

A BILL

FOR AN ACT ENTITLED

"An Act requiring the competitive sale of hydroelectric projects owned by the State of Alaska and relating to the financing of acquisition of ownership interests in the projects by retail power consumers."

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

* **Section 1. FINDINGS.** (a) The State of Alaska, through the Alaska Industrial Development and Export Authority and the Alaska Energy Authority, owns and maintains a number of hydroelectric projects. These projects were financed with state funds for the purpose of providing relatively inexpensive power generation.

(b) The State's continued ownership of these projects has required financial subsidies that inappropriately burden the State's financial resources. It is in the best interests of the State to divest itself of ownership in hydroelectric projects that have been in existence long enough to assure their economic viability and attractiveness to prospective purchasers in the private sector.

(c) The State's policies for the ownership transfer of its hydroelectric projects continue to favor noncompetitive divestiture processes that neither secure fair market value for the projects nor protect consumers from monopolistic control of Alaska's energy marketplace.

(d) The history of the operation of these projects under the collective public ownership of government has proven that they would benefit from the superior management efficiencies of private enterprise. Competitive fair market privatization of these projects would end state subsidies, foster reductions in the size of government, enrich State coffers, boost local economies, diminish monopolistic control over consumers, and promote the beneficial restructuring of Alaska's electric utility industry.

(e) To protect all Alaskan citizens and the affected consumers, the State's divestiture of the hydroelectric projects should be implemented at fair market value to the highest bidder that agrees not to raise the current wholesale electrical rates for each project. In order for the State of Alaska to obtain the best possible prices for the projects, and to establish public confidence in the sale process, it is essential that the process be fully open, public and competitive.

(f) It is in the best interests of the State and its citizens to promote the purchase and ownership of a substantial portion of the hydroelectric projects by the individual retail consumers whose electric power consumption is critical to the economic success of each project. Such direct participation by the consumers in the ownership and management of each project would end monopolistic manipulation of Alaska's electric utility

industry and would help ensure that the projects are operated and maintained in the best interests of these consumers and their communities, thereby removing the need for costly governmental regulation.

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

Sec. 44.83.399. **SALE OF POWER PROJECTS.** (a) The authority shall sell a power project, in accordance with subsections (b) through (e) of this section, if the project has been in operation for 5 or more years.

(b) The authority shall prepare and issue to the public an invitation to bid for the sale of each project that must be sold under (a) of this section. The invitation shall be open to any qualified bidder and shall contain terms that will

(1) assure that the state receives fair compensation for the project;

(2) assure that the wholesale electric rate currently being charged to utilities purchasing power from the project will not be increased for a period of 20 years following the date of purchase so long as the amount of power purchased each year is not less than the average amount purchased during normal operations of the project during the immediately preceding three years; and

(3) provide for a 10 percent bidder preference for a bidder who agrees to offer to sell, at fair value, at least one half of the ownership interest in the project to the retail consumers of the power produced by the project.

(c) The bids submitted in response to the invitation must be sealed until the date set for bid opening. The authority shall award the sale contract to the responsive qualified bidder offering the highest cash amount for the project after the 10 percent preference under (b)(3) of this section has been added to bids qualifying for the preference.

(d) For purposes of this section, Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric facilities are considered one power project, as provided in AS 43.83.398(a).

(e) In this section, "qualified bidder" means a private person or entity that demonstrates the necessary financial resources to purchase the project.

* **Sec. 3.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.218. **SALE OF POWER PROJECTS.** (a) The authority shall sell a hydroelectric project, in accordance with the provisions of AS 44.83.399, if the project has been in operation for 5 or more years.

(b) In this section, "hydroelectric project" has the same meaning as "power project" and "project" in AS 44.83.990(6).

* **Sec. 4.** AS 44.88 is amended by adding a new section to read:

Sec. 44.88.501. LOAN GUARANTEES FOR CONSUMER OWNERSHIP OF HYDROELECTRIC PROJECTS. (a) The authority may provide a 100 percent guarantee of a loan to a trust or similar fiduciary entity, established for the benefit of individual retail consumers of electricity, for the purchase of an ownership interest in a hydroelectric project sold under AS 44.83.399 or AS 44.88.218.

(b) The limitations in AS 44.88.535(a)(3) through (6), 44.88.535(b), 44.88.540, 44.88.545, 44.88.555 and 44.88.570 do not apply to a loan guarantee under this section.

(c) Nothing in this section prohibits the authority from directly financing, through the issuance of bonds, the acquisition by a trust or other fiduciary entity, established for the benefit of retail consumers of electricity, of an ownership interest in a hydroelectric project sold under AS 44.83.399 or AS 44.88.218.

* **Sec. 5.** Invitations to bid must be issued within 30 days following the effective date of this Act for hydroelectric projects owned by the Alaska Energy Authority or the Alaska Industrial Development and Export Authority on the effective date of this Act and required to be sold under AS 44.83.399 or AS 44.88.218, enacted in sections 2 and 3 of this Act.