake any new investments till its paid-in capital reaches \$50 million.

The permanent trust fund will invest the idle cash balances, of the investment fund as a separate account, in such a manner that it will meet the cash needs projections of the investment fund.

"Purchase currently sound evidence of indebtedness from the tourism fund, the agricultural revolving loan fund and the small business development loan fund if the loan was made after the effective date of this Act and if the loan meets the criteria of sec. 120 of this chapter" will be eliminated.

The membership of the State Investment Oversight Committee be changed to the President of the Senate, Speaker of the House, and six other legislators, two of whom must be minority.

The meeting adjourned at 4:45 p.m.

COMMITTEE MEETING
Capital Building, Juneau

October 21, 1977
Page 1

PRESENT: Clark Gruening, Chairman; Russ Meekins, Bill Miles,
Leo Schaeffer, members.

The meeting convened at 9:00 a.m. The first order of business was White Weld's report.

Mr. Robert Greeley gave the recitation for White Weld on a study relating to descriptions of principals and management of trust funds, principals of various types of trusts. The study includes Wisconsin and Minnesota, as well as a series of investment funds. Also included in the report are the following: organization in management structure, description of different types of corporate securities, money market instruments, investment performance, and a listing of different criteria.

Dr. Belden Daniels discussed the development bank and existing loan funds with the committee.

It was agreed that the draft include a finding--there should be no duplication of already existing loan funds.

It was agreed to capitalize the development bank out of the permanent fund.

A separate paper of alternative approaches to accompany the bill was agreed upon.

The proposal was made and approved to raise the contribution rate to 30%, taking 1/6 of that to capitalize the development bank. The remaining 5/6 would be used to capitalize the investment function.

COMMITTEE MEETING
Capital Building, Juneau

October 21, 1977
Page 2

To keep the three commissioners on the Alaska Enterprise
Investment Fund Policy Board was ratified.

The meeting adjourned at 5:30 p.m.

PRESENT: Clark Gruening, Chairman; Russ Meekins, Bill Miles, members.

After a break for lunch, two letters were read and public testimony was heard.

The American Association of University Women delivered a letter asking for consideration for allocating part of the income derived from the permanent fund for the support of cultural facilities.

The Juneau Lyric Opera Association also presented a letter. They request priority consideration and affirmative action in funding cultural activities for municipalities.

Ms. Shirley Rediker, state coordinator of the Cultural Facilities Development Committee, suggested that income from the permanent fund be used for cultural facilities. Ms. Rediker stated that the state had a great need for places for performances, art exhibits, artifacts. She gave an account of several communities' needs for the facilities and offered to furnish the committee with more information if desired.

Mr. Eric Hanson spoke of Alaska's need for education on such things as aquaculture, arctic health, arctic research, mountaineering, skiing, general aviation, fishery science, and hatchery science. Mr. Hanson suggested that institutes be established in the above areas with educators with excellent qualifications--that could draw

international interest. Loans to students with minimum interest charged was also suggested by Mr. Hanson.

He encouraged flow of information to the public as the permanent fund committee progresses.

After a short break Ms. Allison Horton, representing the Audubon Society, stated that the society is more in favor of shifting the money to out-of-state investment than they are of a development bank. They believe that saving it for a future resource is the best.

Ms. Horton did suggest research be done on energy, technology research, alternative sources of energy, establishment of a state office of technology, recycling, and transportation alternatives.

Mr. Doug Pope and Mr. Bill Berrier discussed separation of powers--Bradner vs. Hammond.

Mr. E. O. Brackins, development specialist for minerals in the Division of Economic Enterprise believes there is too much emphasis on renewable vs. non-renewable resources. He thinks that mineral resources are renewable--renewable the same way a farmer's field is renewable. As you go in depth, the resource expands. Mr. Brackins suggested investing with a resource company (using Quebec as an example).

The meeting adjourned at approximately 3:00 p.m.

PRESENT: Clark Gruening, Chairman; Terry Gardiner, Vice Chairman; Russ Meekins, Ernie Haugen, Rick Urion, members; Senator Pat Rodey, Senate Permanent Fund Committee Vice Chairman.

The meeting convened at 10:00 a.m. The first order of business was public testimony.

Mr. Ed Bohnert, counselor with the University of Alaska Extension Center, testified on sources of energy for the Kotzebue area, including a windmill being installed at the Extension Center. His testimony pointed to the high cost of petroleum-based fuels in the Kotzebue region and the potential benefit of developing alternative energy sources in that region.

Mr. Marty Straus, environmental planner for Mauneluk also testified on alternative energy sources, including a pilot windmill at Kivalina, steam generation at Kobuk and geothermal potential at Kotzebue. In answer to a question from Rep. Gruening, Mr. Straus gave a brief outline of fisheries potential in the Kotzebue region.

Mr. Charlie Edwardson, Washington representative of the North Slope Borough, testified on management structure and investment goals of the Permanent Fund. A transcript of Mr. Edwardson's testimony is attached.

Following a lunch break, Mr. John Schaeffer, president of NANA, testified on his corporation's experience and investments it had made within the region. The main investments had been

in a hotel, wildlife museum, and jade processing operation in Kotzebue. These, Mr. Schaeffer said, had been subsidized by the corporation's profits from other investments outside the region.

Rep. Gardiner presented the Renewable Resources Development Fund subcommittee's first interim report and discussed the "leading edge" theory and the subcommittee's work plan.

Dr. Belden Daniels, committee consultant, presented his paper Models and Options for the Alaska Permanent Fund: Functions, Regionalization and Accountability. Discussion followed, during which Dr. Daniels pointed to the latter portion of the report which detailed accountability problems of existing development banking structures.

Rep. Gruening then moved that he would direct the committee staff to begin preparation of draft legislation structuring the permanent fund. The motion passed with unanimous consent. There followed discussion of the committee's schedule.

The meeting adjourned at 4:45 p.m.

PRESENT: Clark Gruening, Chairman; Terry Gardiner, Vice
Chairman; Russ Meekins, Bill Miles, members.

Mr. Dick Haggart presented long- and short-term revenue projections (July 7 and July 14). He also spoke on the tariff.

Mr. Jim Edenso gave a report on investment of permanent fund. At this time it is in excess of \$4 million. There are treasury notes invested in \$3 million plus and the savings account has \$928,259.21.

There was a discussion and suggestions on the brochure. A wide distribution and summary of two reports were suggested. Committee members were advised to bring comments, suggestions, and changes to the staff's attention the first of the week so the booklet can be sent in to be printed.

Rep. Terry Gardiner gave a short account of renewable resource development.

The budget's allocation for consultants' fees was discussed. When a contract is proposed, it will be circulated to members of the committee.

The budget will be discussed in greater detail at the next meeting.

Tentative meeting schedule was approved.

It was suggested and agreed to that members send monthly budget reports.

COMMITTEE MEETING
Anchorage Courthouse

July 16, 1977
Page 2

Mr. Jim Edenso discussed the A. D. Little contract.
Any concerns regarding this contract, let him know and
he'll revise it.

Bills before the Special Committee on the
Alaska Permanent Fund

February 1, 1978

HJR No. 31 - Proposing an amendment to the Constitution of State of Alaska relating to legislative confirmation authority. (confirmation of Board members by a majority in joint session.)

HB No. 4 - "An Act relating to the Alaska permanent fund."

HB No. 298 - "An Act relating to management of the Alaska Permanent Fund; and providing for an effective date."

HB No. 300 - "An Act relating to management of the Alaska Permanent Fund; and providing for an effective date."

HB No. 515 - "An Act relating to the Alaska Permanent Fund." (Deposit in Alaska Permanent Fund.)

HB No. 525 - "An Act relating to the distribution of income from the Alaska Permanent Fund; amending rules of procedure and providing for an effective date."

HB No. 579 - "An Act relating to income of the Alaska Permanent Fund; and providing for an effective date." (Income to Boroughs and Cities and Permanent Fund Income)

HB No. 595 - "An Act relating to income of the Alaska Permanent Fund; and providing for an effective date." (Guarantees of Indebtedness, Limitations of Indebtedness and Guarantee Endorsed.)

HB No. 596 - "An Act relating to nonrenewable resource revenues; and providing for an effective date."

HB No. 649 - "An Act making a special appropriation to the Alaska Permanent Fund; and providing for an effective date."

HB No. 682 - "An Act relating to nonrenewable resource revenues."

SCOMM

#9:173

Notes on House Permanent Fund Committee
Meeting 3/8/78 11:25AM

House Joint Resolution 31

Rep. Gruening: Question - does board and commission
need to be plural in HJR 31

Berrier: No, singular refers to each one.

Rep. Gruening: Does "renewable resource funds" include
both RRDF and RRF

Berrier: Yes.

Motion: Terry Gardner moved to pass out HJR 31.

R. J. Miles: ~~Objection: Why does legislature~~
~~have to approve executive director~~
~~approve board. approve exec. dir. if he~~
~~appoints board who chooses exec. dir.~~

Berrier: This is existing constitutional language.

Removed: No Objection

Majority do pass.

HB 682

Motion. Gardner moves 682 out of Committee

Joe Hayes: vote no recommendation cause ~~wasn't~~^{wasn't}
~~been able to study bill~~
at last Committee meeting.

No objection - Passed 3 do passes
1 no rec.

11:30 am 3/8/78

meeting called to order

Take up CS for HJR 34

Questions of Bernier

Gardner moves adoption

Miles objects, questions Bernier

Reported out without objection

CS for HB 602

Gardner moves adoption

SCOMM

#9:174

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Minutes of the House

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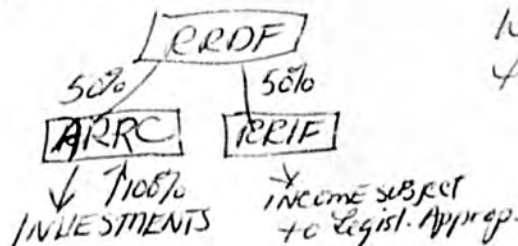
House Special Committee on
the Alaska Permanent Fund

March 2, 1978, 7:00 PM
Capitol, Room 124

Chairman Gruening called the meeting to order. Present were Committee members Rep. Haugen, Rep. Gardiner, Rep. Schaeffer and Rep. Meekins. Others: Mr. Berrier, Mr. Edenso, Mr. Rhode, Mr. Rosenstein, Mr. Singer and Rep. Malone.

CS for HB682 was distributed to the Committee

82, a memo from Tom Singer with the Gov's comments and suggested amendments attached was distributed to the Committee.



When the RRIF reaches 250,000,000 then flow of \$ is cut off to RRDF.

Rep. Gardiner moved to add after "fund" (pg 11, l 7) "the unexpended and unobligated portion of any appropriation at the end of a fiscal year does not lapse into the General Fund but remains available for appropriation as provided in this section in subsequent fiscal year." Rep. Gruening objected that "appropriation" was not the right word. The idea is to allow them to retain investment funds but not excess operating funds. Rep. Malone suggested breaking this into two sections - one for investment funds, one for operating funds that would be subject to the Budget Act. Rep. Gardiner withdrew his motion. Mr. Berrier will work this out for the CS.

Pg 2 Minutes March 2

CS HB 682 discussion cont.

Comment one of the Gov's letter was addressed:

Rep. Gardiner moved to change the title of CS HB 682 to "An Act relating to renewable resource funds". There was no objection; it was adopted.

~~Comment~~ Governor's comment two was addressed:

Rep. Gruening moved (pg 6, l 19) to delete "yet" and add after "have", "direct"; delete "or demonstration of projects". The motion was withdrawn.

Rep. Gruening moved (pg 6, l 18)

"(12) provide grants (only) for projects (or demonstration of projects) having broad public application but which do not (yet) have direct income-producing potential. (but which have public)"

Rep. Schaeffer objected & withdrew his objection. The motion was adopted w/o objection.

Rep. Gardiner moved (pg 8, l 22-26) to delete entire subsection (2) and replace with "Attachment 2 Sec 170 (2). and it was adopted.

Rep. Gardiner moved (pg 9, l 18) to add after subsection (5) a new subsection (6) to read "allocate more than 10% of the annual appropriation of the corporation to grants." It was adopted w/o objection.

Comment 3 of Governors:

Rep. Gardiner moved (p. 8, l. 13) after "costs" add "including additional governmental costs" It was adopted w/o objection.

Rep. Gruening moved (p. 3, l. 5) to add "total" after "the" ^{receipts} There was no objection.

Rep. Gruening moved to delete p. 8, l. 27 & 28 and replace with:

(3) In evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located.

It was adopted w/o objection.

Rep. Gruening moved to adopt the amendment Mr. Berrie had written out for Sec. 37.12.200 clarifying operating budgets and investmt. funds' lapse at end of fiscal year. It was adopted without objection.

Rep. Gruening moved to have Mr. Berrie provide a final CS HB682 to the Committee early next week and the Comm. will have a short meeting to pass it out.

Rep. Gruening moved to use the PERS Statute ^{Teachers} definitions of investmts p 13, l. 20. It was adopted w/o objection.

Rep. Gruening moved the redraft of B HJR 31 and to add on line 16 after ~~fund~~ "the" "Renewable Resource Development Fund and the ~~fund~~" copy in the record. It was adopted without objection.

Rep. Gruening moved to pass HB 595 out of Committee. It was moved out of Committee without objection. Recommending DO PASS were Reps. Hungen, Gardiner, Schaeffer and Gruening.

The meeting was adjourned at 9:45 PM.

M E M O R A N D U M

To: Rep. Terry Gardiner

From : Tom Singer

Date: 2/1/78

Re: Governor's Letter on HB 682 (Attachment 1)

Bill Berrier, Ken Rosenstein, and I went over the Governor's comments. Our conclusions are as follows:

Governor's changes:

1. The Committee has already made a policy decision to reject this suggestion.

3 motions

2. We are working on grants. I gave you my draft changes (Attachment 2) yesterday. Do you or the Committee want to pursue the subsidy and interest rate question?

3. We suggest the following clarifying amendment:
Page 8, line 13, after "all costs" add "to the public".

4. We suggest the following clarifying amendments:
Page 3, line 5, after "the" add "total".

5. Berrier has already advised the Committee on this point. The general severability statute also covers us.

6. The first point is covered in Sec.37.12.200 Budget and Appropriations - "The Corporation may expend money only as appropriated by the legislature". (p. 11, lines 4 & 5) The second point is also a point the Committee wanted to address. If the Committee wants the ARRC to retain appropriated but unexpended monies, Berrier recommends the following change.

Page 11, line 7, after "fund." add a new sentence
"The unexpended and unobligated portion of any appropriation at the end of a fiscal year does not lapse into the General Fund but remains available for appropriation as provided in this section in subsequent fiscal years."

*move
Gardiner*

*except
the operating
budget*

If the Committee wants these monies to lapse into the RR Investment Fund, the following change is needed:
page 13, line 17, after "fund" add "or the Alaska Renewable Resources Corporation".

If the Committee wants these monies to lapse into the General Fund, no change is needed.

7. These changes have been made.

8. This point is moot as the CS gives these monies to the Alaska Permanent Fund Corporation to manage.

9. We recommend the following clarifying change:

Page 8, lines 27 & 28, delete this section and replace with "In evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located."



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 23, 1978

The Honorable Terry Gardiner
Chairman, Subcommittee on Renewable
Resources
House Permanent Fund Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Gardiner:

You have asked for my comments on HB 682 "An Act relating to nonrenewable resource revenues." I endorse the concept and objectives of the proposal and support the bill with the following proposed changes:

- adopt*
1. The title of the bill does not adequately represent the purpose and proposal set forth. Confusion might be avoided by reflecting the "renewable resource" emphasis of the bill in the title.
An Act relating to ren. resource funds.
 2. Grant and loan procedures and criteria should be clarified in the bill. The corporation should develop standards regarding interest rates to be offered, and should be required to indicate in its budget submission the amount of interest subsidization anticipated.
 3. Section 37.12.170 should be clarified to indicate that government costs (roads, sewer, etc.) generated by the corporation's projects are to be specified by the corporation in its project evaluations.
 4. Section 37.12.050(a) dealing with the allocation of monies is ambiguous and should be reworded to reflect the intent that the entire amount referred to in AS 37.11.020 is allocated to the corporation.
 5. Section 37.12.070 requires legislative confirmation of appointees to the board of trustees. Similar requirement have been held unconstitutional. Either the requirement should be eliminated or the Constitution amended.
- adopt*

The Honorable Terry Gardiner
February 23, 1978
Page 2

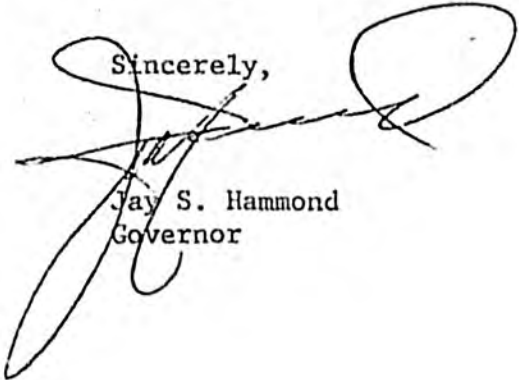
6. In order to avoid constitutional prohibitions regarding dedicated funds, it should be clearly stated in Section 37.12.050(b) that no monies may be expended by the corporation without an appropriation by law. Further, the disposition of funds not appropriated should be clarified (i.e., do they lapse into the Investment Fund?).
7. The loan limit of \$1.5 million should be increased and the maximum on the proportion of total obligations of a project which the corporation could hold should be raised from 25 percent to 50 percent.
8. Section 37.12.060 should be changed to allow for investment in the Alaska renewable resources investment fund by the Department of Revenue in the types of instruments defined in Attachment 2.
9. Section 37.12.170(3) should be clarified to reflect the intention that the corporation consider community input regarding projects.

These changes are acceptable to all of the concerned departments. Additional information about these changes is attached.

There is one additional possible amendment about which there is some dispute among departments and about which I express no opinion at this time: should the board of the corporation be three full-time members or a seven-member advisory group to an existing department? A few of the pros and cons associated with the structural alternatives are discussed in the attachments.

Thank you for this opportunity to comment on HB 682. I appreciate the cooperative method in which you have approached the development of this legislation.

Sincerely,



Jay S. Hammond
Governor

Attachments

Summary of Comments
on House Bill 682

Revenue; Commerce and Economic Development (Jim Edenso)

Changes in the form of organization for the Alaska Renewable Resources Corporation (ARRC) were suggested. It was proposed that the ARRC be located in the Department of Commerce and Economic Development (instead of Revenue) with the Director of the Division of Economic Enterprise as Executive Director of the corporation. The Board of Trustees established in HB 682 would be changed from a three-member, full-time, salaried group to a seven-member (five private citizens plus Commissioners of Revenue and Commerce and Economic Development); non-salaried, advisory Board of Directors.

Language clarifications and deletions were suggested for the following sections:

Page 8, line 8; 37.12.170 (D) -- eliminate this section because the requirement of "best efforts" to retain a supported activity in the state is unreasonable and difficult to administer.

Page 8, line 15; 37.12.170 (F) -- clarify wording to indicate that the intention of the section is to require the ARRC specify government costs engendered by projects.

Page 9, line 2; 37.12.170 (3) -- clarify wording to reflect the intention that the ARRC consider community input regarding projects.

Page 9, line 5; 37.12.170 (b) (1) -- eliminate the \$1.5 million investment ceiling, because this amount would exclude important projects.

Page 9, line 9; 37.12.170 (b) (2) -- change the maximum amount of total obligations of a project which the ARRC can hold from 25 percent to 50 percent.

Further, it was recommended that Treasury manage the investment portion of the Fund. (This is now specified in the bill, although there has been some discussion of management by the Permanent Fund Corporation.)

Budget and Management (Ron Lind)

The need to include a section which would specify a method for handling interest rate subsidies was reiterated. Such a section might contain instructions to the corporation to develop standards regarding interest rates to be offered, and further to indicate in their budget submission the amount of interest subsidization anticipated.

The bill should include standards and criteria for the issuance of grants to the private sector. In its present form, HB 682 contains virtually no guidance regarding the granting function.

Problems exist with the provision which requires that the monies allocated by the corporation cannot be used to fund permanent state or local governmental positions. This requirement should be eliminated.

The section (37.12.170 (F)) regarding the specification of government costs should be clarified and retained.

There appears no advantage to the expanded board of directors approach as recommended by the Departments of Commerce and Economic Development and Revenue. If the purpose of their proposal is to make the corporation a state agency, this could be done more simply and efficiently by eliminating the advisory board and designating an existing department to carry out the functions specified in the bill.

Department of Natural Resources (Fred Boness)

The full-time, three-member board structure currently embodied in HB 682 is preferable to the expanded board structure discussed above. Three individuals devoting full efforts will have high visibility and should be able to generate a much higher level of interest and activity than could a part-time board composed of five private citizens and two commissioners.

Fish and Game (Ronald O. Skoog)

HB 682 places emphasis on potentially commercial activities. There are research and development activities which should not be excluded from consideration for funding simply because they are not foreseeably commercial.

Activities and purposes of the proposed corporation are duplicative of Alaska Department of Fish and Game activities and, therefore, steps will be necessary to avoid fragmentation. The provision disallowing the funding of permanent government position further complicates the relationship between state agencies and the corporation. This provision is unreasonable and should be eliminated. (The full text of Fish and Game comments is attached.)

Department of Law (Rodger W. Pegues)

See attached memorandum.

MEMORANDUM

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POLICY DEVELOPMENT
& PLANNING

TO: ☐ Fran Ulmer
Director
Division of Policy Development
and Planning
Office of the Governor

DATE: February 17, 1978

FILE NO:

TELEPHONE NO:

FROM: Ronald O. Skoog
Commissioner
Department of Fish and Game

SUBJECT: House Bill 682
An Act relating to renewable
resources revenues

The Department of Fish and Game has reviewed House Bill 682 and generally concurs with the intent of the legislation. I would like to offer however, the following specific comments:

1. The overall intent of the legislation appears to be somewhat exclusionary of some types of projects that the State might propose. It appears as if only those interests that the foreseeable end product is commercially oriented will be funded. The Department has considered for some time that an area such as nongame research and development may be a logical item to receive this type of funding. We feel that these projects should not be excluded from consideration simply because there is not a foreseeable commercial project. Secondly, a project of this nature probably would never be attempted by the private sector due to the diffuse monetary benefits.
2. Section 37.12.030-040

Presently within at least ADF&G a mechanism already exists to handle the rehabilitation, enhancement, and development of renewable resources. The Bill appears to be duplicative and may create additional fragmentation. Many of the other renewable resources are under Federal management on which this Bill would have little or no impact. I am also concerned that if a private corporation begins to fund State projects it may want to participate actively in technical matters like site selection and species management.

Section 37.12.150

The stipulation that no permanent State or local government positions be hired would appear to be unacceptable to us. If, for example, a fish hatchery is funded under this Bill it is inconceivable that we would not have permanent positions attached to that project. The alternative, I suppose, is to fund only the hatchery and allow the General fund to finance all related positions to that facility. Secondly, if a large number of projects are generated the administrative/technical workload that will fall on agencies will be very large. Must we fund additional technical personnel from General funds or should we make the granting agency pay for its burdens on the agency? The latter, I believe, is a better solution.

MEMORANDUM

TO: [Frances A. Ulmer, Director
Div. of Policy Development & Planning
Office of the Governor

DATE: February 21, 1978

FILE NO: J-66-499-78

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Renewable resource
fund. HB 682

By:

Rodger W. Pegues
Assistant Attorney General

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& PLANNING

You have asked for our comments on this subject. We confine them to the principal legal problems which we perceive. We will discuss these legal problems section by section.

AS 37.12.050(a).

This subsection is extremely ambiguous. One may, on the one hand, interpret it to provide for 5 percent of the 5 percent referred to in AS 37.11.020 to be allocated to the corporation or, on the other hand, as providing for the entire amount referred to in AS 37.11.020 to be allocated to the corporation. Whichever result is intended, the section needs to be rewritten to clarify its meaning.

AS 37.12.050(b).

This subsection provides for half of all "actual" (gross?) receipts of the corporation to be deposited in the renewable resources investment fund. What happens to the other half is not explained. Presumably, it is expended by the corporation on one or another of the activities it is authorized by the bill to undertake.

What the bill appears to do is provide both for the expenditure or investment of money through appropriations made by law and also to provide for expenditure or investment of a set percentage of mineral revenues for a special purpose without an appropriation made by law. To the extent that it would do the latter, it would constitute a dedicated fund, and it would be unconstitutional and invalid. Alaska Const., art. IX, §7.

The existing law also sets up special funds. But it also requires an appropriation to be made by law in order to expend any money from the funds. AS 37.11.030, 070. Moreover, the legislature could -- at any time -- appropriate any and all monies from either of the two funds to any

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purpose whatsoever. Hence, there is no true dedication. Here, however, the corporation appears to be empowered to make expenditures */ without any appropriation made by law, and only a part of its spending will be covered by appropriations. If our perception of the bill is correct, then the bill constitutes an attempt to create an unconstitutional dedicated fund.

This is not a minor matter. Enormous amounts of money could be involved. Any state official who participates in their unconstitutional allocation and expenditure could be personally liable to the state, and there would be a duty to recover the wrongfully expended funds from those officials and from the recipients. 1963 Op. Att'y Gen., No. 20. Accordingly, we strongly recommend that the bill be amended to provide that none of the monies allocated to the corporation under section 50 can be expended except as authorized by an appropriation made by law. If this is not done, we would have to advise the Commissioner of Revenue that he could be personally liable for any monies he paid over to the corporation which were thereupon expended without an appropriation made by law.

AS 37.12.070.

This section would require that the appointment of persons to the corporation's board of trustees be confirmed by the legislature. The board is not the head of a principal department. It is not a regulatory or quasi-judicial board. Accordingly, the appointments to the board can not be made subject to legislative confirmation. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). AS 37.12.090(b) is equally defective.

There are several bills before the legislature which contain similar invalid provisions. We do not comprehend this apparent disregard for the Alaska Supreme Court's

*/ "Expenditures" would include so-called investments in enterprises or ventures of relatively high risk or with relatively low rates of return.

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recent ruling on this matter nor the apparent willingness to throw the composition of these important boards into legal jeopardy. There are going to be enough grounds for legal challenges to these corporations without adding yet another.

AS 37.12.090.

Just as the legislature cannot expand its power over the confirmation of gubernatorial appointees so it cannot usurp power over their subsequent discharge. The hiring and firing of officials in the executive branch is not a part of the law making power of government. It is part of the executive power. The legislature may participate in its exercise only to the extent authorized by the constitution and no further. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

The provisions in this section for legislative approval are a potential mischief maker for the future of the corporation. Recently, similar provisions almost hamstrung the Pipeline Commission, and only the timely resignation of the commissioner who had been fired by the governor removed the matter from the hands of the courts -- a place in which it never belonged. There simply is no reason for muddying the water here with a requirement which is patently unconstitutional. Myers v. United States, 272 U.S. 52 (1926).

AS 37.12.100.

It is not likely that the governor would appoint a non-resident or a very new resident to the board, yet it would be a possibility. It was in recognition of the possible need or opportunity for the governor to reach out and select a non-resident that a residency requirement for heads of principal departments was stricken by the framers of the Alaska Constitution. 3 MINUTES, ALASKA CONSTITUTIONAL CONVENTION 2232-2244 (1956). There is some reason to infer that the constitution's framers intended a blanket ban on a restriction on executive appointments based on residence. Id. The same is true for judicial appointments. Id., at 2232-2233. The framers were interested in quality; if the best man lived Outside, they reasoned, we ought to hire him. Accordingly, while perhaps not constitutionally infirm, this residence requirement might well be deleted.

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AS 37.12.170(b)(1), (2), and (3).

It is our best guess that, except as provided for in the constitution, i.e., art. III, §23; art. X, §12, the legislature cannot veto an action proposed or taken by another branch of the government. This point of law is now in litigation in Kelley v. Hammond, and to a lesser degree, in State v. A.L.I.V.E. Voluntary. We would, therefore, advise that an express provision be added to the bill to state that, if the legislative veto is unconstitutional, then the provisions for it are severable, assuming that result is intended.

Conclusion:

This review and comment are hurried in response to a last-minute request. The bill could present other legal problems which we may have missed.

RWP/pjg