

HOUSE CS FOR SENATE BILL NO. 239(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/10/24

Referred: Rules

Sponsor(s): SENATOR DUNBAR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Industrial Development and Export Authority; relating**
2 **to state loans for oil and gas development projects in the Cook Inlet sedimentary basin;**
3 **and relating to workforce housing development projects."**

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

5 * **Section 1.** AS 42.05.141 is amended by adding a new subsection to read:

6 (g) The commission shall, as required under AS 44.88.850(b), determine
7 whether the sale price in a gas sales agreement for gas produced through a project
8 partially or fully funded by a loan under AS 44.88.850 constitutes a just and
9 reasonable immediate delivery price for gas.

10 * **Sec. 2.** AS 44.25.020 is amended to read:

11 **Sec. 44.25.020. Duties of department.** The Department of Revenue shall

12 (1) enforce the tax laws of the state;

13 (2) collect, account for, have custody of, invest, and manage all state
14 funds and all revenues of the state except revenues incidental to a program of licensing

1 and regulation carried on by another state department, funds managed and invested by
2 the Alaska Retirement Management Board, and as otherwise provided by law;

3 (3) invest and manage the balance of the power development fund in
4 accordance with AS 44.83.386;

5 (4) administer the surety bond program for licensure as a fish
6 processor or primary fish buyer;

7 **(5) provide reasonable assistance to the Alaska Industrial**
8 **Development and Export Authority under AS 44.88.850(c).**

9 * **Sec. 3.** AS 44.37.020 is amended by adding a new subsection to read:

10 (d) The Department of Natural Resources shall provide reasonable assistance
11 to the Alaska Industrial Development and Export Authority under AS 44.88.850(c).

12 * **Sec. 4.** AS 44.88.070 is amended to read:

13 **Sec. 44.88.070. Purpose of the authority.** The purpose of the authority is to
14 promote, develop, and advance the general prosperity and economic welfare of the
15 people of the state, to relieve problems of unemployment, and to create additional
16 employment by

17 (1) providing various means of financing and means of facilitating the
18 financing, in cooperation with federal, state, and private institutions, of industrial,
19 manufacturing, energy, export, small business, and business enterprises and the other
20 facilities referred to in AS 44.88.010(a) in the state;

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

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

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

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

30 (6) providing and cooperating or participating with federal, state, and
31 private institutions to provide actual and potential state exporters, particularly small-

1 and medium-sized exporters, with financial assistance in support of export
2 transactions;

3 **(7) providing various means of financing and means of facilitating**
4 **the financing of construction of new workforce housing facilities.**

5 * **Sec. 5.** AS 44.88.080 is amended to read:

6 **Sec. 44.88.080. Powers of the authority.** In furtherance of its corporate
7 purposes, the authority has the following powers in addition to its other powers:

- 8 (1) to sue and be sued;
- 9 (2) to have a seal and alter it at pleasure;
- 10 (3) to make and alter bylaws for its organization and internal
11 management;
- 12 (4) to adopt regulations governing the exercise of its corporate powers;
- 13 (5) to acquire an interest in a project as necessary or appropriate to
14 provide financing for the project, whether by purchase, gift, or lease;
- 15 (6) to lease to others a project acquired by it for the rentals and upon
16 the terms and conditions the authority may consider advisable, including, without
17 limitation, provisions for options to purchase or renew;
- 18 (7) to issue bonds and otherwise to incur indebtedness, in accordance
19 with AS 44.88.090, in order to pay the cost of a project or development projects or in
20 order to provide money for the authority's purposes under this chapter; the authority
21 may also secure payment of the bonds or other indebtedness as provided in this
22 chapter;
- 23 (8) to sell, by installment sale or otherwise, exchange, donate, convey,
24 or encumber, in any manner by mortgage or by creation of any other security interest,
25 real or personal property owned by it, or in which it has an interest, including a
26 project, when, in the judgment of the authority, the action is in furtherance of its
27 corporate purposes;
- 28 (9) to accept gifts, grants, or loans from, and enter into contracts or
29 other transactions regarding them with, a federal agency, an agency or instrumentality
30 of the state, a municipality, a private organization, or other source;
- 31 (10) to deposit or invest its funds, subject to agreements with

1 bondholders;

2 (11) to enter into contracts or agreements with respect to the exercise
3 of any of its powers, and do all things necessary or convenient to carry out its
4 corporate purposes and exercise the powers granted in this chapter;

5 (12) to purchase or insure loans to finance the costs of manufacturing,
6 industrial, and business enterprise projects;

7 (13) to enter into loan agreements with respect to one or more projects
8 upon the terms and conditions the authority considers advisable;

9 (14) to acquire, manage, and operate projects as the authority considers
10 necessary or appropriate to serve a public purpose;

11 (15) to assist private lenders to make loans to finance the costs of
12 projects through loan commitments, short-term financing, or otherwise;

13 (16) to accept gifts, grants, or loans from a federal agency, from an
14 agency or instrumentality of the state or of a municipality, or from any other source;

15 (17) to enter into contracts or other transactions with a federal agency,
16 with an agency or instrumentality of the state or of a municipality, or with a private
17 organization or other entity consistent with the exercise of any power under this
18 chapter;

19 (18) to facilitate the expansion of a secondary market for the resale of
20 federally or commercially insured loans made to finance the costs of projects in the
21 state held by federal and state chartered financial institutions or by the Alaska
22 Commercial Fishing and Agriculture Bank;

23 (19) to charge fees or other forms of remuneration for the use or
24 possession of the projects described in (14) of this section in accordance with the
25 agreements described in (11) and (17) of this section, other agreements pertaining to
26 the projects, covenants, or representations made in bond documents pertaining to the
27 projects, or regulations of the authority pertaining to the projects;

28 (20) to participate with government or private industry in programs for
29 technical assistance, loans, technology, transfer, or other programs related to the
30 exportation of goods, services, or raw materials of the state with respect to its
31 financing activities;

1 (21) to provide export finance training for office staff and other
 2 individuals involved in export finance assistance, including the training sessions that
 3 may be provided by the United States Export-Import Bank or other organizations;

4 (22) to coordinate to the maximum extent possible its efforts to
 5 promote the export of goods, services, and raw materials of the state with programs
 6 and goals of the United States Export-Import Bank, the International Trade
 7 Administration of the United States Department of Commerce, the Foreign Credit
 8 Insurance Association, and other private and public programs designed to provide
 9 export assistance and export-related financing;

10 (23) to guarantee loans related to qualified export transactions under
 11 regulations adopted by the authority;

12 (24) to provide financing assistance, in cooperation with federal, state,
 13 and private institutions, as provided in this chapter for small business enterprises;

14 (25) to make cooperative agreements with the Department of
 15 Transportation and Public Facilities, acting on behalf of the international airports
 16 revenue fund established under AS 37.15.430, to acquire, equip, operate, maintain,
 17 construct, or install facilities that will enhance the competitiveness of the international
 18 airports, including a cooperative agreement to lend amounts from the international
 19 airports revenue fund to finance the development or improvement of utilities serving
 20 the airports;

21 (26) to screen potential applicants for a new business incentive grant
 22 and recommend the award of the grants under AS 45.81.020;

23 (27) to oversee the administration of outstanding grants awarded by the
 24 Alaska Science and Technology Foundation under former AS 37.17.010 - 37.17.110;

25 (28) to oversee the administration of outstanding BIDCO assistance
 26 grants and loans made by the Alaska Science and Technology Foundation under
 27 former AS 37.17.200 - 37.17.390;

28 (29) to guarantee loans made to the Alaska Insurance Guaranty
 29 Association (AS 21.80.040), with these guarantees limited to loans necessary to make
 30 the association financially able to meet cash flow needs up to a maximum outstanding
 31 principal balance at any time of \$30,000,000;

(30) with legislative approval and notwithstanding AS 44.88.060, to purchase from the Alaska Energy Authority as an investment of the revolving fund, loans of the power project fund established under AS 42.45.010;

(31) to consider, when exercising the powers listed in this section, the interests of local governments affected by the authority's activities to share in the benefits of these activities, with appropriate consideration of the authority's ability to meet debt obligations, issue new debt, and fulfill the authority's purposes;

(32) to provide development project financing for all or a portion of the cost of a development project as provided in AS 44.88.172;

(33) to provide various means of financing and means of facilitating the financing of construction of new workforce housing facilities.

* **Sec. 6.** AS 44.88 is amended by adding new sections to read:

Article 10A. Cook Inlet Reserve-Based Lending.

Sec. 44.88.850. Cook Inlet reserve-based lending account. (a) The Cook Inlet reserve-based lending account is established in the revolving fund. The account consists of money or assets deposited into the account by the authority and contributions from other sources.

(b) The authority may use money in the account to make one or more reserve-based loans to fund oil and gas development projects the authority considers necessary to increase oil and gas production from the Cook Inlet sedimentary basin. The authority may, as a term of the loan, accept an ownership share in the project funded by the loan. If the authority accepts an ownership share as a term of the loan, the ownership share must be in the form of a carried interest that does not obligate the authority to contribute to the development costs of the project. The authority may make a loan under this section only

(1) to a legal entity in compliance with state and federal laws;

(2) if the loan applicant provides a written waiver permitting the authority to access or obtain copies of the loan applicant's confidential records that are in possession of the Department of Natural Resources or the Department of Revenue; information provided to the authority under this section shall be kept confidential by the authority unless disclosure is authorized by the loan applicant or borrower;

(3) if the authority obtains an independent study performed by an experienced, qualified expert that confirms the valuation of the loan security and the capacity of the loan to support the oil and gas development project and to cause or increase the commercial production of oil or gas from the Cook Inlet sedimentary basin;

(4) if the Regulatory Commission of Alaska determines, under AS 42.05.141(g), that the sale price in a gas sales agreement for gas produced through a project partially or fully funded by a loan under this section does not exceed a just and reasonable immediate delivery price for gas;

(5) if the authority determines that the sales price for oil and gas produced through a project partially or fully funded by a loan under this section is reasonable and in the best interests of residents of the state.

(c) The authority may request assistance from the Department of Revenue under AS 44.25.020(a)(5) or the Department of Natural Resources under AS 44.37.020(d) to execute this section.

(d) The authority may accept an overriding royalty interest in a lease for which a loan has been extended under (b) of this section if, as a term of the loan, the overriding royalty interest is subject to prior approval by the Department of Natural Resources. The authority may only have the overriding royalty interest transferred to the authority if the borrower defaults.

Sec. 44.88.855. Cook Inlet oil and gas development projects; report. (a) The authority shall evaluate oil and gas development projects the authority believes have reasonable potential to increase oil and gas production from the Cook Inlet sedimentary basin. Each year, the authority shall prepare a report related to those oil and gas development projects and shall, by the first day of each regular session of the legislature, deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. At the request of a legislative committee, a representative of the authority shall appear in that committee to review the report. For each oil and gas development project, the report must include

(1) a cost estimate for the project;

(2) the potential recoverable gas from the project;

(3) the projected rate of return for the project;

(4) if the authority recommends a reserve-based loan for the project, the amount of funds necessary for deposit into the Cook Inlet reserve-based lending account to provide a loan for the project and the recommended source of funds for the deposit.

(b) Notwithstanding AS 44.88.215, 44.88.850(b)(2), or any other law, a borrower's information shall be subject to the public reporting requirements under this section. Each year, the authority shall prepare a report related to Cook Inlet reserve-based loans made under AS 44.88.850 and shall, by the first day of each regular session of the legislature, deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. At the request of a legislative committee, a representative of the authority shall appear in that committee to review the report. The report must

(1) identify each entity borrowing funds under AS 44.88.850;

(2) list the amount borrowed by each borrower and the date each loan was approved;

(3) include a summary of the terms of the lending agreement with each borrower;

(4) summarize each project for which a loan was made, including the status of the project and the volume of oil and gas produced and expected to be produced from the project;

(5) list the status of payments made on the loan, including whether the loan is or ever was in default.

* **Sec. 7.** AS 44.88.900(6) is amended to read:

(6) "development project" has the meaning given to "project" in (13)(A), [AND] (D) - (H), and (J) of this section;

* **Sec. 8.** AS 44.88.900(13) is amended to read:

(13) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, transporting, or producing in any manner, goods, products, or substances of any kind or nature or in connection with

1 developing or utilizing a natural resource, or extracting, smelting, transporting,
 2 converting, assembling, or producing in any manner, minerals, raw materials,
 3 chemicals, compounds, alloys, fibers, commodities and materials, products, or
 4 substances of any kind or nature;

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

7 (C) commercial activity by a business enterprise;

8 (D) a plant or facility demonstrating technological advances of
 9 new methods and procedures and prototype commercial applications for the
 10 exploration, development, production, transportation, conversion, and use of
 11 energy resources;

12 (E) infrastructure for a new tourism destination facility or for
 13 the expansion of a tourism destination facility; in this subparagraph, "tourism
 14 destination facility" does not include a hotel or other overnight lodging facility;

15 (F) a plant or facility, other than a plant or facility described in
 16 (D) of this paragraph, for the generation, transmission, development,
 17 transportation, conversion, or use of energy resources;

18 (G) a plant or facility that enhances, provides for, or promotes
 19 economic development with respect to transportation, communications,
 20 community public purposes, technical innovations, prototype commercial
 21 applications of intellectual property, or research;

22 (H) a plant or facility used or intended for use as a federal
 23 facility, including a United States military, national guard, or coast guard
 24 facility;

25 (I) infrastructure for an area that is designated as a military
 26 facility zone under AS 26.30;

27 **(J) a new workforce housing facility;**

28 * **Sec. 9.** AS 44.88.900 is amended by adding new paragraphs to read:

29 (20) "oil and gas development project" means a development project to
 30 produce proven oil or gas reserves;

31 (21) "reserve-based loan" means a loan made against and fully secured

1 by an oil and gas field, proven undeveloped or developed oil and gas reserves, or other
2 assets of the entity receiving the loan.

3 (22) "workforce housing" means residential housing that contains five
4 or more dwelling units.