



LAWS OF ALASKA

1975

Source

SCS CSHB 26

Chapter No.

142

AN ACT

Authorizing the creation of regional electrical authorities; and providing for an effective date.

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

* Section 1. AS 18 is amended by adding a new chapter to read:

CHAPTER 57. REGIONAL ELECTRICAL AUTHORITIES.

Sec. 18.57.010. FINDING AND PURPOSE. The legislature finds that an acute shortage of adequate, safe, reliable electrical facilities exists in the rural areas of the state and that adequate electrical systems cannot be provided by the private sector due to inadequate projected system revenues and economic depression in certain areas. The legislature further finds that adequate housing, public facilities and economic development are heavily dependent upon adequate, safe and reliable electrical facilities. These conditions are inimical to the safety, health, welfare and prosperity of the residents of the state and to the sound growth of rural communities. The legislature further finds that a reasonable means of accomplishing the purpose of providing adequate, safe and reliable systems is the creation of regional electrical authorities. It is the purpose and intent of the legislature to provide a means whereby public corporations to serve as regional electrical authorities may be formed.

Sec. 18.57.020. CREATION OF AUTHORITIES. (a) An association authorized by AS 18.55.996(a) to form a regional housing authority is given the authority to form a regional electrical authority. There is created with respect to each of the associations named in AS 18.55.996(a) a public body corporate and politic as a political subdivision of the state to function in the operating areas of the individual

associations. Each authority may exercise all powers conferred by this chapter.

(b) A regional electrical authority may not transact business or exercise powers granted to it until the governing body of the association has, by resolution, declared there is a need for the authority to function, given it the authority to function and appointed persons to serve as the board of commissioners of the authority. The number of members of the board of commissioners, their terms of office and the filling of vacancies in office shall be determined by resolution of the governing body of the association.

(c) The regional electrical authority has jurisdiction to operate in all or part of the operating area of the individual association as determined by resolution of the governing body of the association. The governing body may, by resolution, add to or subtract from the area served. The authority may operate within the service area of a certificated rural electrical cooperative or within the corporate limits of a municipality only with consent, by resolution, of the governing body of the municipality or cooperative; however, if an authority is operating within an area which becomes part of a municipality or has a certificate of convenience and necessity from the Alaska Public Utility Commission to operate in an area which becomes part of a municipality, no consent is necessary.

(d) A municipality, electrical cooperative or other provider of electrical service may transfer all or part of its electrical system including, without limitation, lands and rights in land, equipment and certificates or franchises, to a regional electrical authority by resolution of the governing board upon terms agreed upon with the authority; however, approval by resolution, of the board of commissioners of the authority shall be obtained. Unless otherwise provided by law no other approvals to transfers are required.

Sec. 18.57.030. TAX EXEMPTION. (a) A regional electrical authority is exempt from payment of taxes or assessments on property owned by the authority which is used for generation and transportation of electricity for a period of 20 years from the effective date of this Act.

(b) All obligations issued under this chapter are issued by a body corporate and public which is a political subdivision of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income and other money pledged or available to pay or secure the payment of the obligations or interest are exempt from taxation for a period of 20 years from the effective date of this Act, except for transfer, inheritance and estate taxes.

(c) All obligations or liabilities of a regional electrical authority remain its own and are not obligations or liabilities of the state.

Sec. 18.57.040. POWERS OF THE AUTHORITY. A regional electrical authority has the general power to

- (1) adopt, alter and use a corporate seal;
- (2) prescribe, adopt, amend and repeal bylaws;
- (3) sue and be sued in its own name;
- (4) appoint officers, agents and employees and vest them with powers and duties and to fix, change and pay compensation for their services as the authority may determine;
- (5) borrow money, make and issue bonds, notes and other evidences of indebtedness of the authority for any of its corporate purposes and to secure payment of its bonds and of other obligations by pledge of or lien on all or any of its assets, contracts, revenue and income;
- (6) make and issue bonds for the purpose of funding, refunding, purchasing, paying or discharging any of the outstanding bonds or obligations issued or assumed by it or bonds or obligations the principal or interest of which is payable in whole or in part from its revenue;
- (7) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of its powers and functions, including contracts with any person, firm, corporation, government agency or other entity;
- (8) receive, administer and comply with the conditions and requirements of an appropriation, gift, grant or donation of property or money;
- (9) invest or reinvest money or funds held by the authority in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposits or time deposits;
- (10) acquire, hold, use, lease, sell or otherwise dispose of property of any kind, real, personal or mixed or any interest in it;
- (11) acquire, produce, develop, manufacture, use, transmit, distribute, supply, exchange, sell or otherwise dispose of electric energy and other supplies and services as the authority determines necessary, proper, incidental or convenient in connection with its activities;
- (12) determine, fix, alter, charge and collect rates, fees, rentals and other charges for the use of the facilities of the authority or for the service, electric energy or other commodities sold, rendered, or furnished by it;
- (13) plan, design, construct, reconstruct, extend or improve any facility necessary or convenient in connection with its activities;
- (14) enter on any land, water or premises for the purpose of making surveys, soundings or examinations;

(15) exercise the powers of eminent domain in accordance with AS 09.55.250 - 09.55.460;

(16) do all acts and things necessary, convenient or desirable to carry out the powers granted or implied in this chapter;

(17) adopt, amend and repeal regulations necessary for the exercise and performance of its powers and duties or to govern the rendering of service, sale or exchange of electrical energy.

Sec. 18.57.050. BONDS AND NOTES. (a) The authority, by board resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes.

(b) The principal and interest on these bonds or notes is payable from authority funds. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, if bond or bond anticipation note proceeds are not available, such notes may be paid from other funds or assets of the authority. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal or state government, a corporation, association, institution or person, or a pledge of money, income, or revenues of the authority from any source.

(c) Bonds or bond anticipation notes may be issued as provided by board resolution, in one or more series and shall (1) be dated; (2) bear interest at the prescribed rate per year or within the maximum rate; (3) be in a certain denomination or form, either coupon or registered; (4) carry the conversion or registration provisions; (5) have rank or priority; (6) be executed in a certain manner and form; (7) be payable from the sources in the medium of payment and place or places inside or outside the state; (8) be subject to authentication by a trustee or fiscal agent; and (9) be subject to terms of redemption, with or without premium. Bond anticipation notes mature at a time determined by the authority. Bonds mature at a time, not exceeding 50 years from the date of their issuance, as determined by the authority. Before the preparation of definitive bonds or bond anticipation notes, the authority may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when the definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bond or bond anticipation notes may be sold in the manner, on the terms, and at the price the authority determines.

(e) If an officer whose actual or facsimile signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, his signature is valid as if he had remained in office until delivery.

(f) In a resolution of the authority authorizing or relating to the issuance of bonds or bond anticipation

notes, the authority may, with the holders of the bonds or bond anticipation notes,

(1) pledge to any payment or purpose all or any part of revenues to which it is or will be entitled to and similarly pledge the money derived from the revenues, and the proceeds of any bonds or notes;

(2) covenant against pledging all or any part of its revenues, or against permitting or suffering a lien on the revenues or its property;

(3) covenant as to the use and disposition of any and all payments of principal or interest received by the authority on mortgage loans, construction loans or other investments held by the authority;

(4) covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;

(5) covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(6) covenant as to bonds and notes to be issued, and their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;

(7) covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds or notes and the incurring of the other debts;

(8) covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(9) provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(10) covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;

(11) covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the authority;

(12) covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operation expenses, payment or redemption of bonds or notes, reserves or other purposes; and as to use and disposition of the money held in the funds;

(13) establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which

the consent may be given;

(14) covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(15) covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect to non-payment of principal or interest of any mortgage loans or construction loans;

(16) provide for the rights and liabilities, powers and duties arising upon the breach of a covenant, condition or obligation, and to prescribe the events of default and the terms and conditions upon which any or all of the bonds, notes or other obligations of the authority become or may be declared due and payable before maturity and the terms and conditions upon which such a declaration and its consequences may be waived;

(17) vest in a trustee or trustees inside or outside the state property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of a trustee appointed by the holders of bonds or notes, and to limit or abrogate the right of the holders of bonds or notes of the authority to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(18) pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of a covenant or agreement of the authority with the holders of its bonds or notes;

(19) agree with a corporate trustee which may be a trust company or bank having the powers of a trust company inside or outside the state as to the pledging or assigning of revenues or funds to which or in which the authority has any rights or interest; and further provide for other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes of the authority and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the authority;

(20) appoint and provide for the duties and obligations of a paying agent or other fiduciary, by resolution, inside or outside the state;

(21) limit the rights of the holders of bonds or notes to enforce a pledge or covenant securing bonds or notes;

(22) make covenants other than expressly authorized in this section, of like or different character, and to make covenants as may be necessary or desirable, to better secure bonds or notes or which, in the discretion of the authority, will tend to make bonds or notes more marketable, notwithstanding the fact that the covenants are not enumerated in this section.

Sec. 18.57.060. VALIDITY OF PLEDGE. The pledge of

assets or revenues of the authority to the payment of the principal or interest of obligations of the authority is valid and binding from the time the pledge is made and assets or revenues pledged are immediately subject to the lien of the pledge without physical delivery or further action. The lien of a pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether those parties have notice of the lien of the pledge. Nothing prohibits the authority from selling assets subject to a pledge, except that a sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations.

Sec. 18.57.070. REMEDIES. A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a trustee under a trust agreement or resolution authorizing the issuance of the obligations, if not restricted by the trust agreement or resolution, either at law or in equity, may enforce all rights granted under the coupons or under the trust agreement or resolution, or under any other contract executed by the authority under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the authority or by an officer of it.

Sec. 18.57.080. NEGOTIABLE INSTRUMENTS. All obligations and interest coupons attached to the obligations are negotiable instruments under the laws of this state, subject only to applicable registration provisions.

Sec. 18.57.090. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with the state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

Sec. 18.57.100. REFUNDING OBLIGATIONS. (a) The authority may provide for the issuance of refunding obligations for the purpose of refunding obligations then outstanding which have been issued under the provisions of this chapter, including the payment of redemption premium on them and interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the authority in respect of them are governed by the provisions of this chapter which relate to the issuance of appropriate obligations.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter. If sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption or payment of the

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outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal (accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 18.57.110. CREDIT OF STATE NOT PLEDGED. Obligations issued under the provisions of this chapter do not constitute a debt, liability or obligation of the state or of any other political subdivision of the state or a pledge of the faith and credit of the state or a political subdivision of the state but are payable solely from the revenues or assets of the authority. Each obligation issued under this chapter shall contain on its face a statement that the authority is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).