

CS FOR HOUSE BILL NO. 170(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/4/21

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to exempt employees; relating to the powers of the Alaska Energy**
2 **Authority; relating to the membership of the Alaska Industrial Development and Export**
3 **Authority; relating to the duties of the Alaska Industrial Development and Export**
4 **Authority; establishing the Alaska clean energy program and the Alaska clean energy**
5 **fund in the Alaska Industrial Development and Export Authority; and providing for an**
6 **effective date."**

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

8 * **Section 1.** AS 39.25.110 is amended by adding a new paragraph to read:

9 (46) an analyst employed in a professional capacity by the Alaska
10 Energy Authority under AS 44.83.055.

11 * **Sec. 2.** AS 44.83 is amended by adding a new section to article 1 to read:

12 **Sec. 44.83.055. Analyst position.** The authority may hire one analyst to assist
13 underserved communities with the technical development of projects and applications

1 for funding from the Alaska clean energy fund and program under AS 44.88.450 -
2 44.88.456.

3 * **Sec. 3.** AS 44.88.030(a) is amended to read:

4 (a) The membership of the authority consists of

5 (1) the commissioner of revenue and the commissioner of commerce,
6 community, and economic development; and

7 (2) five public members [APPOINTED BY THE GOVERNOR], each
8 of whom has expertise in private sector business or industry, or both, and possesses
9 demonstrated leadership skills, **appointed by the governor, subject to confirmation**
10 **by a majority of the members of the legislature in joint session.**

11 * **Sec. 4.** AS 44.88.030(c) is amended to read:

12 (c) Public members of the authority described in (a)(2) of this section serve
13 **staggered five-year** [AT THE PLEASURE OF THE GOVERNOR FOR TWO-
14 YEAR] terms. **A member appointed under (a)(2) of this section may only be**
15 **removed for cause.**

16 * **Sec. 5.** AS 44.88.070 is amended to read:

17 **Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to
18 promote, develop, and advance the general prosperity and economic welfare of the
19 people of the state, to relieve problems of unemployment, and to create additional
20 employment by

21 (1) providing various means of financing and means of facilitating the
22 financing, in cooperation with federal, state, and private institutions, of industrial,
23 manufacturing, energy, **sustainable energy development**, export, small business, and
24 business enterprises and the other facilities referred to in AS 44.88.010(a) in the state;

25 (2) owning and operating or providing development project financing
26 for the enterprises and other facilities described in AS 44.88.172;

27 (3) fostering the expansion of exports of goods, services, and raw
28 materials of the state;

29 (4) cooperating and acting in conjunction with other organizations,
30 public and private, the objects of which are the promotion and advancement of export
31 trade activities in the state;

1 (5) establishing a source of funding credit guarantees and insurance,
2 not otherwise available, to support export development;

3 (6) providing and cooperating or participating with federal, state, and
4 private institutions to provide actual and potential state exporters, particularly small-
5 and medium-sized exporters, with financial assistance in support of export
6 transactions.

7 * **Sec. 6.** AS 44.88.159(a) is amended to read:

8 (a) The interest rate on a loan purchased from the proceeds of tax-exempt
9 bonds secured by the Alaska Industrial Development and Export Authority sustainable
10 energy transmission and supply development fund (AS 44.88.660) under
11 AS 44.88.650 - 44.88.690, [OR] by the Arctic infrastructure development fund
12 (AS 44.88.810) under AS 44.88.800 - 44.88.840, **or by the Alaska clean energy fund**
13 **(AS 44.88.452) under AS 44.88.450 - 44.88.456,** or a loan participation purchased
14 from the proceeds of tax-exempt bonds or expected by the authority to be purchased
15 from the proceeds of tax-exempt bonds under AS 44.88.155 shall be determined under
16 the regulations adopted by the authority under AS 44.88.085(g)(2)(C) and shall be not
17 less than the cost of funds to the authority. In this subsection, "cost of funds" means
18 the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an
19 additional percentage as determined by the authority to represent the allocable
20 expenses of operation, costs of issuance, and loan servicing costs.

21 * **Sec. 7.** AS 44.88.159(b) is amended to read:

22 (b) The interest rate on a loan purchased from the proceeds of taxable bonds
23 secured by the Alaska Industrial Development and Export Authority sustainable
24 energy transmission and supply development fund (AS 44.88.660) under
25 AS 44.88.650 - 44.88.690, [OR] by the Arctic infrastructure development fund
26 (AS 44.88.810) under AS 44.88.800 - 44.88.840, **or by the Alaska clean energy fund**
27 **(AS 44.88.452) under AS 44.88.450 - 44.88.456,** or a loan participation purchased
28 from the proceeds of taxable bonds under AS 44.88.155 or expected by the authority
29 to be purchased from the proceeds of taxable bonds under AS 44.88.155 shall be
30 determined under the regulations adopted by the authority under
31 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In

1 this subsection, "cost of funds" means the true interest cost expressed as a rate on
 2 taxable bonds, plus an additional percentage as determined by the authority to
 3 represent the allocable expenses of operation, costs of issuance, and loan servicing
 4 costs.

5 * **Sec. 8.** AS 44.88.159(g) is amended to read:

6 (g) The authority may, in the regulations adopted by the authority under
 7 AS 44.88.085(g)(2)(C), establish a program to pay to borrowers of loan participations
 8 determined by the authority to meet sufficient job creation, rural development, Arctic
 9 infrastructure development, renewable energy development, **sustainable energy**
 10 **development**, or other economic development criteria incentive rate rebates of not
 11 more than one percent of the interest rate charged on the authority's portion of a loan
 12 participation. The following standards apply to the program:

13 (1) the payment of an incentive rate rebate may reduce the interest rate
 14 to a rate that is less than the minimum interest rate required under (a), (b), or (e) of this
 15 section;

16 (2) the authority may not commit to pay an incentive rate rebate for a
 17 proposed loan participation if the total of the amount of the proposed loan
 18 participation plus the combined outstanding balance of all loan participations for
 19 which the authority has committed to pay incentive rate rebates would exceed five
 20 percent of the total of the amount of the proposed loan participation plus the combined
 21 outstanding balance of all loan participations of the authority;

22 (3) an incentive rate rebate may not accrue for more than five years
 23 after the date the loan participation is purchased;

24 (4) the authority may establish a separate account for the incentive rate
 25 rebate program.

26 * **Sec. 9.** AS 44.88.178 is amended to read:

27 **Sec. 44.88.178. Creation of subsidiaries.** The authority may create one or
 28 more subsidiary corporations for the purpose of acquiring, constructing, owning,
 29 operating, or financing a project financed under AS 44.88.172 **or one or more**
 30 **subsidiary corporations, limited liability companies, or limited partnerships for**
 31 **the purpose of administering, operating, or expanding the Alaska clean energy**

1 **program**. A subsidiary corporation created under this section may be incorporated
 2 under AS 10.20.146 - 10.20.166. **Subject to limitations for the use of the economic**
 3 **development account under AS 44.88.172 and the Alaska clean energy fund**
 4 **under AS 44.88.450 - 44.88.456, the** [THE] authority may transfer assets of the
 5 authority to a subsidiary created under this section. A subsidiary created under this
 6 section may borrow money and issue bonds as evidence of that borrowing, and has all
 7 the powers of the authority that the authority grants to it. Unless otherwise provided by
 8 the authority, the debts, liabilities, and obligations of a subsidiary corporation, **limited**
 9 **liability company, or limited partnership** created under this section are not the
 10 debts, liabilities, or obligations of the authority.

11 * **Sec. 10.** AS 44.88 is amended by adding new sections to read:

12 **Sec. 44.88.450. Alaska clean energy program.** (a) The Alaska clean energy
 13 program is created in the authority to make loans and provide other forms of financing
 14 for sustainable energy development in the state.

15 (b) The Alaska clean energy program advisory board is established and
 16 consists of

17 (1) the governor or the governor's designee; and

18 (2) eight members appointed by the governor as follows:

19 (A) one member who represents a

20 (i) tribe;

21 (ii) tribal nonprofit organization or consortium; or

22 (iii) regional housing authority;

23 (B) one member who represents an Alaska Native corporation;

24 (C) one member who represents an Alaska nonprofit
 25 corporation specializing in cold climate housing research;

26 (D) one member who has experience in

27 (i) renewable energy;

28 (ii) electric transportation; or

29 (iii) similar sustainable energy development;

30 (E) four members who have experience in

31 (i) finance;

- (ii) marketing of financial products;
- (iii) construction science and efficiencies;
- (iv) renewable energy;
- (v) electric transportation; or
- (vi) other sustainable energy development.

(c) The advisory board established under (b) of this section shall make recommendations to the authority regarding

- (1) the design of the Alaska clean energy program;
- (2) a public education program for the Alaska clean energy program;
- (3) best practices of funds designed to address sustainable energy development; and
- (4) other matters intended to increase the use and viability of the Alaska clean energy fund.

(d) A member of the advisory board appointed under (b) of this section serves without compensation but is entitled to travel and per diem expenses as provided in AS 39.20.180.

Sec. 44.88.452. Alaska clean energy fund. (a) The Alaska clean energy fund is established in the authority. The Alaska clean energy fund is for the uses and purposes of AS 44.88.450 - 44.88.456.

(b) The fund consists of appropriations made by the legislature, loans or other assets transferred to the fund by the authority, unrestricted loan repayments, interest, or other income earned on loans, investments, or assets of the fund, and available federal funding.

(c) The fund is not an account in the revolving loan fund established in AS 44.88.060. The authority shall account for the fund separately from the revolving fund. The authority may create additional accounts in the Alaska clean energy fund. Subject to agreements made with the holders of the authority's bonds or with other persons, the authority may transfer amounts in an account in the fund to another account in the fund.

(d) The authority has custody of the fund and shall be responsible for its management. The authority is the fiduciary of the fund under AS 37.10.071 and may

1 invest amounts in the fund in accordance with an investment policy adopted by the
 2 authority. To promote sustainable energy development in the state, the investment
 3 policy adopted by the authority may deviate from the prudent investor rule and
 4 traditional institutional financing criteria. Notwithstanding AS 37.10.010 - 37.10.050,
 5 the authority may make disbursements from the fund in accordance with
 6 AS 37.25.050. Notwithstanding AS 37.05.130 and 37.05.140, the authority shall report
 7 disbursements from the fund annually in accordance with AS 44.88.205(b)(2). An
 8 appropriation made to the fund by the legislature shall be transferred to the authority
 9 for deposit in the fund.

10 (e) Nothing in this section creates a dedicated fund.

11 **Sec. 44.88.454. Sustainable energy development; powers and duties of the**
 12 **authority.** (a) The authority shall

13 (1) consider the energy policies of the state described in AS 44.99.115
 14 in managing the operations of the Alaska clean energy program and fund under
 15 AS 44.88.450 - 44.88.456;

16 (2) annually prepare a report containing information regarding the
 17 implementation and operation of the Alaska clean energy program and fund under
 18 AS 44.88.450 - 44.88.456, including the amount of loans made, the amount available
 19 to be loaned, the scope of projects financed, and actions taken by the authority in
 20 response to recommendations from the advisory board established under
 21 AS 44.88.450(b), and deliver the report to the senate secretary and the chief clerk of
 22 the house of representatives and notify the legislature that the report is available.

23 (b) Subject to the requirements of AS 44.88.450 - 44.88.456, the authority
 24 may

25 (1) establish a subsidiary entity subject to the requirements of
 26 AS 44.88.178;

27 (2) in consultation with the advisory board established in
 28 AS 44.88.450, establish financing programs and products the authority determines
 29 necessary to encourage and promote sustainable energy development in the state;

30 (3) invest in eligible sustainable energy development independently or
 31 with other investors, including private capital providers;

1 (4) provide capital and fund management to eligible sustainable energy
2 development in the form of

3 (A) senior, mezzanine, and subordinated debt;

4 (B) loan guarantees on third-party financing;

5 (C) credit enhancements, including loan loss reserves and
6 interest rate buy-downs;

7 (D) aggregation and warehousing;

8 (E) equity capital;

9 (F) securitization of financings;

10 (G) financing techniques that make use of loan liquidity; and

11 (H) other financial products or services approved by the
12 authority;

13 (5) make and execute contracts and other instruments to implement
14 AS 44.88.450 - 44.88.456;

15 (6) charge reasonable fees established by the authority in regulation for
16 the products and services the authority provides under AS 44.88.450 - 44.88.456;

17 (7) acquire real or personal property by purchase, transfer, or
18 foreclosure when the acquisition is necessary to protect the authority's interest in a
19 loan or other financial product;

20 (8) subject to AS 36.30.085, enter into lease-purchase agreements;

21 (9) defer principal payments or capitalize interest on loans;

22 (10) provide financing and services to municipal energy improvement
23 assessment programs established in accordance with AS 29.55.100; and

24 (11) exercise other powers necessary to implement AS 44.88.450 -
25 44.88.456.

26 (c) The authority shall adopt regulations to implement AS 44.88.450 -
27 44.88.456, including

28 (1) an application process for acquiring financing under the Alaska
29 clean energy program;

30 (2) qualifications for applicants applying for financing under the
31 Alaska clean energy program;

1 (3) record-keeping requirements for the authority to accumulate and
2 track measurable data related to the Alaska clean energy fund (AS 44.88.452); and

3 (4) fiscal controls for the Alaska clean energy fund (AS 44.88.452).

4 **Sec. 44.88.456. Limitations on financing; use as security.** (a) Unless the
5 authority has obtained legislative approval, the authority may not use the Alaska clean
6 energy fund established in AS 44.88.452 to make a loan guarantee if the amount of the
7 guarantee exceeds \$20,000,000.

8 (b) Financing under AS 44.88.454 is limited to the life of eligible sustainable
9 energy development, and, financing is limited by the estimated useful life of the
10 project.

11 (c) Notwithstanding (a) of this section, the authority may use the Alaska clean
12 energy fund established in AS 44.88.452 as security for a bond guarantee.

13 (d) A guarantee or other security provided by the authority under
14 AS 44.88.450 - 44.88.456 does not constitute a debt, liability, or obligation of the state
15 or a political subdivision of the state.

16 (e) At least 35 percent of the funds used for loans and other forms of financing
17 for sustainable energy development made over a three-year period under AS 44.88.450
18 - 44.88.456 must be made in communities that receive, or that have residents who
19 receive, power cost equalization under AS 42.45.100 - 42.45.150.

20 * **Sec. 11.** AS 44.88.900 is amended by adding new paragraphs to read:

21 (20) "eligible sustainable energy development" means activity
22 approved by the authority to be consistent with the Alaska clean energy program and
23 for which the authority will issue a loan or other financial product;

24 (21) "sustainable energy development" means

25 (A) renewable energy generation from sources that are
26 continually replenished by nature, including the sun, wind, water, and
27 biological processes;

28 (B) building energy efficiency, including switching from fuel
29 to renewable fuels and electrification;

30 (C) industrial decarbonization;

31 (D) electrical infrastructure incorporating

1 (i) energy storage to support clean or more efficient
 2 energy distribution, including remote and non-remote microgrids and
 3 smart-grid applications; and

4 (ii) other sustainable technologies including distributed
 5 generation, advanced battery, and combined heat and power;

6 (E) greenhouse gas emissions reduction through processes that
 7 include regenerative agriculture, reforestation, afforestation, and forestry
 8 management;

9 (F) clean transportation, including battery-operated electric
 10 vehicles, hydrogen vehicles, plug-in hybrid electric vehicles, and other zero-
 11 emissions vehicles for consumers, businesses, government, and public transit;

12 (G) electric vehicle charging and fueling infrastructure for
 13 emissions reductions; and

14 (H) other emissions reductions or energy-efficient technologies
 15 the authority determines to be consistent with the Alaska clean energy program
 16 established under AS 44.88.450.

17 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AND
 20 ALASKA ENERGY AUTHORITY; TRANSITION. (a) The terms of members of the Alaska
 21 Industrial Development and Export Authority under AS 44.88.030(a)(2), as that statute read
 22 before the effective date of this Act, and the Alaska Energy Authority under AS 44.83.030
 23 expire on the effective date of this Act.

24 (b) Notwithstanding AS 44.88.030(a), as amended by sec. 3 of this Act, and
 25 AS 39.05.055, members of the Alaska Industrial Development and Export Authority under
 26 AS 44.88.030(a), as amended by sec. 3 of this Act, and the Alaska Energy Authority under
 27 AS 44.83.030, are appointed to initial terms as follows:

- 28 (1) one member shall serve a one-year term;
 29 (2) one member shall serve a two-year term;
 30 (3) one member shall serve a three-year term;
 31 (4) one member shall serve a four-year term;

1 (5) one member shall serve a five-year term.

2 (c) Nothing in this section prevents the appointment of a person whose term expires
3 under (a) of this section to the Alaska Industrial Development and Export Authority if the
4 person meets the qualifications in AS 44.88.030(a), as amended by sec. 3 of this Act.

5 * **Sec. 13.** This Act takes effect January 1, 2022.