

SENATE CS FOR CS FOR HOUSE BILL NO. 307(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/15/24

Referred: Today's First Supplemental Calendar

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Regulatory Commission of Alaska; relating to regulation of**
2 **public utilities and pipeline carriers; relating to approval of wholesale power**
3 **agreements; relating to electric reliability organizations; relating to loans for renewable**
4 **energy resources projects from the power project fund; relating to the taxation of new**
5 **electricity generation and storage facilities; relating to the Alaska Energy Authority;**
6 **relating to the Railbelt Transmission Organization; and providing for an effective date."**

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

8 *** Section 1.** LEGISLATIVE INTENT. It is the intent of the legislature that ownership of
9 state-funded new or upgraded backbone transmission assets in the Railbelt be decided when
10 the financing for the new or upgraded transmission assets is approved by the state.

11 *** Sec. 2.** AS 39.25.110(11) is amended to read:

12 (11) the officers and employees of the following boards, commissions,
13 and authorities:

(A) [REPEALED]

(B) Alaska Permanent Fund Corporation;

(C) Alaska Industrial Development and Export Authority;

(D) Alaska Commercial Fisheries Entry Commission;

(E) Alaska Commission on Postsecondary Education;

(F) Alaska Aerospace Corporation;

(G) [REPEALED]

(H) Alaska Gasline Development Corporation and subsidiaries
of the Alaska Gasline Development Corporation;

(I) Alaska Energy Authority;

* **Sec. 3.** AS 42.04.020(a) is amended to read:

(a) The commission consists of five commissioners appointed by the governor and confirmed by the legislature in joint session. To qualify for appointment as a commissioner, a person must

(1) be a member in good standing of the Alaska Bar Association with at least five years of actual experience in the practice of law;

(2) be a professional engineer registered under AS 08.48; or

(3) have a degree from an accredited college or university with a major in [ENGINEERING,] finance, economics, accounting, business administration, or public administration and at least five years of actual experience in the field associated with the degree [ACTUAL EXPERIENCE FOR A PERIOD OF FIVE YEARS IN THE PRACTICE OF LAW OR IN THE FIELD OF ENGINEERING, FINANCE, ECONOMICS, ACCOUNTING, BUSINESS ADMINISTRATION, OR PUBLIC ADMINISTRATION IS EQUIVALENT TO A DEGREE].

* **Sec. 4.** AS 42.04.020(f) is amended to read:

(f) Members of the commission are in the exempt service and are entitled to a monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

* **Sec. 5.** AS 42.05.141(b) is amended to read:

(b) The commission shall perform the duties assigned to it under AS 42.45.100 - 42.45.190 **and AS 44.83.700 - 44.83.720.**

* **Sec. 6.** AS 42.05.141 is amended by adding a new subsection to read:

(g) Nothing in this chapter limits the authority of the commission under this section or AS 42.05.151 necessary to implement provisions that remain applicable under AS 42.05.321(b) or 42.05.711.

* **Sec. 7.** AS 42.05.254(a) is amended to read:

(a) A regulated public utility or a certificated utility that provides telecommunications services operating in the state shall pay to the commission an annual regulatory cost charge in an amount not to exceed the maximum percentage of adjusted gross revenue that applies to the utility sector of which the utility is a part. The regulatory cost charges that the commission expects to collect from all regulated utilities and certificated utilities providing telecommunications services may not exceed the sum of the following percentages of the total adjusted gross revenue of all regulated public utilities and certificated utilities providing telecommunications services derived from operations in the state: (1) not more than **.98** [.7] percent to fund the operations of the commission, and (2) not more than **.22** [.17] percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. An exempt utility that does not provide telecommunications services shall pay the actual cost of services provided to it by the commission.

* **Sec. 8.** AS 42.05.381 is amended by adding a new subsection to read:

(p) A determination of whether an electric utility's rate is just and reasonable may consider whether the purpose of the rate is to increase diversity of supply, promote load growth, or enhance energy reliability or energy security.

* **Sec. 9.** AS 42.05.431(b) is amended to read:

(b) A wholesale power agreement between public utilities, **or between a public utility and an independent power producer,** is subject to advance approval of the commission. **A rate set in accordance with a wholesale power agreement must disclose a state or local tax exemption provided to a utility or independent power producer.** After a wholesale power agreement is in effect, the commission

may not invalidate any purchase or sale obligation under the agreement. However, if the commission finds that rates set in accordance with the agreement violate this subsection or are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement and if the parties fail to agree, to use the dispute resolution procedures contained in the contract. In this subsection, "independent power producer" means a legal entity, other than a public utility or a joint action agency established under AS 42.45.310, that owns or operates a facility for the generation of electricity.

* **Sec. 10.** AS 42.05.711(b) is amended to read:

(b) Except as otherwise provided in this subsection, [AND IN] (o) of this section, and AS 44.83.700(d), public utilities owned and operated by a political subdivision of the state, or electric operating entities established as the instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

(1) the governing body of a political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned and operated by a political subdivision and that directly competes with another utility or electric operating entity is subject to this chapter and any other utility or electric operating entity owned and operated by the political subdivision is also subject to this chapter; this paragraph does not apply to a utility or electric operating entity owned and operated by a political subdivision that competes with a telecommunications utility.

* **Sec. 11.** AS 42.05.760(a) is amended to read:

(a) An electric utility must participate in an electric reliability organization if the utility operates in an interconnected electric energy transmission network served by an electric reliability organization certificated by the commission. The commission may not require an electric reliability organization for an interconnected bulk-electric system if

(1) all of the load-serving entities operating in the interconnected bulk-electric system are exempt under AS 42.05.711(b); or

(2) the sum of annual electric energy sales made by load-serving entities operating in the interconnected bulk-electric system is less than 3,000,000 megawatt-hours.

* Sec. 12. AS 42.05.762 is amended to read:

Sec. 42.05.762. Duties of an electric reliability organization. An electric reliability organization shall

(1) develop reliability standards that provide for an adequate level of reliability of an interconnected electric energy transmission network;

(2) develop integrated resource plans under AS 42.05.780(a);

(3) establish rules to

(A) ensure that the directors of the electric reliability organization and the electric reliability organization act independently from users, owners, and operators of the interconnected electric energy transmission network;

(B) equitably allocate reasonable dues, fees, and other charges among all load-serving entities connected to the interconnected electric energy transmission network for all activities under AS 42.05.760 - 42.05.790;

(C) provide fair and impartial procedures for the enforcement of reliability standards;

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balancing of interests in exercising its duties; [AND]

(4) be governed by a board that

(A) includes as nonvoting members the chair of the commission or the chair's designee and the attorney general or the attorney general's designee; and

(B) is formed as

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board; **and**

(5) prioritize the reliability, stability, and cost to consumers of the interconnected bulk-electric system served by the electric reliability organization.

* **Sec. 13.** AS 42.05.770 is amended to read:

Sec. 42.05.770. Regulations. The commission shall adopt regulations governing electric reliability organizations, reliability standards, and modifications to reliability standards consistent with this section. Regulations under AS 42.05.760 - 42.05.790 must

(1) require that an electric reliability organization's tariff include

[(A) STANDARDS FOR] nondiscriminatory **standards for**
[OPEN ACCESS TRANSMISSION AND] interconnection;

[(B) STANDARDS FOR TRANSMISSION SYSTEM COST
RECOVERY;]

(2) provide a process to identify and resolve conflicts between a reliability standard and a function, rule, tariff, rate schedule, or agreement that has been accepted, approved, adopted, or ordered by the commission;

(3) allow an electric reliability organization to recover its costs through surcharges added to the rate for each participating load-serving entity.

* **Sec. 14.** AS 42.06.286(a) is amended to read:

(a) A pipeline carrier operating in the state shall pay to the commission an annual regulatory cost charge in an amount not to exceed the sum of the following percentages of gross revenue derived from operations in the state: (1) not more than **.98** [.7] percent to fund the operations of the commission, and (2) not more than **.22** [.17] percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. A regulatory cost charge may not be assessed on pipeline carrier operations unless the operations are within the jurisdiction of the commission.

* **Sec. 15.** AS 42.45.010 is amended by adding new subsections to read:

(m) A loan for a renewable energy resources project in which the cumulative state monetary involvement, through loans, grants, and bonds, is at least \$5,000,000 may not be granted for a term that exceeds 50 years and may, notwithstanding (f)(2) of this section, be granted at an interest rate that is the lesser of

(1) three percent lower than the rate calculated under (f)(2)(A) of this section, but not less than one percent; or

(2) a rate equivalent to the rate calculated under (f)(2)(B) of this section.

(n) In (m) of this section, "renewable energy resources" has the meaning given in AS 42.45.045(l).

* **Sec. 16.** AS 43.98 is amended by adding a new section to read:

Article 2A. Taxation of New Electricity Generation and Storage Facilities.

Sec. 43.98.100. Taxation of new electricity generation and storage facilities. (a) An electricity generation facility or electricity storage facility that is constructed and placed into service on or after July 1, 2024, is not subject to state and local ad valorem, income, and excise taxes if the electricity generation facility is

(1) operated by a public utility or joint action agency established under AS 42.45.310; or

(2) operated by an entity other than a public utility and provides power only to a public utility.

(b) In this section, "public utility" has the meaning given in AS 42.05.990.

* **Sec. 17.** AS 44.83.030 is amended to read:

Sec. 44.83.030. Membership of the authority. The members of the board of directors of the authority [ALASKA ENERGY AUTHORITY] are

(1) the commissioner of revenue;

(2) the commissioner of commerce, community, and economic development; and

(3) six public members appointed by the governor as follows:

(A) one member with expertise or experience in managing or operating an electric utility that is not connected to an interconnected electric energy transmission network as defined in AS 42.05.790;

(B) one member with expertise or experience in developing energy projects in rural communities;

(C) one member with expertise or experience in managing or operating an electric utility connected to an interconnected electric

energy transmission network as defined in AS 42.05.790;

(D) one member with expertise or experience in managing a municipally owned utility located off the interconnected road system or joint action agency established under AS 42.45.310 located off the interconnected road system;

(E) one member with financial expertise in large power generation project development; and

(F) one member with expertise or experience in finance, energy policy, energy technology, engineering, law, or economics [THE MEMBERS OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY].

* **Sec. 18.** AS 44.83.030 is amended by adding new subsections to read:

(b) If the commissioner described in (a)(1) or (a)(2) of this section is unable to attend a meeting of the authority, the commissioner may, by an instrument in writing filed with the authority, designate a deputy or director to act in the commissioner's place as a member of the board at the meeting. For all purposes of this chapter, the designee is a member of the board at the meeting.

(c) Public board members described in (a)(3) of this section serve for three-year terms.

(d) If a vacancy occurs in the membership of the board, the governor shall immediately appoint a member for the unexpired portion of the term.

* **Sec. 19.** AS 44.83.040(a) is amended to read:

(a) The board of directors of the authority shall elect a chair and vice-chair every two years from among its members [OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY SHALL SERVE AS OFFICERS OF THE ALASKA ENERGY AUTHORITY]. The powers of the authority [ALASKA ENERGY AUTHORITY] are vested in the board of directors, and five board members [FOUR DIRECTORS OF THE AUTHORITY] constitute a quorum. Action may be taken and motions and resolutions adopted by the authority [ALASKA ENERGY AUTHORITY] at a meeting by the affirmative vote of at least five board members [A MAJORITY OF THE DIRECTORS]. The members of the

1 **board of** directors of the **authority** [ALASKA ENERGY AUTHORITY] serve
 2 without compensation, but they shall receive the same travel pay and per diem as
 3 provided by law for board members under AS 39.20.180.

4 * **Sec. 20.** AS 44.83.040 is amended by adding a new subsection to read:

5 (e) The authority may, as the authority considers advisable, appoint persons as
 6 officers, including an executive director, and employ professional advisors, counsel,
 7 technical experts, agents, and other employees. The executive director and employees
 8 of the authority are in the exempt service under AS 39.25.

9 * **Sec. 21.** AS 44.83.080 is amended to read:

10 **Sec. 44.83.080. Powers of the authority.** In furtherance of its corporate
 11 purposes, the authority has the following powers in addition to its other powers:

- 12 (1) to sue and be sued;
- 13 (2) to have a seal and alter it at pleasure;
- 14 (3) to make and alter bylaws for its organization and internal
 15 management;
- 16 (4) to adopt regulations governing the exercise of its corporate powers;
- 17 (5) to improve, equip, operate, and maintain power projects and bulk
 18 fuel, waste energy, energy conservation, energy efficiency, and alternative energy
 19 facilities and equipment;
- 20 (6) to issue bonds to carry out any of its corporate purposes and
 21 powers, including the establishment or increase of reserves to secure or to pay the
 22 bonds or interest on them, and the payment of all other costs or expenses of the
 23 authority incident to and necessary or convenient to carry out its corporate purposes
 24 and powers;
- 25 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
 26 encumber in any manner by mortgage or by creation of any other security interest, real
 27 or personal property owned by it, or in which it has an interest, when, in the judgment
 28 of the authority, the action is in furtherance of its corporate purposes;
- 29 (8) to accept gifts, grants, or loans from, and enter into contracts or
 30 other transactions regarding them, with any person;
- 31 (9) to deposit or invest its funds, subject to agreements with

1 bondholders;

2 (10) to enter into contracts with the United States or any person and,
3 subject to the laws of the United States and subject to concurrence of the legislature,
4 with a foreign country or its agencies, for the construction, financing, operation, and
5 maintenance of all or any part of a power project or bulk fuel, waste energy, energy
6 conservation, energy efficiency, or alternative energy facilities or equipment, either
7 inside or outside the state, and for the sale or transmission of power from a project or
8 any right to the capacity of it or for the security of any bonds of the authority issued or
9 to be issued for the project;

10 (11) to enter into contracts with any person and with the United States
11 and, subject to the laws of the United States and subject to the concurrence of the
12 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
13 transmission, or use of power from a project, or any right to the capacity of it;

14 (12) to apply to the appropriate agencies of the state, the United States,
15 and a foreign country and any other proper agency for the permits, licenses, or
16 approvals as may be necessary, to acquire, construct, maintain, and operate power
17 projects in accordance with the licenses or permits, and to obtain, hold, and use the
18 licenses and permits in the same manner as any other person or operating unit;

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

22 (14) to recommend to the legislature

23 (A) the pledge of the credit of the state to guarantee repayment
24 of all or any portion of revenue bonds issued to assist in construction of power
25 projects;

26 (B) an appropriation from the general fund

27 (i) for debt service on bonds or other project purposes;

28 or

29 (ii) to reduce the amount of debt financing for the
30 project;

31 (15) to carry out the powers and duties assigned to it under AS 42.45

1 **and AS 44.83.700 - 44.83.720;**

2 (16) to make grants or loans to any person and enter into contracts or
3 other transactions regarding the grants or loans;

4 (17) to promote energy conservation, energy efficiency, and alternative
5 energy through training and public education;

6 (18) to acquire a Susitna River power project, whether by construction,
7 purchase, gift, or lease, including the acquisition of property rights and interests by
8 eminent domain under AS 09;

9 (19) to perform feasibility studies and engineering and design with
10 respect to power projects;

11 **(20) to acquire battery and other energy storage systems, whether**
12 **by direct ownership, purchase, grant, gift, or lease.**

13 * **Sec. 22.** AS 44.83.090(b) is amended to read:

14 (b) The authority is not subject to the jurisdiction of the Regulatory
15 Commission of Alaska, **except as provided in AS 44.83.700(d).** Nothing in this
16 chapter, **except as provided in AS 44.83.700 - 44.83.720,** grants the authority
17 jurisdiction over the services or rates of a public utility or diminishes or otherwise
18 alters the jurisdiction of the Regulatory Commission of Alaska with respect to a public
19 utility, including any right the commission may have to review and approve or
20 disapprove contracts for the purchase of electricity by a public utility other than
21 wholesale agreements and contracts described in AS 42.05.431(c)(1).

22 * **Sec. 23.** AS 44.83 is amended by adding new sections to read:

23 **Article 5A. Railbelt Transmission Organization.**

24 **Sec. 44.83.700. Railbelt Transmission Organization.** (a) The Railbelt
25 Transmission Organization is created for the purpose of establishing an open access
26 transmission tariff that

27 (1) provides for recovery of transmission costs and related ancillary
28 services; and

29 (2) replaces wholesale charges assessed by unit by each utility in the
30 Railbelt with a new mechanism that fairly recovers and equitably allocates the costs of
31 operating the backbone transmission system.

1 (b) For administrative purposes, the transmission organization is a division of
2 the Alaska Energy Authority.

3 (c) To assist in administering the open access transmission tariff, the
4 governance structure for the transmission organization must be made up of a
5 representative from the authority, a representative from each Railbelt utility, and, as an
6 ex officio nonvoting representative, the chief executive officer of the applicable
7 electric reliability organization or the chief executive officer's designee.

8 (d) Notwithstanding AS 42.05.711(b) and AS 44.83.090(b), the transmission
9 organization is subject to the jurisdiction of the commission for the purposes of
10 AS 44.83.700 - 44.83.720. The commission shall require the transmission organization
11 to apply for a certificate under AS 42.05.221 and file tariffs to achieve the purposes of
12 AS 44.83.700 - 44.83.720.

13 **Sec. 44.83.710. Revenue mechanism.** (a) The transmission organization shall
14 hold and administer a commission-approved nondiscriminatory open access
15 transmission tariff for the backbone transmission system.

16 (b) The transmission organization shall file with the commission a
17 nondiscriminatory open access transmission tariff consistent with Federal Energy
18 Regulatory Commission standards to remove impediments to competition in the
19 wholesale bulk power marketplace in the state. If the transmission organization does
20 not file a nondiscriminatory open access transmission tariff with the commission on or
21 before July 1, 2025, the commission shall, after notice and opportunity for public
22 comment, establish a nondiscriminatory open access transmission tariff consistent
23 with this section.

24 (c) The nondiscriminatory open access transmission tariff must, as approved
25 by the commission,

26 (1) pool backbone transmission system costs and allocate those costs
27 through certificated load-serving entities on a coincident peak or load ratio share basis,
28 or a combination of both; and

29 (2) account for

30 (A) required backbone transmission system ancillary services;

31 (B) backbone transmission system congestion;

(C) disruptions to the backbone transmission system that result in the isolation of one geographical area of the backbone transmission system from another for more than 24 hours; and

(D) costs to own and operate the backbone transmission system, as established by the commission or by contract, including transmission costs associated with the Bradley Lake hydroelectric project.

(d) A Railbelt utility shall pass the commission-approved transmission costs directly and transparently to the utility's customers.

Sec. 44.83.720. Definitions. In AS 44.83.700 - 44.83.720,

(1) "backbone transmission system" means the transmission assets in the Railbelt that facilitate the transmission of electrical power under the standards established by the Federal Energy Regulatory Commission;

(2) "commission" means the Regulatory Commission of Alaska;

(3) "Railbelt" means the geographic region from the Kenai Peninsula to Interior Alaska that is connected to a common electric transmission backbone;

(4) "Railbelt utility" means a public electric utility certificated to operate in the Railbelt that operates backbone transmission system assets;

(5) "transmission organization" means the Railbelt Transmission Organization established by AS 44.83.700.

* **Sec. 24.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATORY COMMISSION OF ALASKA MEMBERS. An individual who is a member of the Regulatory Commission of Alaska on the day before the effective date of sec. 3 of this Act continues to serve on the Regulatory Commission of Alaska until the member's term expires and a successor is appointed and qualified. The governor shall make appointments for vacancies that occur on or after the effective date of sec. 3 of this Act in accordance with AS 42.04.020(a), as amended by sec. 3 of this Act.

* **Sec. 25.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: ALASKA ENERGY AUTHORITY BOARD MEMBERS. Notwithstanding AS 44.83.030(c), added by sec. 18 of this Act, the governor shall appoint

1 two public members of the initial Alaska Energy Authority board of directors to one-year
2 terms, two public members to two-year terms, and two public members to three-year terms.

3 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION: RAILBELT TRANSMISSION ORGANIZATION. To facilitate the
6 development and management of the Railbelt backbone transmission system open access
7 transmission tariff, the Alaska Energy Authority and the Railbelt utilities, as defined in
8 AS 44.83.720, added by sec. 23 of this Act, shall form the Railbelt Transmission Organization
9 under AS 44.83.700, added by sec. 23 of this Act, on or before January 1, 2025, modeled after
10 the governance structure of the Bradley Lake Hydroelectric Project, as outlined in the Bradley
11 Lake Power Sales Agreement, including the creation, duties, and methods of the Bradley Lake
12 Project Management Committee, with any adjustments the parties to the agreement determine
13 are necessary. On or before January 1, 2025, the Railbelt Transmission Organization shall
14 apply to the Regulatory Commission of Alaska for a certificate under AS 42.05.221 to
15 achieve the purposes of AS 44.83.700 - 44.83.720, added by sec. 23 of this Act.

16 * **Sec. 27.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 28.** Except as provided in sec. 27 of this Act, this Act takes effect July 1, 2024.