

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
5894 HOUSE LABOR & COMMERCE 8672

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HOUSE COMMITTEE REPORT

2/15

(7)

Date Referred: January 27, 1989

FURTHER REFERRALS: JUDICIARY
FINANCE

Date of Committee Action: _____

The LABOR & COMMERCE Committee recommends that:

HB 123

HOUSE BILL NO. 123 [AK INDUSTRIAL DEVELOP. & EXPORT AUTHORITY]
"An Act relating to the Alaska Industrial Development and Export Authority;
and providing for an effective date."

[] be replaced with CS HB 123 (LHC) [] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note
- [] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
- [] zero fiscal notes(s) published: analysis
CEO 1/27/89

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Mark Boyer BOYER
great industrial & resource development tool!

David Wiley NO REC DOWLEY
Mark GRUENKE
John SPORNHOLZ
Arew NO REC LEMAN

David Wiley
Chairman's signature

02

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: AIDEA
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Commerce & Econ. Dev.
BRU: AIDEA
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Existing staffing and budget of the Authority will be utilized to implement legislation. The primary focus of the Authority will shift from commercial/service sector financing to primary basic industries.

Prepared by: Bert Wagon, Executive Director Phone: 279-1651
Division: Alaska Industrial development & Export Authority Date: 1/25/1989

Approved by Commissioner: Larry Merculieff, Commissioner Date: 1/26/89
Agency: Dept. of Commerce & Economic Development

Distribution (by preparer):

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

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012589a



National Bank of Alaska

Corporate Headquarters: P.O. Box 100600 • Anchorage, Alaska 99510-0600 • (907) 276-1132

February 17, 1989

Rep. Dave Donley
Alaska State Legislature
3111 C Street
Anchorage, AK 99503

Re: HB 123

Dear Rep. Donley:

The Alaska Legislature passed the Business Assistance Program Statute last year for implementation through the Alaska Industrial Development and Export Authority. Even though the legislation gave a good framework of a program to deal with, we feel that the regulatory process through which the program has been implemented created a program which is not being used by the banking system for business development. In particular, of the indicated items below, the first represents the major regulatory curtailment of the program while the remaining represent legislative problems. I have attempted to place these in order of importance.

1. Under the regulations the payment of the guaranty is made based on the principal balance at the time of liquidation and does not cover liquidation costs and protective advances in handling the defaulted loan. Our recommendation would be to change the regulations to cover liquidation, carrying costs, and protective advances in the handling of collateral. This is universally the case in participation loans, other government guaranteed programs, and AIDEA's other loan programs. Since AIDEA has the ability to approve a liquidation of collateral plan and is not required to pay the guaranty until such time as liquidation takes place, they could in fact stall the liquidation and the sale of the assets for many years, which would substantially increase or create prohibitive liquidation and protective advance expenses to the banks. We believe that this regulation in itself has destroyed the validity of the program.
2. We believe the guaranty amount should be increased from 70% to 90% to be consistent with the AIDEA umbrella loan program. For instance, under AIDEA's umbrella loan program, AIDEA effectively buys a 90% participation in loans rather than a 70% participation in the guaranteed loan program. The bond holders are providing the capital in the umbrella program as the Alaska banking system would under the guarantee program. It seems logical that they be consistent in their credit exposure from program to program. It should be noted that we understand that AIDEA

Rep. Dave Donley
February 17, 1989
Page Two

is requesting legislation to reduce their participation amount to 80% in the umbrella loan program. If that is the case, we would think it reasonable to increase the guaranteed amount to 80% to be consistent. As a matter of fact, the federal SBA program will guarantee 90% of some loans with the most common guaranty at 85%.

3. The million dollar cap on the loan should be removed. As an example, a fish processing plant may require a loan of \$2,000,000 and we would like to have the opportunity to request a 35% guaranty from AIDEA. It has been our experience in larger complex projects requiring long-term capital that a variety of participants are brought together with different regulations to make a transaction work. We really think the limitation on a loan of \$1,000,000 was a drafting mistake in the legislation.
4. The loan guaranteed amount should be increased to \$1,000,000 as we believe was the intent of the original lawmakers. The law in its final form limited the amount of the loan to \$1,000,000 with a 70% guaranty or a \$700,000 maximum guaranty. As a matter of fact, since the implementation of the law the federal Small Business Administration's loan guaranty program has increased their guaranty to the amount of \$750,000 from \$500,000. The federal program is excellent, but does not work for all borrowers.

In my opinion, these are the major impediments to the AIDEA Business Assistance Program. Feel free to call upon me for any questions you may have.

Sincerely,

Jan Sieberts
Senior Vice President

lkr

cc: Bob Gray
Dick Hall

HB 123

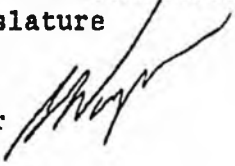


ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon
Executive Director 

DATE: February 21, 1989

SUBJECT: Loan Guaranty Program

At the hearing on House Bill 123 held this Saturday, it was requested that draft amendments to the Loan Guaranty Program be prepared for the committee's review.

The first change suggested at the hearing was that the percentage of allowable guaranty be increased from 70% to 80%. To effect this change, following is suggested language. AS 44.88.535(b) is amended to read:

"(b) The authority may provide a guarantee from the fund for up to [70] 80 percent of a loan that qualifies under AS 44.88.500 - 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan."

The committee should be aware that this was changed from 80% to 70% on the floor of the legislature last session.

The second change involves the dollar limit of the guaranty. As currently written, the guaranty limit is expressed in terms of a loan of not more than \$1,000,000. It is the Author's opinion that Mr. Sieberts of the National Bank of Alaska is correct in that the legislature's intent was to limit the guaranty to a maximum of \$1 million irrespective of the loan size. To accommodate such changes the following language is suggested. AS 44.88.545 is amended to read:

Sec. 44.88.545. Limitations of Guarantees with respect to borrowers. The Authority may not provide a guarantee

(1) [a loan] of more than \$1,000,000

(2) [loans] to an individual borrower that cumulatively exceed \$1,000,000 of guaranteed indebtedness.

The net effect of such changes are that the maximum guaranteed transaction by the Authority would be \$1 million per loan regardless of the size of the loan and also that no borrower could have more than \$1 million of Authority guaranteed indebtedness.

BLW/ss

A M E N D M E N T

OFFERED IN THE HOUSE

BY LEMAN

TO: HB 123

Page 1, line 21 through line 24:

Delete "to enter into partnership, joint venture, and other agreements with other persons with respect to the ownership, operation, or construction of facilities, and"

Page 2, line 11 through line 12:

Delete ", or through joint venture, partnership, or other agreements with,"

Page 3, line 4 through line 7:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 9 through line 11:

Delete ", and to enter into agreements with other persons for shared ownership, operation, or construction of projects,"

4 100 797
Page 3, line 20:

Delete "or an interest in a project"

29 *100 797*
Page 9, line ~~6~~ through line ~~7~~:

Delete "either solely or by partnership, joint venture, or other agreement with another person"

HOUSE BILL

123

"An Act Relating to the Alaska Industrial
Development and Export Authority; and providing
for an effective date."



ALASKA INDUSTRIAL
DEVELOPMENT AND EXPORT
AUTHORITY

PROMOTES EMPLOYMENT

Since 1981 an estimated 13,582 jobs have been created or retained as a result of Authority Financing.

Employment Per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
13,582	437	1,480	788	7,178	1,804	1,895

THROUGH FINANCING

Authority financing has resulted in 804 projects with a value of \$871,932,230.

Projects and Dollar Value per Region

TOTAL	Northern	Interior	Southwest	Anchorage	Southcentral	Southeast
804	27	91	41	422	135	85
871,932,230	30,535,250	99,875,250	52,095,250	458,710,805	97,815,500	135,100,000

*HOW WILL THIS
LEGISLATION FURTHER
THE AUTHORITY'S EFFORTS
IN PROMOTING RESOURCE
DEVELOPMENT ???*

The Authority will be able to own, operate, or construct facilities

solely,

by partnership,

by jointventure,

or through other agreements with persons for shared ownership.

Example:

To enhance development of the Beluga coal fields, a common transportation system accessible by all lease holders could provide a stimulus for further movement of this project. Financing and or partial ownership with the lease holders in this common system could reduce the costs of moving the coal to tidewater.

The Authority will be able to provide financial support in the form of

loans,

guarantees,

equity investments.

Example:

In reference to the Beluga Coal Fields, the Authority could be just a lender for such a coal transportation project, or have an equity interest in the coal transportation system in conjunction with others and be repaid by charging fees per ton of coal transported. Flexibility and a menu of options are necessary as each project will be different and present unique problems to overcome.

In addition to these *current* bonding limitations:

The Authority cannot issue bonds in a total amount over \$400 million during a 12 month period.

The Authority cannot issue bonds for a particular project within a 12 month period over \$50 million.

Project bonds over \$6 million require location approval from the city or borough where the project will be located.

Project bonds over \$10 million require a public hearing as well as municipal approval.

In all cases, the Authority must find that;

The project is economically advantageous to the State and public welfare.

The project applicant is financially responsible.

Increased demand on public utilities will be satisfied.

The project will provide or retain employment reasonably related to the amount of Authority financing.

The project is feasible enough to repay the bonds or loans.

The bond issuance will not adversely affect the marketability of other state bonds.

The following bonding limitations are *proposed* :

The Authority can issue bonds up to \$25 million to assist in the acquisition of a development project without prior legislative approval.

The State's moral obligation on any future bonds issued by the Authority is eliminated.

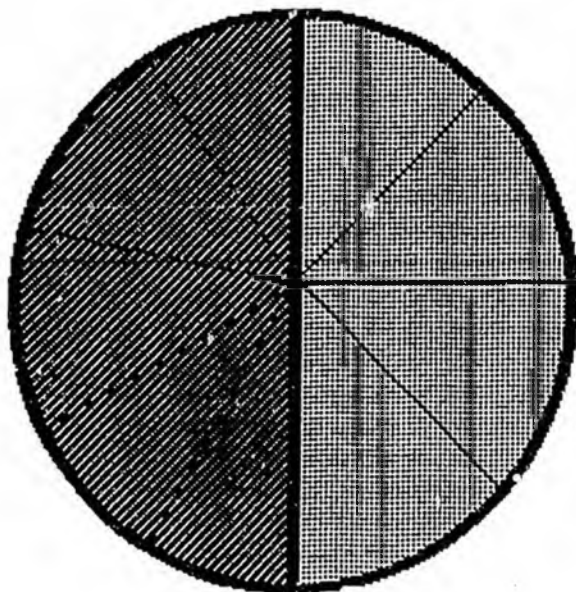
The principle amount of a loan retained by the originator is increased from 10% to 20%.

The Authority can regulate conditions where they will no longer purchase loan participations from a financial institution as a result of excessive delinquencies.

The Authority will be able to utilize assets in pursuing the promotion of resource development projects by revising the scope of the Revolving Fund.

The revolving fund is comprised of two primary accounts: the *Enterprise Development Account* and the *Economic Development Account*. The Enterprise Development accounts are originated and financed through financial institutions, and the Economic Accounts are for major development projects like the Red Dog Mine. *All accounts are independant.

THE REVOLVING FUND

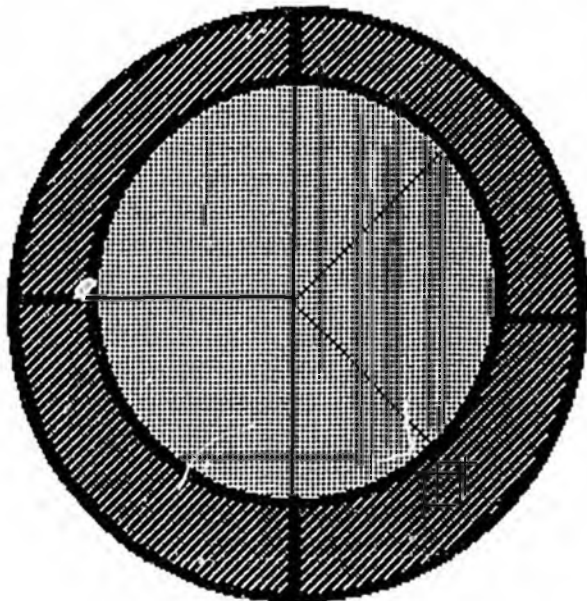


-  **Economic Development Account**
 - Capital Reserve Account
 - Sustaining Capital Account
 - Operation & Maintenance Account
 - Construction Revenue Account
 - Project Economic Development Account

-  **Enterprise Development Account**
 - Capital Reserve Account
 - Business Assistance Account
 - Loan Collection Account
 - Investment Account

Proposed scope of the Revolving Fund

"Pool" all the unrestricted funds of both major accounts together to function as a general fund.



Restricted Accounts

- Enterprise Development Account**
- Capital Resource Account**
- Business Assistance Account**
- Economic Development Account**
- Capital Reserve Requirement Account**
- Sustaining Capital Account**



Unrestricted Accounts

- Loan Collection Account**
- Investment Account**
- Operation & Maintenance Account**
- Construction Revenue Account**
- Project Development Account**

*HOW MUCH WILL THIS
COST ???*

...NOTHING.

SECTIONAL ANALYSIS

House Bill 123

"An Act Relating to the Alaska Industrial Development and Export Authority; and providing for an effective date"

DISCUSSION:

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through primary sector industrial development. This redirection is an attempt to create new jobs and promote population growth within the State. This in turn will provide assistance to the service sector which currently is suffering from a lack of demand.

The congressional changes to the tax code in 1986 significantly altered the type of projects that can be financed with the proceeds of tax-exempt bonds. The only projects currently eligible are manufacturing plants (through December 31, 1989) and certain facilities referred to as "exempt facilities." Financing for airports, docks, and wharfs is still available if the project is owned by a governmental entity. This change in the tax law has reduced the attractiveness and demand for Authority tax-exempt financing.

The definition of a development project in AS 44.88.900(9)(A) limits Authority ownership. The current definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

Section 1. AS 44.88.010(a)(9):

Three changes are made in this section: two deletions of dated language that is no longer applicable, and an addition allowing the Authority to participate in different types of ownership.

The deletions conform state law to the federal law changes made as a result of the 1986 Tax Reform Act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. Each project will face unique problems, and flexibility is needed to address and overcome them. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section: the addition that sets forth the Authority's scope of providing financial support for or with various persons or entities, and the deletion removes language that is unnecessary and could be viewed as applying only to exports.

Section 3. AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate accounts: the Enterprise Development Account where loans are originated and financed through banks, and the Economic Development Account designated for major development projects. The additions allow the Authority to create additional accounts within the unrestricted accounts of the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund, allowing it to function as the general fund and be invested in accordance with Title 37.

Section 4. AS 44.88.070:

The addition in this section sets forth the Authority's scope of owning and operating development projects: solely or by partnership, joint venture, or other agreement with another person. This definition is necessary as the projects contemplated will require the flexibility to deal with different forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized.

Section 6. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. The provisions do not change and are merely moved from another section with one exception; the Authority will have the ability to issue bonds up to \$25 million as opposed to \$10 million to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

Section 7. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement a capital reserve fund created after January 1, 1989 should it ever fall below the required amount.

With this elimination of moral obligation, bonds of the Authority issued after January 1, 1989, will stand on their own and do not contingently obligate the State in any form whatsoever. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially with respect to future bond issues. Of course, the Authority's bonds that are already outstanding and were issued with the moral obligation will continue to have that benefit.

Section 8. AS 44.88.105(d):

This addition is in conjunction with the changes of section 7 and sets forth the date, January 1, 1989, after which no additional moral obligation bonds could be issued.

Section 9. AS 44.88.155(c)

The deletion in this section is in conjunction with the changes in section 3, it simply moves the investment powers into the revolving fund.

Section 10. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in the financing of projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism-related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20% as long as the loan is outstanding. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Section 11. AS 44.88.165:

The statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions whereby it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

Section 12. AS 44.88.172(e):

The additions to this section establish the Economic Development Account within the Revolving Fund. They set forth the scope for which the Economic Development Account will be used.

Section 13. AS 44.88.900(4):

This section clarifies the definition of "development" project by referring to the resource development oriented plants and facilities described in the definition of "project", including transporting plants and facilities as set forth in section 14.

Section 14. AS 44.88.900(9):

There is one addition and deletion in this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act.

Section 15. Repealed statutes:

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.157 creates a loan insurance account and permits the Authority to insure loans purchased under its general financing provisions. This section is unnecessary because it has not been used since its inception.

AS 44.88.159(c), 44.88.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

Sectional Analysis
Page Six

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

Section 16.:

This section provides for an immediate effective date.

SUGGESTED SPONSOR AMENDMENTS

House Bill 123

"An Act Relating to the Alaska Industrial Development
and Export Authority; and providing for and effective date."

1. Section 2, AS 44.88.010(c):

Page 2, line 12; [federal, state] replaced with public.

REASON; Drafting oversight. Existing language would exclude participation with municipalities which could be beneficial to both parties.

2. Section 6, new section 44.88.095:

A. Page 3, line 20 and 26; development inserted before the word "project" in two places.

B. Page 4, line 6; "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project..."

C. Page 5, line 16; [aquisition] replaced with financing.

REASON; Drafting oversight. To conform to the definition section and effect proper word usage.

3. Section 10, AS 44.88.155(d):

Page 8, line 5; "..originator of the loan as long as the loan is outstanding."

REASON; Drafting oversight.

4. Section 11, AS 44.88.165:

Page 8, line 22; [the] replaced with its.

REASON; Drafting oversight. To clarify that the Authority should base its decision regarding continuing to work with a bank on the Authority's own experience with that bank.

5. Section 13, AS 44.88.900(4):

Page 9, line 11; ...[the same] as a "project" [, as defined] described in paragraph (9)(A) of this section;

REASON; Error in drafting. Definition is to be limited to 44.88.900 (9)(A)..

Suggested Sponsor Amendments
Page Two

5. Section 13, AS 44.88.900(4) continued:

As restated, this section would read, "development project" means the same as a "project," described in paragraph (9)(A) of this section.

HB 122

adding power to make certain property disposals to public and nonprofit entities. The introduction of this bill was requested by the board of directors of the authority.

This bill attempts to make amendments to the Alaska Statutes in every place necessary to change the name of the authority back to the Alaska State Housing Authority, the original name in effect from the advent of statehood to 1986. (As a precaution, however, sec. 23. of the bill expressly requires the revisor of statutes to make any additional statutory changes that might be necessary.) The authority believes that the name recognition gained over the years of operation is a valuable asset that should not be lost. The original name of the authority fairly encompassed the powers and duties assigned by law and should not pose a legal problem.

The bill also contains a section that makes amendments to existing law beyond the change of name. Section 4 of the bill makes an amendment that allows the authority to dispose of real or personal property to other public or nonprofit entities for less than fair market value. The authority interprets existing law to provide that it cannot dispose of certain authority property unless it sells the property at fair market value. This interpretation makes it difficult and expensive for other state agencies to use excess property of the authority for other public purposes. A capital appropriation last year for mental health housing (from the mental health trust account) contemplated the assistance of the authority in procuring and then transferring property to certified mental health housing grantees. The amendment set out in this bill generally parallels language governing other disposals of property (see AS 18.55.320) and will permit the authority to assist other state agencies and municipalities in the performance of official functions.

I urge your favorable action on this bill.

Sincerely,

/s/

Steve Cowper
Governor"

HB 123

HOUSE BILL NO. 123 by the Rules Committee by request of the Governor, entitled:

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

was read the first time and referred to the Labor & Commerce, Judiciary and Finance Committees.

JAN 5 1989
Alaska Industrial Development
and Export Authority

JAN 5 1989
Alaska Industrial Development
and Export Authority

HB 123

A zero fiscal note with analysis by the Department of Commerce & Economic Development was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Alaska Industrial Development and Export Authority (AIDEA) to finance development enterprises.

The most significant provisions of this bill relate to AIDEA's ability to finance resource development projects that AIDEA intends to own or operate (such as the Red Dog Mine project). In this regard, the bill would permit AIDEA to issue up to \$25,000,000 of its bonds for such a project without requiring passage of a law approving the project. It would also permit AIDEA to transfer amounts among its various accounts to provide more financing flexibility. (Although the provisions (proposed AS 44.88.095(b) and (f)) requiring legislative approval before certain bonds exceeding specified amounts may be issued raise a constitutional question under the separation-of-powers doctrine, I know of the legislature's concern about bond issuance and I believe that it might be helpful to set out this procedure in the statutes, as a courtesy to the legislature.)

Another significant provision would require originating financial institutions to retain a higher percentage of a loan before it may sell it to AIDEA. Under existing law, a financial institution must retain 10 percent of a loan. AS 44.88.155(d). Under this bill, the originating financial institution must retain 20 percent of the loan. By increasing this requirement along with the amount that AIDEA can invest in or loan on projects, it is hoped that financial institutions will carefully select the projects for which they will extend credit.

This bill will allow AIDEA to gather together all funds and accounts established by law and administer them as a part of the revolving fund of the authority. AIDEA would be given the power to transfer freely between accounts within the development fund so that it has the flexibility to adapt to the appropriate structure of a financing proposal presented to it for financing. AIDEA would be given the power to create separate accounts necessary to guarantee repayment of a bond issue if that action becomes necessary to make the bonds marketable.

The bill also amends a provision in existing law which represents to investors in AIDEA bonds that the state might step in and make bond payments if the authority is unable to do so. This section acknowledges the state's moral obligation to back AIDEA's revenue bonds if the authority becomes

HB 123

insolvent. The bill would change this moral obligation representation to apply only to bonds issued on or before January 1, 1989.

The bill would expressly confer on AIDEA the power to share ownership of projects with private enterprises by either forming a partnership, joint venture, or other form of cooperative ownership agreement.

The bill would also amend the provision in existing law that prohibits AIDEA from purchasing loans from financial institutions that experience a two percent or greater delinquency rate on loans made by the institution. The bill would allow AIDEA to set the target delinquency rate by regulation. By adopting this technique, AIDEA will be given the flexibility to adjust the delinquency rate to reflect existing economic conditions. The inflexible rule in effect under existing law sets the rate too low to allow the majority of banks in the state to qualify for AIDEA financing.

I urge your favorable consideration on this bill.

Sincerely,

/s/

Steve Cowper
Governor"

HB 124

HOUSE BILL NO. 124 by the Rules Committee by request of the Governor, entitled:

"An Act relating to sport fishing and hunting licenses and to big game tags; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committees.

A fiscal note by the Department of Fish & Game was published January 27, 1989.

The Governor's transmittal letter, dated January 27, 1989, appears below:

"Dear Mr. Speaker: "

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to sport fishing and hunting licenses. This bill would raise the cost of a resident sport fishing license by \$5. Making a new distinction, the cost of a resident hunting license would be raised \$3 for small game, and \$13 for big game. The combination hunting and trapping license fee would be

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 123

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

10 * Section 1. AS 44.88.010(a)(9) is amended to read:

11 (9) the achievement of the goal of full employment, and of
12 establishment and continuing operation and development of industrial,
13 manufacturing, export, small business, and business enterprises in the
14 state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,
15 FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR
16 THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR
17 INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-
18 TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING
19 FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and
20 facilitated by the creation of an instrumentality of the state with
21 powers to incur debt, to own and operate facilities, to enter into
22 partnership, joint venture, and other agreements with other persons
23 with respect to the ownership, operation, or construction of facili-
24 ties, and to make and insure loans to finance, and to assist private
25 lenders to make loans to finance, the establishment, operation, and
26 development of industrial, manufacturing, export, small business, and
27 business enterprises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR
28 TRANSPORTATION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL,
29 FACILITIES FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER,

1 FACILITIES FOR INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES
2 FOR LOCAL DISTRICT HEATING OR COOLING, PARKING FACILITIES, OR A STOR-
3 AGE OR TRAINING FACILITY RELATING TO A PLANT OR FACILITY];

4 * Sec. 2. AS 44.88.010(c) is amended to read:

5 (c) It is further declared to be the policy of the state, in the
6 interests of promoting the health, security, and general welfare of
7 all the people of the state, and a public purpose of the state, to
8 accomplish the objectives set out in (b) of this section through the
9 provision of financial support, in the form of loans, guarantees,
10 equity investments, or methods provided in this chapter, for or in
11 cooperation with, or through joint venture, partnership, or other
12 agreements with, federal, state, and private institutions [FOR THE
13 PURPOSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERI-
14 ALS, AND SERVICES].

15 * Sec. 3. AS 44.88.060 is amended to read:

16 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHOR-
17 ITY REVOLVING FUND. The Alaska Industrial Development and Export
18 Authority revolving fund is established in the authority. The revolv-
19 ing fund consists of appropriations made to the revolving fund by the
20 legislature, money or other assets transferred to the revolving fund
21 by the authority, and unrestricted payments on loans made or purchased
22 by the authority. Unless otherwise expressly stated, the accounts
23 created in this chapter are accounts in the revolving fund. The
24 authority may create additional accounts either in the revolving fund
25 or outside the revolving fund. Subject to agreements made with the
26 holders of the authority's bonds or with other persons, the authority
27 may transfer amounts in an account in the revolving fund to any other
28 account in the revolving fund. Amounts deposited in the revolving
29 fund may be pledged to the payment of bonds of the authority or

1 expended for the purposes of the authority under this chapter. The
2 authority has the powers and responsibilities set out in AS 37.10.071
3 with respect to the investment of amounts held in the revolving fund.

4 * Sec. 4. AS 44.88.070(2) is amended to read:

5 (2) owning and operating, either solely or by partnership,
6 joint venture, or other agreement with another person, the enterprises
7 and other facilities described in AS 44.88.172;

8 * Sec. 5. AS 44.88.080(14) is amended to read:

9 (14) to acquire, manage, and operate projects, and to enter
10 into agreements with other persons for shared ownership, operation, or
11 construction of projects, as the authority considers necessary or
12 appropriate to serve a public purpose or to exercise its powers under
13 this chapter;

14 * Sec. 6. AS 44.88 is amended by adding a new section to read:

15 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not
16 issue bonds in any 12-month period in an amount that exceeds
17 \$400,000,000.

18 (b) The authority may not issue revenue bonds, other than re-
19 funding bonds, to purchase a loan for a project under AS 44.88.155 --
20 44.88.159, to acquire a project or an interest in a project under
21 AS 44.88.172 -- 44.88.177 or to provide money to finance, guarantee,
22 or insure an exporting transaction under AS 44.88.300 -- 44.88.390 in
23 an amount greater than \$50,000,000 during any 12-month period unless
24 the issuance is included separately in the estimates required in the
25 report of the authority under AS 44.88.210(b) and unless the legisla-
26 ture, by law, approves the issuance.

27 (c) Before entering into a lease or other agreement as provided
28 in AS 44.88.090(e) regarding a project for which the authority agrees
29 to issue bonds in an amount in excess of \$6,000,000, there must be

1 filed with the authority a certified copy of a resolution of the
2 governing body of the political subdivision of the state, if any, in
3 which the project is to be located, consenting to the location of the
4 project. The consent need only refer to the general nature of the
5 project ultimately to be acquired, as set out in a request of the pro-
6 posed project applicant. Before entering into a project, the author-
7 ity must find, on the basis of all information reasonably available to
8 it, that

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

12 (2) the project applicant is financially responsible;

13 (3) provision to meet increased demand upon public facili-
14 ties, which might result from the project, is reasonably assured; and

15 (4) the project will provide, or retain, employment reason-
16 ably related to the amount of the financing by the authority, con-
17 sidering the amount of investment per employee for comparable facil-
18 ities and other relevant factors.

19 (d) Before entering into an agreement to finance or to develop a
20 proposed project with a cost in excess of \$10,000,000 financed under
21 AS 44.88.172 for which bonds must be issued, the authority shall
22 obtain the approval of each Regional Resource Advisory Council
23 (AS 44.88.174) or municipality in the area in which the proposed
24 project is to be located. Approval under this subsection must be
25 evidenced by a certified copy of a resolution of the council or of the
26 governing body of the municipality. Before considering a resolution
27 regarding the approval or rejection of the development or financing of
28 a proposed project as required by this subsection a Regional Resource
29 Advisory Council shall conduct a public hearing in the region. If a

1 proposed project is located in a municipality, the governing body of
2 the municipality shall conduct a hearing on the proposed project.

3 (e) Before adopting a resolution approving a project to be
4 financed under AS 44.88.172 for which bonds must be issued, the au-
5 thority shall, on the basis of all information reasonably available to
6 it, make findings, with respect to the project, as described in
7 (c)(1), (2), (3), and (4) of this section, and also find that

8 (1) the project is economically and financially feasible
9 and able to produce revenue adequate to repay the bonds or loans with
10 which it is financed;

11 (2) the project is in compliance with applicable law; and

12 (3) issuance of the bonds is not expected to adversely
13 affect the ability of the state or any political subdivision of the
14 state to market other bonds.

15 (f) The authority may not issue bonds in an amount greater than
16 \$25,000,000 to assist in the acquisition of a development project
17 under AS 44.88.172 -- 44.88.177 without prior legislative approval.

18 * Sec. 7. AS 44.88.105(a) is amended to read:

19 (a) For the purpose of securing one or more issues of its bonds,
20 the authority may establish one or more special funds, called "capital
21 reserve funds", and shall pay into those capital reserve funds the
22 proceeds of the sale of its bonds and other money which may be made
23 available to the authority from other sources for the purposes of the
24 capital reserve funds. A capital reserve fund may be established only
25 if the authority determines that the establishment of the fund would
26 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
27 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
28 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
29 reserve fund, except as provided in this section, may be used as

1 required only for (1) the payment of the principal of, and interest
2 on, bonds or of the sinking fund payments with respect to those bonds;
3 (2) the purchase or redemption of the bonds; or (3) the payment of a
4 redemption premium required to be paid when the bonds are redeemed
5 before maturity. However, money in a capital reserve fund may not be
6 withdrawn if the withdrawal would reduce the amount in the capital
7 reserve fund to less than the capital reserve fund requirement, except
8 for the purpose of making payment, when due, of principal, interest,
9 redemption premiums on the bonds, and sinking fund payments when other
10 money of the authority is not available for the payments. Income or
11 interest earned by, or increment to, a capital reserve fund, from the
12 investment of all or part of the fund, may be transferred by the
13 authority to other funds or accounts of the authority if the transfer
14 does not reduce the amount of the capital reserve fund below the
15 capital reserve fund requirement.

16 * Sec. 8. AS 44.88.105(d) is amended to read:

17 (d) With respect to a capital reserve fund created under this
18 section no later than January 1, 1989, the [THE] chairman of the au-
19 thority shall annually, no later than January 2, certify in writing to
20 the governor and the legislature the amount, if any, required to re-
21 store the [A] capital reserve fund to the capital reserve fund re-
22 quirement. The legislature may appropriate to the authority the
23 amount certified by the chairman of the authority. The authority
24 shall deposit the amounts appropriated under this subsection during a
25 fiscal year in the proper capital reserve fund. Nothing in this
26 section creates a debt or liability of the state.

27 * Sec. 9. AS 44.88.155(c) is amended to read:

28 (c) Money and other assets of the enterprise development account
29 may be used to secure bonds of the authority issued to finance the

1 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
2 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
3 chase loans for projects.

4 * Sec. 10. AS 44.88.155(d) is amended to read:

5 (d) A loan purchased in whole or in part by the authority with
6 assets of the enterprise development account or with proceeds of bonds
7 secured by assets of the enterprise development account, other than a
8 loan which is financed with the proceeds of bonds of the authority and
9 secured only by a project applicant or a project,

10 (1) may not exceed \$25,000,000

11 [(A) \$10,000,000; OR

12 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-

13 158];

14 (2) may not exceed the cost of the project or 75 percent of
15 the appraised value of the project, whichever is less, unless the
16 amount of the loan in excess of this limit is federally insured or
17 guaranteed or is insured by a qualified mortgage insurance company;

18 (3) may not be for a term longer than three-quarters of the
19 authority's estimate of the life of the project or 25 years from the
20 date the loan is made, whichever is earlier;

21 (4) shall contain complete amortization provisions satis-
22 factory to the authority requiring periodic payments by the borrower;

23 (5) shall be in the form and contain the terms and provi-
24 sions with respect to insurance, repairs, alterations, payment of
25 taxes and assessments, default reserves, delinquency charges, default
26 remedies, acceleration of maturity, secondary liens, and other matters
27 the authority prescribes;

28 (6) shall be secured as to repayment by a mortgage or other
29 security instrument in the manner the authority determines is feasible

1 to assure timely repayment under a loan agreement entered into with
2 the borrower;

3 (7) may not be made unless

4 (A) at least 20 [10] percent of the principal amount
5 of the loan is retained by the originator of the loan; or

6 (B) 100 percent of the principal amount of the loan is
7 guaranteed by the United States or an agency or instrumentality
8 of the United States;

9 (8) must be

10 [(A) AT LEAST PARTIALLY GUARANTEED BY THE UNITED STATES
11 OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES, SUBJECT TO
12 THE PROVISIONS OF AS 44.88.158;]

13 (B) financed from the proceeds of bonds; or

14 (C) expected by the authority to be financed from the
15 proceeds of bonds.

16 * Sec. 11. AS 44.88.165 is repealed and reenacted to read:

17 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
18 regulations to describe the circumstances under which it will discon-
19 tinue purchasing loans from a financial institution because of exces-
20 sive delinquencies among the loans previously purchased by the author-
21 ity from the financial institution. In adopting the regulations, the
22 authority must consider the delinquency experience with loans it pur-
23 chased from all financial institutions. The authority may include in
24 the regulations other remedies it considers appropriate as alterna-
25 tives to the discontinuance of purchasing loans from the financial
26 institution.

27 * Sec. 12. AS 44.88.172(a) is amended to read:

28 (a) The economic development account is established in the re-
29 volving fund. The economic development account consists of money or

1 assets appropriated, loaned, or transferred to the authority for
2 deposit in the account [,] and other money or assets deposited in the
3 account by the authority. While money is on deposit in the economic
4 development account, it [THE ACCOUNT] may be used only to finance,
5 acquire, manage, and operate development projects that the authority
6 intends to own and operate either solely or by partnership, joint
7 venture, or other agreement with another person. The term "operate"
8 includes operation directly by the authority[,], or by an agent of the
9 authority.

10 * Sec. 13. AS 44.88.900(4) is repealed and reenacted to read:

11 (4) "development project" means the same as "project," as
12 defined in this section;

13 * Sec. 14. AS 44.88.900(9) is amended to read:

14 (9) "project" means

15 (A) a plant or facility used or intended for use

16 [(i)] in connection with making, processing, pre-
17 paring, transporting, or producing in any manner, goods,
18 products, or substances of any kind or nature or in connec-
19 tion with developing or utilizing a natural resource, or
20 extracting, smelting, transporting, converting, assembling,
21 or producing in any manner, minerals, raw materials, chemi-
22 cals, compounds, alloys, fibers, commodities and materials,
23 products, or substances of any kind or nature;

24 [(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH
25 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF
26 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR
27 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS
28 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL
29 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A

1 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR
2 FACILITY DESCRIBED IN THIS PARAGRAPH;]

3 (B) a plant or facility used or intended for use in
4 connection with a business enterprise;

5 (C) commercial activity by a small enterprise;

6 * Sec. 15. AS 44.88.090(g) and (i), 44.88.105(e) and (g), 44.88.157,
7 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b) and (c), 44.88.175, 44.-
8 88.176, 44.88.212(a), and 44.88.900(3) are repealed.

9 * Sec. 16. This Act takes effect immediately under AS 01.10.070(c).



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 'C' STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

March 1, 1989

The Honorable Dave Donley, Chairman
House Labor & Commerce Committee
And The Honorable Members
House Labor & Commerce Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Donley:

On Monday, February 27, 1989, the Authority Board Members conducted a meeting. The primary purpose being consideration of amendments to the Loan Guaranty Program.

The Board felt that two of the changes under discussion held merit and that statutory changes were appropriate in those two cases. Those dealt with raising the limit of the guaranty to \$1 million regardless of the loan size and providing for a sharing of liquidation costs on a pro rata basis in the event of a default. The third dealt with raising the guaranty from 70% to 80%, the directors felt that this was not an appropriate change.

Obviously your Committee has the power to make any statutory change they feel is appropriate. However, it seemed appropriate to have the Authority's rationale made available to the Committee during its deliberative process.


In considering the changes, the raising of the guaranty to \$1 million was what was contemplated by the original drafters of the legislation. In considering a pro rata sharing of liquidation costs, the National Bank of Alaska has stated that if that change was made, they would participate in the program.

House Labor & Commerce Committee
March 1, 1989
Page Two

The third change, which was rejected by the Authority Board, would have raised the amount of the Authority's guaranty on a bank loan from 70% to 80%. The Board felt that given the two approved changes and the fact that the largest bank in the State would participate in the program with the two changes, that raising the guaranty percentage to 80% was not prudent. One major ingredient to maintaining integrity within the program is to keep the participants at risk for a substantial enough share of the exposure to avoid the dumping of substandard loans on the State. In effect, a guaranty program is a risk transfer mechanism and the Board felt having the banks maintain a 30% exposure was the prudent course of action.

If I can be of any assistance to the Committee or answer any questions, please let me know.

Sincerely,



Bertram L. Wagnon
Executive Director

BLW/ss
attachment




ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

M E M O R A N D U M

TO: Board of Directors
Alaska Industrial Development and Export Authority

FROM: Bertram L. Wagnon 
Executive Director

DATE: February 27, 1989

SUBJECT: LOAN GUARANTY PROGRAM CHANGES

The Chair has requested that staff agenda the Loan Guaranty Program for consideration of several changes.

The first change would be to raise the allowable guaranty percentage from 70% to 80%.

The second change would be to amend the language that limits the guaranty to a percent of the loan and set the maximum guaranty at \$1 million irrespective of the loan size.

The third change would allow the Authority to pay pro rata costs of foreclosing and liquidating the collateral. Previously I have advised the Chair that this third change was not necessary in that it could be done by regulation. Counsel has reviewed this and strongly suggests that a statutory change is necessary here as well.

Mr. Jan Sieberts of the National Bank of Alaska appeared before the House Labor & Commerce Committee recommending such changes. Attached as Appendix "A" is a letter from Mr. Siebert's pertaining to this.

The Committee Chair requested that I draft changes for his Committee to consider and this memo is attached as Appendix "B". Appendix "C" is a subsequent memo advising the Committee that a statutory change is required to add a pro rata participation by the Authority in paying liquidation costs.

Loan Guaranty Program Changes
February 27, 1989
Page Two

Recently the SBA has eliminated the use of SBA Guarantees for refinancing of their own debt or that of third parties. This action has created considerable interest in amending the Authority's Loan Guaranty Program.

Of the three changes, the National Bank of Alaska has stated that a pro rata sharing of liquidation costs is the major impediment which is keeping them from participating in the program. I believe the legislature did intend that the loan guaranty would be limited to \$1 million and that in the actual drafting of the bill, language was worded in such a way that the limits reduced the guaranty to a maximum of \$700,000 (70% of \$1 million loan).

The 70% guaranty was inserted by the legislature on the floor of the Senate. Previous versions of the bill had 80%.

It is significant to note that three changes are being considered: 1) paying of liquidation costs; 2) raising the guaranty to \$1 million; and 3) raising the guaranty percentage to 80%. Remember that this is a program whereby the Authority guarantees a loan made by someone else. It also allows a bank to refinance an existing loan and have a guaranty be provided. While changes appear required if we want the National Bank of Alaska participation, changes 1 and 2 would seem to provide enough and still leave the bank responsible for only 30% of the risk.

BLW/ss
attachment(s)

January 27, 1989

Mr. Wes Coyner
3111 Douglas Highway
Juneau, AK 99801

Re: AIDEA Loan Guaranty Program

Dear Mr. Coyner:

The Alaska Legislature passed the Business Assistance Program Statute last year for implementation through the Alaska Industrial Development and Export Authority. Even though the legislation gave a good framework of a program to deal with, we feel that the regulatory process through which the program has been implemented created a program which is not being used by the banking system for business development. In particular, of the indicated items below, the first represents the major regulatory curtailment of the program while the remaining represent legislative problems. I have attempted to place these in order of importance.

1. Under the regulations the payment of the guaranty is made based on the principal balance at the time of liquidation and does not cover liquidation costs and protective advances in handling the defaulted loan. Our recommendation would be to change the regulations to cover liquidation, carrying costs, and protective advances in the handling of collateral. This is universally the case in participation loans, other government guaranteed programs, and AIDEA's other loan programs. Since AIDEA has the ability to approve a liquidation of collateral plan and is not required to pay the guaranty until such time as liquidation takes place, they could in fact stall the liquidation and the sale of the assets for many years, which would substantially increase or create prohibitive liquidation and protective advance expenses to the banks. We believe that this regulation in itself has destroyed the validity of the program.
2. We believe the guaranty amount should be increased from 70% to 90% to be consistent with the AIDEA umbrella loan program. For instance, under AIDEA's umbrella loan program, AIDEA effectively buys a 90% participation in loans rather than a 70% participation in the guaranteed loan program. The bond holders are providing the capital in the umbrella program as the Alaska banking system would under the guarantee program. It seems logical that they be consistent in their credit exposure from program to program. It should be noted that we understand that AIDEA

Mr. Wes Coyner
January 27, 1989
Page Two

is requesting legislation to reduce their participation amount to 80% in the umbrella loan program. If that is the case, we would think it reasonable to increase the guaranteed amount to 80% to be consistent. As a matter of fact, the federal SBA program will guarantee 90% of some loans with the most common guaranty at 85%.

3. The million dollar cap on the loan should be removed. As an example, a fish processing plant may require a loan of \$2,000,000 and we would like to have the opportunity to request a 35% guaranty from AIDEA. It has been our experience in larger complex projects requiring long-term capital that a variety of participants are brought together with different regulations to make a transaction work. We really think the limitation on a loan of \$1,000,000 was a drafting mistake in the legislation.
4. The loan guaranteed amount should be increased to \$1,000,000 as we believe was the intent of the original lawmakers. The law in its final form limited the amount of the loan to \$1,000,000 with a 70% guaranty or a \$700,000 maximum guaranty. As a matter of fact, since the implementation of the law the federal Small Business Administration's loan guaranty program has increased their guaranty to the amount of \$750,000 from \$500,000. The federal program is excellent, but does not work for all borrowers.

In my opinion, these are the major impediments to the AIDEA Business Assistance Program. Of course, the major fact is that AIDEA is not enthusiastic about implementing the program. Feel free to call upon me for any questions you may have.

Sincerely,

Jan Sieberts
Senior Vice President

lkr

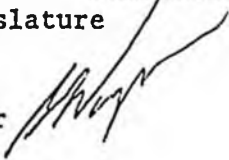
cc: Bob Gray
Dick Hall

ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

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M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon
Executive Director 

DATE: February 21, 1989

SUBJECT: Loan Guaranty Program

At the hearing on House Bill 123 held this Saturday, it was requested that draft amendments to the Loan Guaranty Program be prepared for the committee's review.

The first change suggested at the hearing was that the percentage of allowable guaranty be increased from 70% to 80%. To effect this change, following is suggested language. AS 44.88.535(b) is amended to read:

"(b) The authority may provide a guarantee from the fund for up to [70] 80 percent of a loan that qualifies under AS 44.88.500 - 44.88.599. The ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan."

The committee should be aware that this was changed from 80% to 70% on the floor of the legislature last session.

The second change involves the dollar limit of the guaranty. As currently written, the guaranty limit is expressed in terms of a loan of not more than \$1,000,000. It is the Author's opinion that Mr. Sieberts of the National Bank of Alaska is correct in that the legislature's intent was to limit the guaranty to a maximum of \$1 million irrespective of the loan size. To accommodate such changes the following language is suggested. AS 44.88.545 is amended to read:

Sec. 44.88.545. Limitations of Guarantees with respect to borrowers. The Authority may not provide a guarantee

(1) [a loan] of more than \$1,000,000

(2) [loans] to an individual borrower that cumulatively exceed \$1,000,000 of guaranteed indebtedness.

The net effect of such changes are that the maximum guaranteed transaction by the Authority would be \$1 million per loan regardless of the size of the loan and also that no borrower could have more than \$1 million of Authority guaranteed indebtedness.

BLW/ss

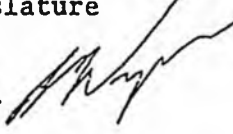


ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

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M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon 
Executive Director

DATE: February 22, 1989

SUBJECT: House Bill 123

At the teleconference Committee meeting on Saturday, considerable discussion was held concerning the Authority's Loan Guaranty Program and changes to that program suggested by Mr. Jan Sieberts of the National Bank of Alaska.

Language concerning the percentage of guaranty and language to allow a guaranty up to \$1 million was submitted for your consideration. Additionally, I advised the Committee that the third significant point of Mr. Sieberts, dealing with paying a pro rata share of liquidation assets could be handled by regulation and no statute change was necessary. After reviewing the existing law and conferring with counsel, I regret to inform you that counsel has strongly suggested that if it is the Committee's desire to make such a change, that the following amendment be inserted.

AS 44.88.560 is amended by adding a new paragraph to read:

(7) use money in this fund to pay expenses relating to the liquidation of collateral securing loans guaranteed by this fund to the extent the Authority considers it in its best interest to do so.

House Labor & Commerce Committee
February 22, 1989
Page Two

The Committee may wish to consider that in Mr. Sieberts testimony, he indicated that the greatest impediment to his bank's participation was the limitation on not paying liquidation costs of loans on a pro rata basis and if this were changed, his bank would participate in the program. Given that and as this is a Guaranty Program whereby the State through AIDEA will assume 70% of the risk, consideration should be given to perhaps leaving the banks at least 30% at risk. If the changes are made to raise the limit to \$1 million and pay pro rata costs of liquidation, having the banks maintain a 30% interest in the transaction could be very prudent.

BLW/ss

SBA NOTICENOTICE NO. 5000-242
Cox, Train: [Signature]

TO: All RA's, ARA's F&I, DD's, and ADD's F&I

2-10-89

EFFECTIVE

SUBJECT: Temporary limitation on use of SBA 7(a) loan proceeds for repayment of debt

The demand for 7(a) loan funds currently exceeds available amounts. In order to ease this shortage, effective immediately, new applications for 7(a) business loan guarantees will be subject to the following restrictions:

- o Outstanding SBA loans will not be refinanced with new SBA loans. If a borrower requires additional funds, the new loan will be so structured by reamortization or otherwise that the existing loan remains outstanding.
- o No reduction in a participant lender's exposure or of the exposure of other lending institutions will be permitted. Accordingly, where a participating lender increases its participation percentage to an extent sufficient to cover at least all of the outstanding debt, SBA will extend its guaranty to that part of the loan which does not include the outstanding debt.

Example: a loan is approved for \$400,000, of which \$50,000 is to pay debt to the participant, \$50,000 to pay debt to another lender, and \$300,000 is for the purchase of machinery and equipment. In this case a 25% participation would be required so that the lender's exposure in the loan will at least

EXPIRES 10/1/89

SBA Form 1353 (3-83)

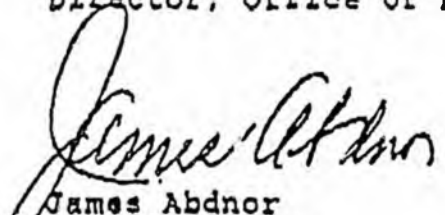
equal the loan amounts used for pre-existing debt payment. An alternative would be to reduce the loan by \$50,000, eliminating payment of the other lender if the participant is unwilling to take more than 15%, and if repayment ability would still exist.

- o Payment of trade payables is not considered debt repayment, but will be treated as working capital. Participating lenders may also continue to make interim advances in anticipation of reimbursement from SBA financing, as provided in SOP 50-10, paragraph 2d.(4).

These debt payment limitations are a temporary constraint to help manage the shortage of funds. In some regions restrictions have already been placed on debt payment. However we must have a consistent national policy. The constraints are effective until further notice.

These restrictions apply to all categories of 7(a) loan guarantees. Development Company (502 and 504) guarantees are not affected.

Any questions should be addressed to Everett Shell, Director, Office of Business Loans (FTS 653-6470)


James Abdnor
Administrator

2/16
PER TELECALL WITH BOTH REGION & CENTRAL OFFICES:

- 1) REFINANCING PROHIBITION ALSO APPLIES TO FOIL
- 2) SBA DIRECT FUNDS (VIETNAM VETERAN LOANS) MAY NOT BE USED TO RETIRE AN OUTSTANDING GP LOAN
- 3) A NEW GP MAY NOT BE USED TO PURCHASE ORRO FROM THE SUBMITTING BANK - OK TO USE A NEW GP TO PURCHASE ANOTHER BANK'S ORRO
- 4) REFINANCING PROHIBITION APPLIES EVEN IF WE HAVE ALREADY RECEIVED A BANK WRITER ADVISING OF INTERIM FINANCING BEING USED TO PAY OFF SBA GP OR BANK DEBT.




ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

M E M O R A N D U M

TO: Board of Directors
Alaska Industrial Development and Export Authority

FROM: Bertram L. Wagnon
Executive Director 

DATE: February 27, 1989

SUBJECT: FEDERAL SMALL BUSINESS ADMINISTRATION PROGRAM (SBA)

Attached is a letter which impacts the Federal SBA program nationwide.

The effect of this directive is that the SBA will no longer allow outstanding SBA loans to be refinanced with new SBA loans. Additionally, no refinance which would result in a reduction of exposure of the participant or other lending institution is permitted.

It was requested that a representative from the SBA be at our Board meeting, however, they are in Washington, D.C. discussing this problem and could not attend.

BLW/ss
attachment

SMALL BUSINESS ADMINISTRATION

SBA NOTICE

NOTICE NO. 5000-242

Ch. Train
See
loan

TO: All RA's, ARA's F&I, DD's, and ADD's F&I

2-10-89

EFFECTIVE

SUBJECT: Temporary limitation on use of SBA 7(a) loan proceeds for repayment of debt

The demand for 7(a) loan funds currently exceeds available amounts. In order to ease this shortage, effective immediately, new applications for 7(a) business loan guarantees will be subject to the following restrictions:

- o Outstanding SBA loans will not be refinanced with new SBA loans. If a borrower requires additional funds, the new loan will be so structured by reamortization or otherwise that the existing loan remains outstanding.
- o No reduction in a participant lender's exposure or of the exposure of other lending institutions will be permitted. Accordingly, where a participating lender increases its participation percentage to an extent sufficient to cover at least all of the outstanding debt, SBA will extend its guaranty to that part of the loan which does not include the outstanding debt.

Example: a loan is approved for \$400,000, of which \$50,000 is to pay debt to the participant, \$50,000 to pay debt to another lender, and \$300,000 is for the purchase of machinery and equipment. In this case a 25% participation would be required so that the lender's exposure in the loan will at least

EXPIRES 10/1/89

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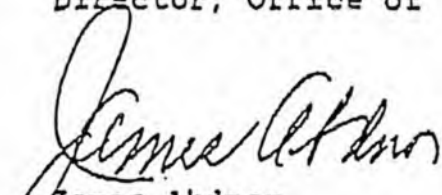
equal the loan amounts used for pre-existing debt payment. An alternative would be to reduce the loan by \$50,000, eliminating payment of the other lender if the participant is unwilling to take more than 15%, and if repayment ability would still exist.

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These debt payment limitations are a temporary constraint to help manage the shortage of funds. In some regions restrictions have already been placed on debt payment. However we must have a consistent national policy. The constraints are effective until further notice.

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 James Abdnor
 Administrator

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F. 3/3

WASH. SBA CENTRAL 1 19:12 89. 9 FEB. 1989

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 3, 1989

SUBJECT: CSHB 123(L&C)
(Work Order No. go0799hE)

TO: Representative Dave Donley, Chair
Labor and Commerce Committee

FROM: Theresa L. Bannister *TB*
Legislative Counsel

The above-referenced committee substitute contains technical and drafting changes as well as the amendments requested by the committee. Please advise if you would like a list of the technical and drafting changes.

TLB:kb
wkk2/095

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1988 ANNUAL REPORT AND FINANCIAL STATEMENTS

WAGNON

February 15, 1989

TO: The Honorable Members of the Alaska Legislature

SUBJECT: House Bill 123

The purpose of this legislation is to further the Alaska Industrial Development and Export Authority's efforts in promoting employment through resource development projects. The Authority has historically functioned as a correspondent to Alaskan banks, financing real estate mortgages in the service sector of the economy. This legislation is an attempt to redirect the Authority's efforts to achieve the goal of increased employment through industrial development, as the Authority's name indicates.

This redirection is an attempt to create new jobs and promote population growth within the State, providing assistance to the service sector currently suffering from a lack of demand. The definition of a development project as defined in AS 44.88.900(9)(A), limits Authority ownership. This definition stresses the primary resource industries, and accentuates transportation and infrastructure associated with those projects.

This legislation does not eliminate the essential framework whereby the Authority acts as a correspondent to Alaskan banks. The current banking situation has curtailed many of the existing banks correspondent relationships. It is critical that the Authority remain as an institute correspondent during these difficult times.

Pursuant to its purpose, all provisions of the bill accomplish at least one of the following four objectives.

1. Increase efforts in promoting resource development projects.
2. Amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of development projects.
3. Conform existing statutes to the 1986 Tax Act.
4. Reorganize, refine, and consolidate statutes of the Authority.

February 15, 1989

SECTIONAL ANALYSIS

Section 1. AS 44.88.010(a)(9):

There are three changes in this section. Two deletions of dated language that is no longer applicable, and an addition allowing the authority to participate in different types of ownership.

The deletions conform state to federal law and achieve the purpose of this legislation through the third stated objective; conform existing statutes to the 1986 Tax act.

The addition defines the necessary relationship possibilities between the Authority and other persons or entities. This achieves the purpose of this legislation through the first stated objective; Increase efforts in promoting resource development projects. Each project will face unique problems. Flexibility is needed to address and overcome such problems. Without this flexibility, the Authority's effectiveness in promoting resource development projects will be limited.

Section 2. AS 44.88.010(c):

There are two changes in this section. An addition sets forth the Authority's scope of providing financial support for or with various persons or entities, and a deletion of words that currently is unnecessary as written and could be viewed as applying only to exports.

Both the addition and the deletion achieve the purpose of this legislation through the first stated objective; increase efforts in promoting resource development projects.

Section 3 AS 44.88.060:

The two additions in this section establish the scope of the revolving fund. The revolving fund is currently made up of two separate funds; the enterprise fund where loans are originated and financed through banks, and the economic fund designated for major development projects. These additions allow the Authority to create additional accounts within the revolving fund, and transfer monies between accounts subject to bond-holder agreements. The investment powers are moved into the revolving fund allowing it to function as the general fund and be invested in accord with Title 37.

These additions achieve the purpose of this legislation through the second stated objective; amend existing statutes to allow utilization of the Authority's assets in pursuing the promotion of resource development projects.

Section 4. AS 44.88.070:

The addition in this section defines the Authority's scope of owning and operating development projects; solely, by partnership, joint venture, or other agreement with another person. This addition achieves the purpose of this legislation through the first stated objective; increase efforts in promoting resource development projects.

This definition is necessary as the projects contemplated will require the flexibility to deal with differing forms of ownership and operation.

Section 5. AS 44.88.080(14):

The two additions in this section broaden and conform the Authority's scope of powers with regard to development projects that are not standardized. These additions achieve the purpose of this legislation through the first stated objective; increase efforts in promoting resource development projects.

Section 6. AS 44.88:

This addition creates a new section, 44.88.095, BONDING LIMITATIONS. It consolidates all the Authority's statutory limitations regarding the issuance of bonds into one section. All provisions are the same and are merely moved from another section with one exception; the Authority will have the ability to issue bonds of \$25 million or less to assist in the financing or operation of a development project without prior legislative approval. Local approval is still required under this section.

This section achieves the purpose of this legislation through the first and fourth stated objectives; increase efforts in promoting resource development projects, and reorganize, refine and consolidate statutes of the Authority.

Section 7. AS 44.88.105(a):

The deletion in this section eliminates the ceiling on bonds regarding the establishment of capital reserve funds. It also eliminates the state's moral obligation to supplement the capital reserve fund should it ever fall below the required amount. With this elimination of moral obligation, the bonds of the Authority will stand on their own and do not contingently obligate the State in any form whatsoever.

This deletion achieves the purpose of this legislation through the fourth stated objective; reorganize, refine, and consolidate statutes of the Authority. Since 1981 all bonds have had the benefit of the State's moral obligation. It is now appropriate that the Authority stand on its own financially.

Section 8. AS 44.88.105(d):

The addition in this section sets forth the date, January 1, 1989 after which no additional moral obligation bonds could be issued. This addition achieves the purpose of this legislation through the fourth stated objective; reorganize, refine, and consolidate statutes of the Authority.

Section 9. AS 44.88.155(c)

The deletion in this section moves the investment powers into the revolving fund. This change is in conjunction with those of section 3, and achieves the purpose of this legislation through the third stated objective; conform existing statutes to the 1986 Tax Act.

Section 10. AS 44.88.155(d):

There are two changes and one deletion in this section.

The first change allows the Authority to participate in development projects that previously have been beyond the Authority's financial scope. Increasing the loan limit on a project from \$10 million to \$25 million will allow the Authority to participate in larger projects strictly as a correspondent. Several tourism related projects have been beyond the \$10 million limit. This change would allow Authority participation in these projects.

The second change requires that the principle amount of a loan held by the originator be increased from 10% to 20%. This would promote caution when banks contemplate selling their loans to the Authority. They will be responsible for holding a more significant portion of the credit and hopefully act accordingly.

The deletion will allow the Authority to become active in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS. 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

These changes achieve the purpose of this legislation through the fourth stated objective; reorganize, refine, and consolidate statutes of the Authority.

Section 11. AS 44.88.165:

This statute regarding loan delinquencies is repealed and reenacted. It allows the Authority to regulate conditions where it may discontinue purchase of loan participations from a financial institution because of excessive loan delinquencies. This revision is necessary to allow more financial institutions to participate in the authority's loan programs.

This reenactment achieves the purpose of this legislation through the fourth stated objective; reorganize, refine, and consolidate statutes of the Authority. Proposed regulations to implement this statute change are contained in the appendix.

Section 12. AS 44.88.172(a):

The additions to this section establish the economic development account within the revolving fund. They define the scope for which the economic development account will be used; development projects. These additions achieve the purpose of this legislation through the first stated objective; increase efforts in promoting resource development projects.

Section 13. AS 44.88.900(4):

This section is repealed and reenacted thereby clarifying and defining a development project by inserting the word transporting as set forth in section 14. This achieves our purpose through the fourth stated objective; reorganize, refine, and consolidate statutes of the Authority.

Section 14. AS 44.88.900(9):

There is one addition and deletion pertaining to this section. The addition includes certain transportation facilities in the definition of a project, while the deletion eliminates the obsolete language from the tax code prior to the 1986 Tax Reform Act. These changes achieve the purpose of this legislation through the third and fourth stated objectives; conform existing statutes to the 1986 Tax Act, and reorganize, refine, and consolidate statutes of the Authority.

Section 15. Repealed statutes:

AS 44.88.090(g) and (i), 44.88.105(e) and (g), 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b) and (c), 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3).

AS 44.88.090(g), 44.88.160, 44.88.172(c), 44.88.175, and 44.88.176 are reenacted in substantially the same form and placed in Section 6, Bonding Limitations.

AS 44.88.090(i) is repealed to allow the Authority to issue bonds after January 1, 1990.

AS 44.88.105(e) and (g) relate to the moral obligation provisions, that under this legislation, would terminate on January 1, 1989. The provisions of 44.88.105(e) duplicate those added by section 10, AS 44.88.155(d)(7)(A) of this legislation.

AS 44.88.159(c), 44.88.212(a), and 44.88.900(3) refer to AS 44.88.158, the small business enterprise loan account that is repealed under this legislation.

AS 44.88.158 provides authority that is already given in the investment powers (AS 37.10.071) in the revolving loan fund.

The deletion in section 10, page 8, line 10 will allow the Authority to become active once again in purchasing the guaranteed portion of federal SBA loans from banks. The revised investment statute, AS 37.10.071, will permit the Authority to invest its funds in the guaranteed portion of federal SBA loans once the program restrictions are removed from statute. This flexibility is essential. The SBA modifies its program periodically, and casting the program in statute does not provide enough flexibility to maintain a market presence in these guarantees.

AS 44.88.172(b) does not allow use of the Authority's assets for resource development projects and is repealed.

The repealed statutes achieve the purpose of this legislation through the fourth stated objective; reorganize, refine and consolidate statutes of the Authority.

Section 16.:

This section provides for an immediate effective date.

February 15, 1989

SUGGESTED SPONSOR AMENDMENTS

1. Section 2, AS 44.88.010(c):

Page 2, line 12; _federal, state) replaced with public.

REASON; Drafting oversight. Existing language would exclude participation with municipalities which could be beneficial to both parties.

2. Section 6, new section 44.88.095:

A. Page 3, line 20 and 26; development inserted before the word "project" in two places.

B. Page 4, line 6; "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project..."

C. Page 5, line 16; (aquisition) replaced with financing.

REASON; Drafting oversight. To conform to the definition section and affect proper word usage.

3. Section 10, AS 44.88.155(d):

Page 8, line 5; "...originator of the loan as long as the loan is outstanding."

REASON;

4. Section 11, AS 44.88.165:

Page 8, line 22; (the) replaced with its.

REASON; Drafting oversight.

5. Section 13, AS 44.88.900(4):

Page 9, line 11; ...(the same) as a "project" (, as defined) described in paragraph (9)(A) of this section;

REASON; Drafting oversight.

HOW WILL THIS LEGISLATION FURTHER THE AUTHORITY'S EFFORTS IN PROMOTING RESOURCE DEVELOPMENT?

I. The Authority can own, operate, or construct facilities...

1. solely
2. by partnership
3. by joint venture
4. or through other agreements with persons for shared ownership

example:

To enhance development of the Beluga coal fields, a common transportation system accessible by all lease holders could provide a stimulus for further movement of this project. Financing and or partial ownership with the lease holders in this common system could reduce the costs of moving the coal to tidewater.

II. The Authority can provide financial support in the form of...

1. loans
2. guarantees
3. equity investments

example:

As in the above example, the Authority could be just a lender for such a coal transportation project or have an equity interest in the coal transportation system in conjunction with others and be repaid by charging fees per ton of coal transported. Flexibility and a menu of options are necessary as each project will be different and present unique problems to overcome.

III. Bonding Limitations are reenacted into one section

CURRENT:

- A. The Authority can not issue bonds in a total amount over \$400 million during a 12 month period.
- B. The Authority cannot issue bonds for a particular project within a 12 month period over \$50 million.
- C. Project bonds over \$6 million require location approval from the city or borough where the project will be located.
- D. Project bonds over \$10 million require a public hearing as well as municipal approval.

In all cases, the Authority must find that;

- 1. The project is economically advantageous to the State and public welfare.
- 2. The project applicant is financially responsible.
- 3. increased demand on public utilities will be satisfied.
- 4. The project will provide or retain employment reasonably related to the amount of Authority financing.
- 5. The project is feasible enough to repay the bonds or loans.
- 6. The bond issuance will not adversely affect the marketability of other state bonds.

III. Bonding Limitations continued

PROPOSED:

- A. The Authority can issue bonds up to \$25 million to assist in the aquisition of a development project without prior legislative approval.

- B. The State moral obligation on any future bonds issued by the Authority is eliminated.

- C. The principle amount of a loan retained by the originator is increased from 10% to 20%.

- D. The Authority can regulate conditions where they will no longer purchase loan participations from a financial institution as a result of excessive delinquencies.

IV. The Revolving Fund

CURRENT:

The Revolving Fund is comprised of two primary accounts: the Enterprise Development Account, and the Economic Development Account. All accounts are independant.

A. Enterprise Development Account; originated and financed through banks.

1. Restricted accounts

- a. Capital Reserve Account
- b. Business Assistance Account
- c. Loan Insurance Account

2. Unrestricted accounts

- a. Loan Collection Account
- b. Investment Account
- c. Federally Guaranteed Loan Account

B. Economic Development Account; major development projects - Red Dog Mine.

1. Restricted accounts

- a. Capital Reserve Requirement Account
- b. Sustaining Capital Account

2. Unrestricted accounts

- a. Operation and Maintenance Account
- b. Construction Revenue Account
- c. Project Economic Development Account

IV. Revolving Fund Continued

PROPOSED:

"Pool" all the unrestricted funds of both major accounts together to function as a general fund.

A. Restricted Accounts

1. Enterprise Development Account

a. Capital Reserce Account

b. Business Assistance Account

2. Economic Development Account

a. Capital Reserve Requirement Account

b. Sustaining Capital Account

B. Unrestricted Accounts

1. Loan Collection Account

2. Investment Account

3. Operation and Maintenance Account

4. Construction Revenue Account

5. Project Economic Development Account

** The Loan Insurance Account and the Federally Guaranteed Loan Account are repealed under this legislation.

SBA NOTICENOTICE NO. 5000-242
Col. Egan

TO: All RA's, ARA's F&I, DD's, and ADD's F&I

2-10-89

EFFECTIVE

SUBJECT: Temporary limitation on use of SBA 7(a) loan proceeds for repayment of debt

The demand for 7(a) loan funds currently exceeds available amounts. In order to ease this shortage, effective immediately, new applications for 7(a) business loan guarantees will be subject to the following restrictions:

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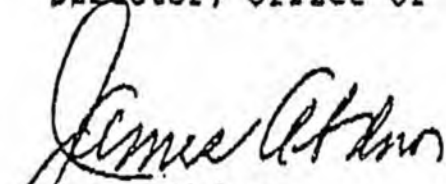
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File: HB123

Office of the Governor

Senate passes 'home brew' bill



Pourchot

JUNEAU — Legislation aimed at exempting home brewing from alcohol-licensing laws unanimously passed the Senate Friday and was referred to the House. In 1986 the Legislature changed the definition of alcoholic beverages to include those that are privately produced. The aim was to close a loophole in the "local option" laws, which give municipalities the option of

outlawing alcoholic beverages. Sen. Pat Pourchot, D-Anchorage, said Senate Bill 127 was needed because courts have interpreted the law to ban home brewing in all areas of the state, including those where alcoholic beverages are legal. Although the state can issue licenses for home brewing, the Alcoholic Beverage and Control Board has declined to do so. The wine and beer judging competition at this year's Fur Rendezvous in Anchorage has been canceled pending a change in the law, Pourchot said. Under the bill, home brewing would still be prohibited in "damp" and "dry" areas of the state, and municipalities could still regulate it. Possession, consumption and sale of home brews to people under 21 would be remain illegal.

Bill would aid disabled hunters

JUNEAU — House members Friday approved legislation that would allow the Board of Game to adopt special regulations to aid physically disabled people who want to hunt or trap. "It would simply allow the board to let a small group of people who would otherwise be unable to hunt to use a wider range of methods that could not be authorized for the general public," said Gov. Steve Cowper, who submitted the proposal. The governor gave the example of possible allowing handicapped people to

hunt deer from a boat in Southeast, instead of having to go ashore as is required under current regulations. "Passage of House Bill 62 does not mandate passage of these regulations, but it certainly would indicate an intent by the Legislature that such regulations be adopted," the Department of Fish and Game reported in its analysis of the bill. The measure passed the House 36-1, and moves to the Senate. The original version of the bill applied to "disabled or medically handicapped persons," and after discussion in the House the measure was amended to apply to "people with physical disabilities."

Cowper wants export authority expanded



Cowper

JUNEAU — Gov. Steve Cowper wants lawmakers to expand the powers of the Alaska Industrial Development and Export Authority to fund resource development projects. House Bill 123, which Cowper introduced Friday, would allow AIDEA to issue up to \$25 million in bonds for a resource development project it intends to own or operate. Legislation

allowing the higher bonding limit also would permit AIDEA to sell bonds for such projects without legislative approval of each specific project. Another section of Cowper's proposal would require banks to take more of the risk in loans they sell to AIDEA. The measure would double the percentage of a loan that banks must hold in a joint financing arrangement with AIDEA, raising the level from 10 percent to 20 percent. "By increasing this requirement... it is hoped that financial institutions will carefully select the projects for which they will extend credit," Cowper said.

Daily News wire service

Anchorage, Alaska

NEWS CLIPPINGS IN
Anchorage Daily News

Date: 1-30-89

SENT BY: ANCH GOVERNORS OFFICE : 1-30-89 : 8:00AM : 9075614356 : 9074655565 : 2

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 123

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Industrial Development
and Export Authority; and providing for an effective
date."

7

8

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

9

* Section 1. AS 44.88.010(a)(9) is amended to read:

10

(9) the achievement of the goal of full employment, and of

11

establishment and continuing operation and development of industrial,

12

manufacturing, export, small business, and business enterprises in the

13

state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,

14

FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR

15

THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR

16

INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-

17

TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING

18

FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and

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facilitated by the creation of an instrumentality of the state with

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powers to incur debt, to own and operate facilities, to enter into

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partnership, joint venture, and other agreements with other persons

22

with respect to the ownership, operation, or construction of facili-

23

ties, and to make and insure loans to finance, and to assist private

24

lenders to make loans to finance, the establishment, operation, and

25

development of industrial, manufacturing, export, small business, and

26

business enterprises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR

27

TRANSPORTATION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL,

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FACILITIES FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER,

29

asked tax code no. 1009 allows financing by bonds (2)
askers
legisbrity
in relat.
eg. in relat. to
had to
own or
finance
we would have
10/1/89

Delete limity lang-

1 FACILITIES FOR INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES
2 FOR LOCAL DISTRICT HEATING OR COOLING, PARKING FACILITIES, OR A STCR-
3 AGE OR TRAINING FACILITY RELATING TO A PLANT OR FACILITY];

4 * Sec. 2. AS 44.88.010(c) is amended to read:

5 (c) It is further declared to be the policy of the state, in the
6 interests of promoting the health, security, and general welfare of
7 all the people of the state, and a public purpose of the state, to
8 accomplish the objectives set out in (b) of this section through the
9 provision of financial support, in the form of loans, guarantees,
10 equity investments, or methods provided in this chapter, for or in
11 cooperation with, or through joint venture, partnership, or other
12 agreements with, federal, state, and private institutions [FOR THE
13 PURPOSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW MATERI-
14 ALS, AND SERVICES].

15 * Sec. 3. AS 44.88.060 is amended to read:

16 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHOR-
17 ITY REVOLVING FUND. The Alaska Industrial Development and Export
18 Authority revolving fund is established in the authority. The revolv-
19 ing fund consists of appropriations made to the revolving fund by the
20 legislature, money or other assets transferred to the revolving fund
21 by the authority, and unrestricted payments on loans made or purchased
22 by the authority. Unless otherwise expressly stated, the accounts
23 created in this chapter are accounts in the revolving fund. The
24 authority may create additional accounts either in the revolving fund
25 or outside the revolving fund. Subject to agreements made with the
26 holders of the authority's bonds or with other persons, the authority
27 may transfer amounts in an account in the revolving fund to any other
28 account in the revolving fund. Amounts deposited in the revolving
29 fund may be pledged to the payment of bonds of the authority or

1 expended for the purposes of the authority under this chapter. The
2 authority has the powers and responsibilities set out in AS 37.10.071
3 with respect to the investment of amounts held in the revolving fund.

4 * Sec. 4. AS 44.88.070(2) is amended to read:

5 (2) owning and operating, either solely or by partnership,
6 joint venture, or other agreement with another person, the enterprises
7 and other facilities described in AS 44.88.172;

8 * Sec. 5. AS 44.88.080(14) is amended to read:

9 (14) to acquire, manage, and operate projects, and to enter
10 into agreements with other persons for shared ownership, operation, or
11 construction of projects, as the authority considers necessary or
12 appropriate to serve a public purpose or to exercise its powers under
13 this chapter;

14 * Sec. 6. AS 44.88 is amended by adding a new section to read:

15 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not
16 issue bonds in any 12-month period in an amount that exceeds
17 \$400,000,000.

18 (b) The authority may not issue revenue bonds, other than re-
19 funding bonds, to purchase a loan for a project under AS 44.88.155 --
20 44.88.159, to acquire a project or an interest in a project under
21 AS 44.88.172 -- 44.88.177 or to provide money to finance, guarantee,
22 or insure an exporting transaction under AS 44.88.300 -- 44.88.390 in
23 an amount greater than \$50,000,000 during any 12-month period unless
24 the issuance is included separately in the estimates required in the
25 report of the authority under AS 44.88.210(b) and unless the legisla-
26 ture, by law, approves the issuance.

27 (c) Before entering into a lease or other agreement as provided
28 in AS 44.88.090(e) regarding a project for which the authority agrees
29 to issue bonds in an amount in excess of \$6,000,000, there must be

1 filed with the authority a certified copy of a resolution of the
2 governing body of the political subdivision of the state, if any, in
3 which the project is to be located, consenting to the location of the
4 project. The consent need only refer to the general nature of the
5 project ultimately to be acquired, as set out in a request of the pro-
6 posed project applicant. Before entering into a project, the author-
7 ity must find, on the basis of all information reasonably available to
8 it, that

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

12 (2) the project applicant is financially responsible;

13 (3) provision to meet increased demand upon public facili-
14 ties, which might result from the project, is reasonably assured; and

15 (4) the project will provide, or retain, employment reason-
16 ably related to the amount of the financing by the authority, con-
17 sidering the amount of investment per employee for comparable facil-
18 ities and other relevant factors.

19 (d) Before entering into an agreement to finance or to develop a
20 proposed project with a cost in excess of \$10,000,000 financed under
21 AS 44.88.172 for which bonds must be issued, the authority shall
22 obtain the approval of each Regional Resource Advisory Council
23 (AS 44.88.174) or municipality in the area in which the proposed
24 project is to be located. Approval under this subsection must be
25 evidenced by a certified copy of a resolution of the council or of the
26 governing body of the municipality. Before considering a resolution
27 regarding the approval or rejection of the development or financing of
28 a proposed project as required by this subsection a Regional Resource
29 Advisory Council shall conduct a public hearing in the region. If a

1 proposed project is located in a municipality, the governing body of
2 the municipality shall conduct a hearing on the proposed project.

3 (e) Before adopting a resolution approving a project to be
4 financed under AS 44.88.172 for which bonds must be issued, the au-
5 thority shall, on the basis of all information reasonably available to
6 it, make findings, with respect to the project, as described in
7 (c)(1), (2), (3), and (4) of this section, and also find that

8 (1) the project is economically and financially feasible
9 and able to produce revenue adequate to repay the bonds or loans with
10 which it is financed;

11 (2) the project is in compliance with applicable law; and

12 (3) issuance of the bonds is not expected to adversely
13 affect the ability of the state or any political subdivision of the
14 state to market other bonds.

15 (f) The authority may not issue bonds in an amount greater than
16 \$25,000,000 to assist in the acquisition of a development project
17 under AS 44.88.172 -- 44.88.177 without prior legislative approval.

18 * Sec. 7. AS 44.88.105(a) is amended to read:

19 (a) For the purpose of securing one or more issues of its bonds,
20 the authority may establish one or more special funds, called "capital
21 reserve funds", and shall pay into those capital reserve funds the
22 proceeds of the sale of its bonds and other money which may be made
23 available to the authority from other sources for the purposes of the
24 capital reserve funds. A capital reserve fund may be established only
25 if the authority determines that the establishment of the fund would
26 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A
27 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE
28 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital
29 reserve fund, except as provided in this section, may be used as

1 required only for (1) the payment of the principal of, and interest
2 on, bonds or of the sinking fund payments with respect to those bonds;
3 (2) the purchase or redemption of the bonds; or (3) the payment of a
4 redemption premium required to be paid when the bonds are redeemed
5 before maturity. However, money in a capital reserve fund may not be
6 withdrawn if the withdrawal would reduce the amount in the capital
7 reserve fund to less than the capital reserve fund requirement, except
8 for the purpose of making payment, when due, of principal, interest,
9 redemption premiums on the bonds, and sinking fund payments when other
10 money of the authority is not available for the payments. Income or
11 interest earned by, or increment to, a capital reserve fund, from the
12 investment of all or part of the fund, may be transferred by the
13 authority to other funds or accounts of the authority if the transfer
14 does not reduce the amount of the capital reserve fund below the
15 capital reserve fund requirement.

16 * Sec. 8. AS 44.88.105(d) is amended to read:

17 (d) With respect to a capital reserve fund created under this
18 section no later than January 1, 1989, the [THE] chairman of the au-
19 thority shall annually, no later than January 2, certify in writing to
20 the governor and the legislature the amount, if any, required to re-
21 store the [A] capital reserve fund to the capital reserve fund re-
22 quirement. The legislature may appropriate to the authority the
23 amount certified by the chairman of the authority. The authority
24 shall deposit the amounts appropriated under this subsection during a
25 fiscal year in the proper capital reserve fund. Nothing in this
26 section creates a debt or liability of the state.

27 * Sec. 9. AS 44.88.155(c) is amended to read:

28 (c) Money and other assets of the enterprise development account
29 may be used to secure bonds of the authority issued to finance the

1 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE
2 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-
3 chase loans for projects.

4 * Sec. 10. AS 44.88.155(d) is amended to read:

5 (d) A loan purchased in whole or in part by the authority with
6 assets of the enterprise development account or with proceeds of bonds
7 secured by assets of the enterprise development account, other than a
8 loan which is financed with the proceeds of bonds of the authority and
9 secured only by a project applicant or a project,

10 (1) may not exceed \$25,000,000

11 [(A) \$10,000,000; OR

12 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-
13 158];

14 (2) may not exceed the cost of the project or 75 percent of
15 the appraised value of the project, whichever is less, unless the
16 amount of the loan in excess of this limit is federally insured or
17 guaranteed or is insured by a qualified mortgage insurance company;

18 (3) may not be for a term longer than three-quarters of the
19 authority's estimate of the life of the project or 25 years from the
20 date the loan is made, whichever is earlier;

21 (4) shall contain complete amortization provisions satis-
22 factory to the authority requiring periodic payments by the borrower;

23 (5) shall be in the form and contain the terms and provi-
24 sions with respect to insurance, repairs, alterations, payment of
25 taxes and assessments, default reserves, delinquency charges, default
26 remedies, acceleration of maturity, secondary liens, and other matters
27 the authority prescribes;

28 (6) shall be secured as to repayment by a mortgage or other
29 security instrument in the manner the authority determines is feasible

1 to assure timely repayment under a loan agreement entered into with
2 the borrower;

3 (7) may not be made unless

4 (A) at least 20 [10] percent of the principal amount
5 of the loan is retained by the originator of the loan; or

6 (B) 100 percent of the principal amount of the loan is
7 guaranteed by the United States or an agency or instrumentality
8 of the United States;

9 (8) must be

10 [(A) AT LEAST PARTIALLY GUARANTEED BY THE UNITED STATES
11 OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES, SUBJECT TO
12 THE PROVISIONS OF AS 44.88.158;]

13 (B) financed from the proceeds of bonds; or

14 (C) expected by the authority to be financed from the
15 proceeds of bonds.

16 * Sec. 11. AS 44.88.165 is repealed and reenacted to read:

17 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt
18 regulations to describe the circumstances under which it will discon-
19 tinue purchasing loans from a financial institution because of exces-
20 sive delinquencies among the loans previously purchased by the author-
21 ity from the financial institution. In adopting the regulations, the
22 authority must consider the delinquency experience with loans it pur-
23 chased from all financial institutions. The authority may include in
24 the regulations other remedies it considers appropriate as alterna-
25 tives to the discontinuance of purchasing loans from the financial
26 institution.

27 * Sec. 12. AS 44.88.172(a) is amended to read:

28 (a) The economic development account is established in the re-
29 volving fund. The economic development account consists of money or

1 assets appropriated, loaned, or transferred to the authority for
2 deposit in the account [,] and other money or assets deposited in the
3 account by the authority. While money is on deposit in the economic
4 development account, it [THE ACCOUNT] may be used only to finance,
5 acquire, manage, and operate development projects that the authority
6 intends to own and operate either solely or by partnership, joint
7 venture, or other agreement with another person. The term "operate"
8 includes operation directly by the authority[,], or by an agent of the
9 authority.

10 * Sec. 13. AS 44.88.900(4) is repealed and reenacted to read:

11 (4) "development project" means the same as "project," as
12 defined in this section;

13 * Sec. 14. AS 44.88.900(9) is amended to read:

14 (9) "project" means

15 (A) a plant or facility used or intended for use

16 [(i)] in connection with making, processing, pre-
17 paring, transporting, or producing in any manner, goods,
18 products, or substances of any kind or nature or in connec-
19 tion with developing or utilizing a natural resource, or
20 extracting, smelting, transporting, converting, assembling,
21 or producing in any manner, minerals, raw materials, chemi-
22 cals, compounds, alloys, fibers, commodities and materials,
23 products, or substances of any kind or nature;

24 [(ii)] AS AN INDUSTRIAL PARK; IN CONNECTION WITH
25 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF
26 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR
27 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS
28 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL
29 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A

CORRECTION

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