

CS FOR HOUSE BILL NO. 357(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered: 4/4/12

Referred: Finance

Sponsor(s): REPRESENTATIVES PRUITT, Foster, Costello, Olson, Thompson, Petersen, Peggy Wilson,
Tammie Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the sustainable energy transmission and supply development**
2 **program in the Alaska Industrial Development and Export Authority; and relating to**
3 **the interest rates of the Alaska Industrial Development and Export Authority."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 SHORT TITLE. This Act may be known as the Alaska Sustainable Strategy for
8 Energy Transmission and Supply (ASSETS) Act.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 LEGISLATIVE INTENT. The legislature intends to appropriate, during fiscal years
12 2013 and 2014, amounts that total \$250,000,000 to carry out the purposes of this Act.

13 * **Sec. 3.** AS 44.88.010(a) is amended to read:

14 (a) The legislature finds, determines, and declares that

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

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

6 (3) the state lacks the basic manufacturing, industrial, **energy**, export,
7 small business, and business enterprises and the other facilities referred to in this
8 subsection necessary to permit adequate development of its natural resources and the
9 balanced growth of its economy;

10 (4) the establishment and expansion of industrial, manufacturing,
11 **energy**, export, small business, and business enterprises in **the state** [ALASKA] and
12 the other facilities referred to in this subsection are essential to the development of the
13 natural resources and the long-term economic growth of the state, and will directly and
14 indirectly alleviate unemployment in the state;

15 (5) the expansion of export trade is vital to the health and growth of the
16 state's economy;

17 (6) many **state** [ALASKA] businesses could benefit from additional
18 financial and technical assistance with respect to the exportation of their products and
19 services;

20 (7) the [UNITED STATES] Export-Import Bank **of the United States**
21 has been mandated by the Export-Import Bank Act Amendments of 1983 to provide
22 technical assistance and export financing support to small businesses in cooperation
23 with state export finance agencies;

24 (8) Alaska-based exporters can be effectively assisted through the
25 establishment, as part of the Alaska Industrial Development and Export Authority, of
26 an export financing program designed to work with the [U.S.] Export-Import Bank **of**
27 **the United States** and other federal, state, and private institutions;

28 (9) the achievement of the goal of full employment, and of
29 establishment and continuing operation and development of industrial, manufacturing,
30 **energy**, export, small business, and business enterprises in the state will be accelerated
31 and facilitated by the creation of an instrumentality of the state with powers to incur

1 debt, to own and operate facilities, to make and insure loans to finance and to assist
 2 private lenders to make loans to finance the establishment, operation, and development
 3 of industrial, manufacturing, energy, export, small business, and business enterprises;

4 (10) it is in the public interest to promote the prosperity and general
 5 welfare of all citizens of the state by

6 (A) stimulating commercial and industrial growth and
 7 expansion by encouraging an increase of private investment by banks,
 8 investment houses, insurance companies, and other financial institutions,
 9 including pension and retirement funds, to help satisfy the need for economic
 10 expansion;

11 (B) encouraging the production of raw materials and goods for
 12 export, the expansion of exports and raw materials and goods, and the
 13 rendering of services abroad by residents of the state through the establishment
 14 of a program that provides financial assistance in cooperation with federal,
 15 state, and private institutions for these purposes in the form provided in this
 16 chapter;

17 (C) creating the Alaska Industrial Development and Export
 18 Authority with the powers necessary to accomplish the objectives stated in this
 19 paragraph, including the power to issue taxable and tax-exempt bonds and to
 20 acquire ownership interests in projects as provided in this chapter;

21 (11) it is in the state's interest to import private capital to create new
 22 economic activity which would not otherwise take place in the state.

23 * **Sec. 4.** AS 44.88.010(b) is amended to read:

24 (b) It is declared to be the policy of the state, in the interests of promoting the
 25 health, security, and general welfare of all the people of the state, and a public
 26 purpose, to increase job opportunities and otherwise to encourage the economic
 27 growth of the state, including the development of its natural resources, through the
 28 establishment and expansion of manufacturing, industrial, energy, export, small
 29 business, and business enterprises and the other facilities referred to in (a) of this
 30 section by creating the Alaska Industrial Development and Export Authority with the
 31 powers, duties, and functions as provided in this chapter.

1 * **Sec. 5.** AS 44.88.155(d) is amended to read:

2 (d) A loan participation purchased by the authority with assets of the
3 enterprise development account or with proceeds of bonds secured by assets of the
4 enterprise development account

5 (1) may not exceed \$20,000,000; however, in the case of a loan
6 participation for **qualified energy development** [A POWER TRANSMISSION
7 INTERTIE], the loan participation may exceed \$20,000,000 with legislative approval;

8 (2) may not be purchased unless

9 (A) the project applicant is not, or, if the applicant is not a
10 single proprietorship, all members of the business enterprise or enterprises
11 constituting the project applicant are not, in default on another loan made by
12 the state or by a public corporation of the state; and

13 (B) at least 10 percent of the principal amount of the loan is
14 retained by the loan originator, **or the loan is for financing improvements in**
15 **energy efficiency**;

16 (3) may not be purchased if the loan to be purchased exceeds 75
17 percent of the appraised value of the collateral offered as security for the loan unless
18 the amount of the loan in excess of this limit is federally insured or guaranteed or is
19 insured by a qualified mortgage insurance company, except that the loan to be
20 purchased under this paragraph may not exceed the total of loan proceeds used to
21 refinance an existing debt plus the cost of new construction, expansion, or acquisition
22 unless the proceeds from the additional amounts of the loan to be purchased are
23 restricted to uses approved by the authority to finance commercial activity in the state
24 by a business enterprise;

25 (4) may not be purchased if the participation in the loan to be
26 purchased is for a term longer than the following, except that a loan under (A) or (C)
27 of this paragraph may not have a term longer than three-quarters of the authority's
28 estimate of the life of the collateral offered as security for the loan:

29 (A) 40 years from the date the loan is made in the case of a
30 loan participation for a project described in AS 44.88.900(9)(E);

31 (B) 50 years from the date the loan is made in the case of a loan

1 participation for qualified energy development [A POWER
2 TRANSMISSION INTERTIE];

3 (C) 25 years from the date the loan is made in the case of a loan
4 participation for other projects;

5 (5) may be made only if the participation in the loan to be purchased
6 contains amortization provisions; the amortization provisions

7 (A) must be complete and satisfactory to the authority and
8 require periodic payments by the borrower;

9 (B) may allow the loan originator to amortize the portion of the
10 loan retained by the loan originator using a shorter amortization schedule than
11 the amortization schedule for the portion of the loan held by the authority if

12 (i) in the authority's opinion, the project financed can
13 support the increased debt service; and

14 (ii) the accelerated amortization schedule is required to
15 induce the originator to make the loan;

16 (6) may be made only if the participation in the loan to be purchased is
17 in the form and contains the terms and provisions with respect to insurance, repairs,
18 alterations, payment of taxes and assessments, default reserves, delinquency charges,
19 default remedies, acceleration of maturity, secondary liens, and other matters the
20 authority prescribes; and

21 (7) may be made only if the participation in the loan to be purchased is
22 secured as to repayment by a mortgage or other security instrument in the manner the
23 authority determines is feasible to assure timely repayment under the loan documents
24 entered into with the borrower.

25 * **Sec. 6.** AS 44.88.155(g) is amended to read:

26 (g) Notwithstanding any other provision of this section, the authority may
27 waive or modify the requirements of this section as it considers appropriate and
28 prudent in order to finance a project if the authority intends to own the project or in
29 order to finance qualified energy development [A POWER TRANSMISSION
30 INTERTIE PROJECT].

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

1 (a) The interest rate on **a loan purchased from the proceeds of tax-exempt**
 2 **bonds secured by the sustainable energy transmission and supply development**
 3 **fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or** a loan participation
 4 purchased from the proceeds of tax-exempt bonds or expected by the authority to be
 5 purchased from the proceeds of tax-exempt bonds **under AS 44.88.155** shall be
 6 determined under the regulations adopted by the authority under
 7 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In
 8 this subsection, "cost of funds" means the true interest cost expressed as a rate on tax-
 9 exempt bonds of the authority plus an additional percentage as determined by the
 10 authority to represent the allocable expenses of operation, costs of issuance, and loan
 11 servicing costs.

12 * **Sec. 8.** AS 44.88.159(b) is amended to read:

13 (b) The interest rate on **a loan purchased from the proceeds of taxable**
 14 **bonds secured by the sustainable energy transmission and supply development**
 15 **fund (AS 44.88.710) under AS 44.88.700 - 44.88.740 or** a loan participation
 16 purchased from the proceeds of taxable bonds **under AS 44.88.155** or expected by the
 17 authority to be purchased from the proceeds of taxable bonds **under AS 44.88.155**
 18 shall be determined under the regulations adopted by the authority under
 19 AS 44.88.085(g)(2)(C) and shall be not less than the cost of funds to the authority. In
 20 this subsection, "cost of funds" means the true interest cost expressed as a rate on
 21 taxable bonds, plus an additional percentage as determined by the authority to
 22 represent the allocable expenses of operation, costs of issuance, and loan servicing
 23 costs.

24 * **Sec. 9.** AS 44.88.159(d) is amended to read:

25 (d) The provisions of this section apply only to a loan participation purchased
 26 under AS 44.88.155 - 44.88.159 **or to a loan made under AS 44.88.700 - 44.88.740.**

27 * **Sec. 10.** AS 44.88.159(e) is amended to read:

28 (e) The interest rate on **a loan made under AS 44.88.700 - 44.88.740 or** a
 29 loan participation purchased directly from the assets of the authority 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 total of a percentage as

1 determined by the authority to represent the allocable expenses of operation and costs
2 of loan origination and servicing, plus the cost of funds. In this subsection,

3 (1) "comparable financial security" means a type or category of
4 financial security the authority identifies in the regulations adopted by the authority
5 under AS 44.88.085(g)(2)(C) that has a term and financial conditions comparable to
6 the term and financial conditions of a loan participation **or a loan made under**
7 **AS 44.88.700 - 44.88.740** and for which a regularly published, nationally recognized
8 market index is available;

9 (2) "cost of funds" means the earnings, expressed as an annual interest
10 rate, the authority would receive on a comparable financial security, and, for a loan
11 participation **or a loan made under AS 44.88.700 - 44.88.740** with a fixed interest
12 rate, the cost of funds must equal or exceed the minimum interest rate;

13 (3) "minimum interest rate" means the five-year return on investment
14 funds of the authority, expressed as an annual interest rate, achieved by all internal and
15 external investment managers of the authority combined.

16 * **Sec. 11.** AS 44.88.159(f) is amended to read:

17 (f) In determining an interest rate under the regulations adopted by the
18 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the
19 minimum interest rate required under (a), (b), or (e) of this section for a loan
20 participation purchased by the authority **or a loan made under AS 44.88.700 -**
21 **44.88.740** to resolve lending limits or reserve restrictions imposed on the financial
22 institution and may instead determine to retain the interest rate existing at the time the
23 authority **makes the loan or** purchases **the authority's loan participation** [A
24 PORTION OF THE LOAN].

25 * **Sec. 12.** AS 44.88.159(g) is amended to read:

26 (g) The authority may, in the regulations adopted by the authority under
27 AS 44.88.085(g)(2)(C), establish a program to pay to borrowers of loan participations
28 determined by the authority to meet sufficient job creation, rural development,
29 **renewable energy development,** or other economic development criteria incentive
30 rate rebates of not more than one percent of the interest rate charged on the authority's
31 portion of a loan participation. The following standards apply to the program:

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

4 (2) the authority may not commit to pay an incentive rate rebate for a
5 proposed loan participation if the total of the amount of the proposed loan
6 participation plus the combined outstanding balance of all loan participations for
7 which the authority has committed to pay incentive rate rebates would exceed five
8 percent of the total of the amount of the proposed loan participation plus the combined
9 outstanding balance of all loan participations of the authority;

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

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

14 * **Sec. 13.** AS 44.88 is amended by adding new sections to read:

15 **Article 7A. Sustainable Energy Transmission and Supply.**

16 **Sec. 44.88.700. Sustainable energy transmission and supply development**
17 **program.** The sustainable energy transmission and supply development program is
18 created in the authority to promote and provide financing for qualified energy
19 development in the state to alleviate unemployment and contribute to the state's
20 economic welfare, economic diversity, and economic development.

21 **Sec. 44.88.710. Alaska Industrial Development and Export Authority**
22 **sustainable energy transmission and supply development fund.** The Alaska
23 Industrial Development and Export Authority sustainable energy transmission and
24 supply development fund is established in the authority. The development fund
25 consists of appropriations made to the development fund by the legislature, money or
26 other assets transferred to the development fund by the authority, and unrestricted loan
27 repayments, interest, or other income earned on loans, investments, or assets of the
28 development fund. The development fund is not an account in the revolving loan fund
29 established in AS 44.88.060, and the authority shall account for the development fund
30 separately from the revolving fund. The authority may create additional accounts in
31 the development fund. Subject to agreements made with the holders of the authority's

1 bonds or with other persons, the authority may transfer amounts in an account in the
 2 development fund to another account in the development fund. Amounts deposited in
 3 the development fund may be pledged to the payment of bonds of the authority or
 4 expended for the purposes of AS 44.88.700 - 44.88.740. The authority has the powers
 5 and responsibilities established in AS 37.10.071 with respect to the investment of
 6 amounts held in the development fund.

7 **Sec. 44.88.720. Use of fund balance.** Subject to the requirements of
 8 AS 44.88.710 - 44.88.740, the authority may use money in the Alaska Industrial
 9 Development and Export Authority sustainable energy transmission and supply
 10 development fund to assist in the construction, improvement, rehabilitation, and
 11 expansion of qualified energy development.

12 **Sec. 44.88.730. Qualified energy development; powers and duties of the**
 13 **authority.** (a) Subject to the limitations of AS 44.88.740, for qualified energy
 14 development the authority may

15 (1) use the Alaska Industrial Development and Export Authority
 16 sustainable energy transmission and supply development fund to finance qualified
 17 energy development, insure project obligations, guarantee loans or bonds, and
 18 establish reserves;

19 (2) acquire real or personal property by purchase, transfer, or
 20 foreclosure when the acquisition is necessary to protect the authority's interest in
 21 financing;

22 (3) defer principal payments or capitalize interest on qualified energy
 23 development financing;

24 (4) subject to AS 36.30.085(e), enter into lease agreements, sales-
 25 lease-back agreements, build-operate-transfer, and operate-transfer agreements, or any
 26 similar project financing agreement for a qualified energy development;

27 (5) enter into agreements with government entities for the transfer and
 28 control of infrastructure, facilities, rights-of-way, and studies;

29 (6) contract for services with a professional advisor, including an
 30 attorney, bond counsel, engineer, or other technical expert necessary to fulfill the
 31 purposes of the program; and

1 (7) subject to AS 44.88.090, borrow money and issue bonds.

2 (b) The authority shall adopt regulations to implement AS 44.88.700 -
3 44.88.740, including

4 (1) an application process for acquiring financing under this section;

5 (2) qualifications for qualified energy development projects applying
6 for financing under this section; and

7 (3) fiscal controls and accounting procedures for the development
8 fund.

9 **Sec. 44.88.740. Limitations on financing.** (a) Unless the authority has
10 obtained legislative approval by law, the authority may not finance or participate in
11 financing of

12 (1) more than one-third of the capital cost of qualified energy
13 development; or

14 (2) a loan guarantee that exceeds \$20,000,000.

15 (b) Financing under AS 44.88.730 is limited to the life of qualified energy
16 development, which may not be more than

17 (1) 30 years; or

18 (2) 50 years for a transmission line or hydroelectric qualified energy
19 development.

20 * **Sec. 14.** AS 44.88.900 is amended by adding new paragraphs to read:

21 (15) "development fund" means the sustainable energy transmission
22 and supply development fund created in AS 44.88.710;

23 (16) "qualified energy development" means a project in the state that
24 involves

25 (A) transmission, generation, conservation, storage, or
26 distribution of heat or electricity;

27 (B) liquefaction, regasification, distribution, storage, or use of
28 natural gas;

29 (C) the chemical, catalytic, or biological upgrade or conversion
30 of natural gas, coal, or biomass to hydrocarbon liquids;

31 (D) processing, refining, or upgrading of oil;

- 1 (E) distribution or storage of refined petroleum products;
2 (F) enhanced oil recovery or carbon sequestration;
3 (G) gasification of coal or biomass into synthesis gas;
4 (H) the chemical, catalytic, or biological upgrade of synthesis
5 gas into methane; or
6 (I) the manufacture of hydrogen from any feedstock, excluding
7 the mechanical separation from air.

8 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 REVISOR'S INSTRUCTION. References to "this chapter" in AS 44.88 apply to sec. 13 of
11 this Act and so should not be changed.