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REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

COMMITTEE SUBSTITUTE FOR HOUSE BILL 9 (), version U SECTIONAL ANALYSIS

CS for House Bill 9 (): *“An act relating to the Alaska Gasline Development Corporation, a subsidiary created by the Alaska Housing Finance Corporation; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation exempt from inspection as a public record; relating to the Joint In-State Development Team; relating to the judicial review of a right-of-way lease for the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way by the Alaska Gasline Development Corporation for a gas pipeline transportation corridor; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state gas pipeline project developed by the Alaska Gasline Development Authority; relating to the Alaska Natural Gas Development Authority; relating to the procurement of certain services by the Alaska Natural Gas Development Authority; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date.”*

Section 1: Adds a new section to AS 18.56, Alaska Housing Finance Corporation. The new section adds powers to AGDC that are specific to AGDC’s purpose of planning and developing an in-state natural gas pipeline. Those added powers would include the power to: (1) determine the ownership and operating structure and enter into agreements relating to ownership and operation; (2) exercise eminent domain; (3) acquire property and rights necessary or convenient for owning or operating the pipeline; and (4) dispose of the pipeline project or other assets.

This bill section would also (a) add powers to enable AGDC to issue bonds without limitation to further its purposes; (b) add language to protect the State, the various subdivisions of the State, and AHFC from any liability for the actions of AGDC; and (c) establish an “in-state natural gas pipeline fund” where money can be appropriated and used for AGDC’s purposes.

Section 2: Adds a new paragraph to AS 36.30.850 (b), Application of this chapter. Exempts contracts by ANGDA from the provisions of AS 36.30, the procurement code. The AGDC is already exempt from the state procurement code.

Section 3: Amends AS 38.34.030 (a), Joint In-State Gasline Development Team. Replaces the Joint In-State Gasline Development Team with AGDC. The In-State Team is repealed in section 30.

Section 4: Amends AS 38.34.030 (b), Joint In-State Gasline Development Team. Replaces the Joint In-State Gasline Development Team with AGDC. The In-State Team is repealed in section 30.

Section 5: Amends AS 38.34.050(c), Cooperation and access to information. Replaces the reference to AHFC with a reference to AGDC. This section of law currently directs the Department of Natural Resources to grant a right-of-way lease under AS 38.35 for the gas pipeline transportation corridor. The amendment, besides transferring the right from AHFC to AGDC, would specify that the lease is to be given at no cost or rental fee and that the lease is not subject to the lease requirements contained in AS 38.35.120(a)(1), (2), (5), and (7). These paragraphs of current law would require that AGDC operate the pipeline as a common carrier and that it be subject to regulation by the Regulatory Commission of Alaska. With this change, these paragraphs of current law would not apply to AGDC's lease.

Section 6: Adds new subsections to AS 38.34.050, Cooperation and access to information. The new subsections would: (a) give AGDC the ability to enter into confidentiality agreements and keep information confidential and not subject to disclosure under the Public Records Act (AS 40.25); and (b) direct state agencies to provide to AGDC water, sand, gravel, and other necessary natural resources and to enter into leasehold agreements and issue permits as necessary or appropriate for AGDC's pipeline, with the costs of the foregoing being borne by the applicable state agency.

Section 7: Repeals and re-enacts AS 38.34.099, Definitions. Broadens the definitions of the AGDC and the in-state natural gas pipeline to conform with changes found in sections 3, 4 and 5.

Section 8: Amends AS 38.35.100(d), Decision on application. Conforming language for conditional leases to note the changes found in Section 5.

Section 9: Amends AS 38.35.120(a), Covenants required to be included in lease. Conforming language for noncompetitive leases to note the changes found in Section 5.

Section 10: Amends AS 38.35.120(b), Covenants required to be included in lease. Conforming language for right-of-way leases to note the changes found in Section 5.

Section 11: Adds a new subsection to AS 38.35.140, Payment of rental and costs. A right-of-way lease to AGDC shall be granted without cost or reimbursement.

Section 12: Amends AS 38.35.200(a), Judicial review of decisions of commissioner on application. Adds language that is intended to limit the ability of those with objections to natural gas pipeline construction to stop necessary projects. Allows a competing applicant or a person with a direct financial interest affected by the lease of a right-of-way to raise an objection within 60 days of the application or 60 days after the effective date of this legislation. Allows an applicant standing to seek judicial review anytime in the process.

Section 13: Adds a new subsection to AS 38.35.200, Judicial review of decisions of commissioner on application. This subsection (c) is modeled after the Trans-Alaska Pipeline Authorization Act provision to foreclose lawsuits against any phase of development and/or construction. This subsection only allows those who have standing to bring about an action alleging that an action will deny rights under the state Constitution or challenging the invalidity of this section. The complaint must be filed in a state Superior Court and the court may not grant injunctive relief with the exception of a final judgment. Exempts an appeal of a permitting decision by the Department of Environmental Conservation under AS 46.03 (Environmental Conservation) and AS 46.14 (Air Quality Control) that is delegated to the department by the Environmental Protection Agency.

Section 14: Amends AS 40.25.120(a), Public records; exceptions, certified copies. Allows AGDC and the provider or recipient of the information to enter into confidentiality agreements that would not be subject to public disclosure. This provision complements the language found in Section 6.

Section 15: Amends AS 41.41.010(a), Establishment of the authority. Deletes certain provisions relating to ANGDA pertaining to the construction of a natural gas pipeline. The overall effect of the amendments in this and later bill sections would be to clarify that ANGDA may operate as a shipper of gas but not as a pipeline owner or developer. This clarifies the respective responsibilities of AGDC and ANGDA and conforms to general requirements of FERC and other potential pipeline regulatory agencies.

Section 16: Amends AS 41.41.010(d), Establishment of the authority. Conforming language to that found in Section 14, allowing ANGDA to focus more on marketing.

Section 17: Adds a new subsection to AS 41.41.010, Establishment of the authority. Gives the ANGDA the ability to pledge royalty gas owned by the state as long as the royalty gas is not already committed by contract to other purchasers of royalty gas.

Section 18: Repeals and re-enacts AS 41.41.020, Authority governing body. Establishes the board of directors of AHFC as the governing body of ANGDA.

Section 19: Amends AS 41.41.060, Compensation of board members; per diem and travel expenses. This section references statutes granting The Alaska Housing Finance Corporation board reimbursement for compensation, travel and per diem. This change also allows the Alaska Housing Finance Corporation board members to receive compensation, travel and per diem while on official business on behalf of ANGDA.

Section 20: Amends AS 41.41.070(d), Authority of staff. Exempts from the procurement code persons found by ANGDA to be necessary for the purpose of developing information, furnishing advice or conducting studies, investigations, hearings or other proceedings.

Section 21: Amends AS 41.41.090(b), Conflicts of interest. Deletes the reference to a “project” in conformance with the idea that ANGDA will not be a pipeline owner or operator, as discussed above in section 15.

Section 22: Amends AS 41.41.150(a), Public access to information. Exempts information contained or subject to a confidentiality agreement between ANGDA and the Alaska Gasline Development Corporation. This conforms to changes made in sections 6 and 14.

Section 23: Amends AS 41.41.200, Powers of the authority. Deletes references to a project. This conforms to the change discussed in section 15.

Section 24: Amends AS 41.41.990(2), Definitions. Amends the definition of the ANGDA Board of Directors to allow the Alaska Housing Finance Corporation Board of Directors to act as the board of ANGDA.

Section 25: Amends AS 42.05.431(c), Power of commission to fix rates. Exempts from review by the Regulatory Commission of Alaska any agreement or amendment to an agreement entered into by AGDC with a public utility. The exemption would continue for as long as any debt is outstanding for the AGDC pipeline.

Section 26: Amends AS 42.05.431(e), Power of commission to fix rates. Makes a conforming drafting change to reflect the change proposed in section 25.

Section 27: Adds a new subsection to AS 42.05.711, Exemptions. Exempts AGDC from oversight by the Regulatory Commission of Alaska until such a time that all debt has been paid on a project.

Section 28: Adds a new section to AS 42.06, Article 7, Pipeline Act. Exempts AGDC and any pipeline developed, owned, or operated, in whole or in part, by AGDC from the Pipeline Act, which, generally speaking, places pipelines and pipeline carriers in Alaska under the regulations of the Regulatory Commission of Alaska.

Section 29: Adds a new subsection to AS 43.56.020, Exemptions. Taxable property of a natural gas pipeline developed by the Alaska Gasline Development Corporation is exempt from state or local taxes until the first natural gas flows in the project generating revenue to the owners of the natural gas pipeline project.

Section 30: Repeals AS 38.34.030, Joint In-State Gasline Development Team; AS 38.34.040, Duties of the development team; AS 38.34.060: Conflicts of interest; AS 41.41.030, Term of office; AS 41.41.040, Removal and vacancies; and AS 41.41.080, Legal counsel. The provisions repealed in the AS 38.34 statutes are the Joint In-State Gasline Development Team, their duties, conflicts of interest provisions. The In-State Team has fulfilled its duties and the function they served is no longer necessary with the advent of AGDC.

The AS 41.41 statutes refer to the board members of ANGDA. These provisions are no longer necessary since the Alaska Housing Finance Corporation board is overseeing activities of ANGDA.

Section 31: Repeals Section 1 of Ballot Measure No. 3.

Section 32: Contains certain instructions to the revisor of statutes.

Section 33: Immediate effective date.