



Representative Mike Hawker

Alaska State Legislature

Sectional Analysis: Sponsor Substitute for House Bill 4, Version O

“An Act relating to the Alaska Gasline Development Corporation; making the Alaska Gasline Development Corporation, a subsidiary of the Alaska Housing Finance Corporation, an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to the price of the state’s royalty gas for certain contracts; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by way of contract carriage; 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 - Findings and Intent

- Finds that an Alaska Gasline Development Corporation (AGDC) natural gas pipeline is in the best interests of the state, and required for public convenience and necessity.
The Regulatory Commission of Alaska (RCA) uses these standards in issuing a building permit to a project. Through this section, the legislature is making these findings on behalf of the RCA.
- Finds it is the state’s policy to make the state’s royalty gas available to be shipped in an AGDC pipeline.
Royalty gas may be an important volume for an instate gas pipeline. This finding does not address ownership of state royalty gas, only transportation.
- Finds that locating AGDC under the Department of Commerce, Community and Economic Development, for administrative purposes only, will advance AGDC’s mission.
Establishing AGDC as an independent state entity with a clear purpose and the statutory authority to meet its mission will make AGDC more likely to succeed.

- Provides intent that AGDC's transfer from an Alaska Housing Finance Corporation (AHFC) subsidiary to a stand-alone corporation will be treated as a repositioning and not as creating a new entity.
This intent should prevent the need to dissolve AGDC and re-create it as a new corporation; as a transfer, AGDC will need to amend bylaws and regulations.
- Provides intent that AGDC will procure services, labor, products and resources from Alaska businesses, including Alaska Native corporations and municipal organizations, when prices are competitive.
- Provides intent that AGDC will, as possible, hire Alaskans; establish hiring facilities in Alaska; and use Department of Labor and Workforce Development systems.

Section 2 (conforming) deletes from AS 18.56.086, *Alaska Housing Finance Corp, Creation of subsidiaries*, the ability to create a pipeline subsidiary.

Section 3 (new corporation) adds a new chapter, Alaska Gasline Development Corporation, to AS 31, *Oil and Gas*. This section is the statutory authority for the stand-alone corporation.

(As AHFC's statutes were the basis for developing AGDC's statutes, similarities are noted for each section.)

Sec. 31.25.010, Structure, establishes AGDC as an independent public corporation of the state, located for administrative purposes in DCCED, and makes provisions for asset distribution upon termination.

(Termination language is from AHFC 18.56.020)

Sec. 31.25.020, Governing body, establishes a five-member board of directors, serving staggered, seven-year terms. Members are appointed by the governor and must be confirmed by the legislature. In making appointments, the governor shall consider expertise in natural gas pipeline construction, operation and marketing; finance; and large project management. Members may be removed only for cause; vacancies will be filled in the same way as original appointments are made. Board members receive \$400 compensation per day spent on official board business, in addition to actual expenses.

(Similar to AHFC 18.56.030, except AHFC requires a regional quota of board members, and permits board members to designate a deputy. AHFC's board includes commissioners; AGDC's board does not)

A small, highly qualified, specialized board with long terms is expected to be flexible and responsive, and able to see through an important project. Compensation is commensurate with that paid to Alaska Railroad and Permanent Fund Corporation board members; AHFC board members are compensated at a substantially lower level, \$100.

Sec. 31.25.030, Meetings of board, directs the board to annually elect officers; defines a quorum as a majority of members; and requires meetings at least once every three months. Electronic meetings are allowed. For a meeting in which the board authorizes a bond issuance, at least 24 hours public notice is required. At least three board members are required for major votes, including bond sales; sale or disposition of assets; determining a pipeline ownership structure; and participation in a pipeline project.

(Similar to AHFC 18.56.040, with the addition of the majority for major votes threshold)

A quorum for a meeting requires three members. To avoid a situation in which a minority of the board is able to carry a major, substantive vote, this section requires a majority of members for certain votes.

Sec 31.25.035, Minutes of meetings, requires the board to keep minutes.

(From AHFC 18.56.045)

Sec. 31.25.040, Administration of affairs, allows the board to manage the assets and business of the corporation; the board may adopt, amend, and repeal bylaws and regulations; and the board will delegate corporation administration to the executive director. Requires the board to adopt formal procedures for procurement processes.

(Similar to AHFC 18.56.050, with the addition of requiring formal procedures for procurement)

AGDC is exempt from the State Procurement Code (HB 4, Section 3, 31.25.140). To ensure fairness in procurement, the board must adopt clear procedures.

Sec. 31.25.045, Executive director, requires an executive director who is appointed by and serves at the pleasure of the board. The director may not be a board member.

(From AHFC 18.56.052)

Sec. 31.25.050, Legal counsel, directs the corporation to retain legal counsel.

(AHFC 18.56.055 makes the attorney general the legal counsel for AHFC. Under this section, AGDC will retain independent legal counsel instead.)

Sec. 31.25.060, Employment of personnel, allows the board to engage professional and technical consultants, and allows the executive director to hire corporation employees and contract with consultants. The board sets duties and compensation for corporation personnel.

(Similar to AHFC 18.56.060. Both the board and the corporation have the ability to contract for services. AHFC allows the director to engage professional and technical advisors only with the board's approval. AGDC does not have this requirement as the director may have to move quickly in retaining specialized professional services and as a high number of contracts will be awarded for technical services.)

Sec. 31.25.065, Personnel exempt from State Personnel Act, exempts AGDC from the State Personnel Act.

(From AHFC 18.56.070)

Sec. 31.25.070, Purpose, directs AGDC to advance an instate natural gas pipeline as described in AGDC's July 2011 project plan, with modifications as necessary, making gas available as soon as practicable to Fairbanks, Southcentral, and other communities where possible; and try to ship and deliver gas at commercially reasonable rates.

Sec. 31.25.080, Powers and duties, lists 21 powers of the corporation, including the abilities to determine pipeline ownership and operating structures; plan, finance, construct and operate a pipeline system; lease, rent, acquire and manage property; exercise eminent domain; transfer or dispose of all or part of a pipeline system; operate as a contract carrier; conduct hearings; sue and be sued; adopt bylaws; borrow money; and invest funds. Prohibits development of a pipeline that competes under the terms of the Alaska Gasline Inducement Act (AGIA). Requires publication of open season results.

This section includes abilities for general corporation operation, such as the ability to make contracts and to adopt an official seal, carried over from AHFC statutes. This section also includes a number of abilities specific to AGDC's purpose. Under this section, AGDC may not develop a project that competes under the terms of AGIA, unless a project under AGIA has been abandoned or the licensee is no longer receiving state inducements. If AGDC received commitments for capacity in an open season, AGDC must publicize the name of each shipper; the amount of capacity allocated; and the length of time of the commitment.

Sec. 31.25.090, Confidentiality; interagency cooperation, allows state agencies to share information with AGDC; requires state agencies to cooperate with AGDC and give priority to AGDC requests, except for requests from the AGIA coordinator; and directs AGDC to avoid duplicating state work on a pipeline. State entities must provide non-hydrocarbon resources like water, sand and gravel to AGDC at usual cost, but those costs may not be recovered in the pipeline tariffs. DNR will grant AGDC a right-of-way lease at no appraisal or rental cost if certain conditions are met; the fee waiver carries with the lease in case of a transfer, which must be approved by the commissioner. AGDC may enter into confidential agreements as necessary, including with other state entities; information covered by a confidentiality agreement is not subject to disclosure under the Public Records Act. AGDC may also keep other information confidential, including the results of field studies; technical information; trade secrets; and commercial negotiations. AGDC may waive confidentiality of some information.

Sec. 31.25.100, In-state natural gas pipeline fund, establishes the instate-natural gas pipeline fund within AGDC and directs fund use.

Sec. 31.25.110, International borrowing, provides AGDC the authority to access international capital markets to borrow money.

(From AHFC 18.56.084)

Sec. 31.25.120, Creation of subsidiaries; sale of natural gas by a subsidiary, allows AGDC to create subsidiary corporations to meet AGDC's mission, including to acquire and ship the state's royalty gas. Allows a subsidiary, together with the DNR commissioner, to pledge state royalty gas to honor delivery commitments. The DNR commissioner will decide how much gas to pledge, and at what price.

(Similar to AHFC 18.56.086, but tailored to AGDC)

Sec. 31.25.130, Administrative procedure; regulations, exempts AGDC from the Administrative Procedure Act, except for the Open Meetings Act portion. Provides board direction related to bylaws, regulations, and public notice of meetings.

(From AHFC 18.56.088, but tailored by removing parts that relate to extending loans (for housing))

Sec. 31.25.140, Exemption from the State Procurement Code and the Executive Budget Act; corporation finances, exempts AGDC and its subsidiaries from the State Procurement Code and the Executive Budget Act. Requires an annual independent audit.

(AHFC has a partial exemption in 18.56.089. AGDC's exemption is broader. Both require annual asset reviews and independent audits.)

Sec. 31.25.150, Federal taxation of interest on bonds and bond anticipation notes, provides that, if interest on bonds or notes becomes taxable under federal income tax laws, the legislature may pay off the principal and interest.

(From AHFC 18.56.103. This section creates a moral, but not legal, obligation of the state. It serves as reassurance for lenders who count on the tax-exempt quality of revenue bonds.)

Sec. 31.25.160, Bonds and notes, allows the corporation to issue bonds and notes in one or more series, limited to the corporation's own backing.

(Similar to AHFC 18.56.110. With this section, AGDC can issue bonds to meet its corporate purpose of financing a gas pipeline, supported by anticipated revenue from the pipeline, as evidenced by long-term transportation contracts. Much of AHFC's bonding authority directly relates to housing and other specific programs, and as such was not included. Also, AHFC is limited to the amount of bonds issued in a calendar year without legislative authorization. AGDC does not have this limitation, as exact project costs cannot be determined with certainty at this time, and may fluctuate if delays occur in project progress.)

Sec. 31.25.170, Independent financial advisor, allows the corporation to retain a financial advisor in negotiating the private sale of bonds or notes to an underwriter.

(From AHFC 18.56.115)

Sec. 31.25.180, Validity of pledge, declares as valid and binding any pledge of assets or revenue of the corporation to payment or interest.

(From AHFC 18.56.120. This is a standard statement that lenders need to see. It assures lenders that AGDC has the statutory authority to pledge revenue; in turn, that protects AGDC contracts under the U.S. Constitution contracts clause so that future state legislative action cannot violate protected contracts.)

Sec. 31.25.190, Capital reserve funds, allows AGDC to establish capital reserve funds to secure its obligations, and directs fund management. Requires annual reports to the governor and legislature.

(From AHFC 18.56.125 with structural modifications per legal counsel. This section includes a moral, but not legal, obligation of the state to replenish, if necessary, a reserve fund created to cover interest payments due on bonds.)

Sec. 31.25.200, Remedies, permits enforcement of rights by those holding AGDC obligations.

(From AHFC 18.56.130 with structural changes by legal counsel. Lenders need to see this standard statement.)

Sec. 31.25.210, Negotiable instruments, declares that obligations are promises to pay an amount of money.

(From AHFC 18.56.135. This is a standard statement that lenders need to see.)

Sec. 31.25.220, Obligations eligible for investment, AGDC obligations as legitimate investments.

(From AHFC 18.56.150. This allows investment in AGDC bonds by the state and by other private institutions in the state.)

Sec. 31.25.230, Refunding obligations, permits the corporation to refund obligations and provides direction for managing refunds.

(From AHFC 18.56.160. This is a standard statement that lenders need to see. Bond refinancing is common. As refinancing occurs, this section allows AGDC to refund prior obligations.)

Sec. 31.25.240, Credit of state not pledged, prohibits AGDC from pledging the state's credit. AGDC obligations are limited to AGDC's backing.

(From AHFC 18.56.170)

Sec. 31.25.250, Limitation on personal liability, protects corporation officers from personal liability.

(From AHFC 18.56.180)

Sec. 31.25.260, Tax exemption, exempts AGDC from paying state and local taxes on corporation property or property income.

(From AHFC 18.56.190. This exemption applies to the corporation. The state and local property tax exemption in HB 4, section 32, applies to a project owned or financed by, in whole or in part, AGDC.)

Sec. 31.25.270, Annual report, requires an annual report to the governor, legislature and public, including an independent audited financial statement.

(From AHFC 18.56.200; omits an additional reporting requirement for mortgage loans investments.)

Sec. 31.25.390, Definitions.

Section 4 (procurement code exemption), adds new paragraphs to AS 36.30.850(b), *Public Contracts, State Procurement Code, Application of this chapter*, exempting AGDC, its subsidiaries, and ANGDA contracts from the state procurement code. The exemption is reinforced in AGDC's statutes (HB 4 Section 3) and in ANGDA's statutes (HB 4 Section 22).

Section 5 (RCA accounting, conforming) amends AS 37.05.146(c)(22), *Public Finance, Fiscal Procedures Act, Definition of program receipts and non-general fund program receipts*.

Section 6 (gas or electric utilities, conforming) amends AS 38.05.180 (bb)(1), *Public Land, Alaska Land Act, Oil and gas and gas only leasing*, to conform with Section 10 creating covenants specific to a contract carrier pipeline.

Section 7 (definitions) repeals and reenacts AS 38.34.099, *Public Land, In-State Natural Gas Pipeline, Definitions*, to refer to the definitions in the new 31.25 (HB 4, Section 3).

This relocates definitions relevant to AGDC from the In-State Natural Gas Pipeline statute –created by HB 369 in 2010 – to the AGDC corporate statute in Section 3. As portions of the In-State Natural Gas Pipeline statute remains, this section refers to the new location for definitions.

Section 8 (right-of-way leases, conforming) amends AS 38.35.100(d), *Public Land, Right-of-Way Leasing Act, Decision on application*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 9 (right-of-way leases, conforming) amends AS 38.35.120(a), *Public Land, Right-of-Way Leasing Act, Covenants required to be included in lease*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 10 (right-of-way leases, conforming) amends AS 38.35.120(b), *Public Land, Right-of-Way Leasing Act, Covenants required to be included in lease*, to conform to Section 11, right-of-way leasing for a contract carrier.

Section 11 (contract carrier covenants) adds a new section to AS 38.35, *Public Land, Right-of-Way Leasing Act*, to establish covenants for a contract carrier gas pipeline. This section does not alter the existing covenants in the Right-of-Way Leasing Act. A carrier must agree to abide by the covenants in order to receive a state right-of-way lease. Of 14 existing covenants for common carriers, 11 still apply to a contract carrier. The others are adapted to reflect contract carrier principles, while retaining the policy that pipelines on state rights-of-way should encourage broader development of oil and gas resources by expanding when commercial opportunities exist and shipping without unreasonable discrimination.

Section 12 (right-of-way leases, costs) adds a new subsection to AS 38.35.140, *Public Land, Right-of-Way Leasing Act, Payment of rental and costs*, requiring a right-of-way lease to be issued at no cost to AGDC.

This reinforces in the Right-of-Way Leasing Act the provision in HB4, Section 3 (31.25.090, Interagency cooperation; confidentiality) that leases should be made at no rental fee/cost to AGDC.

Section 13 (judicial review) adds new subsections to AS 38.35.200, *Public Land, Right-of-Way Leasing Act, Judicial review of decisions of commissioners on application*, limiting judicial review of state lease, permit or other authorization decisions. Claims challenging this provision must be brought within 60 days of the effective date of HB 4; future claims alleging a constitutional violation must be brought within 60 days of the action and must be filed in superior court. The court may not grant injunctive relief.

One of the significant risks in megaproject development is costly delays triggered by lawsuits and/or injunctive relief while a lawsuit is being decided. There is precedence for limiting injunctive relief on projects the state determines are in the best interests of the public (TAPS and the federal Alaska Natural Gas Pipeline Act of 2004).

Section 14 (personnel act exemption) exempts AGDC and subsidiaries from AS 39.25.110, *Public Officers and Employees, State Personnel Act, Exempt service*. This exemption is reinforced in AGDC's corporate statutes.

Section 15 (public officials disclosures) makes the board of directors of AGDC and subsidiaries subject to public official financial disclosure rules in AS 39.50.200, *Public Officers and Employees, State Personnel Act, Definitions*.

Section 16 (confidentiality) amends AS 40.25.120(a), *Public Records and Recorders, Public Record Disclosures, Public records; exemptions; certified copies*, to exempt eligible information and information covered by an AGDC confidentiality agreement from disclosure under the state Public Records Act. This relates to HB 4, Section 3, allowing AGDC to keep certain information confidential.

Section 17 (ANGDA as gas marketer) amends AS 41.41.010(a), *Public Resources, Alaska Natural Gas Development Authority, Establishment of the authority*, enabling ANGDA to act as a gas marketer instead of a gas transporter, and eliminating proscriptive language regarding gas supply and gas markets.

This section retains ANGDA's purpose of acquiring natural gas produced in the state and delivering it to market, in sufficient quantity to help assure the long-term viability of a pipeline, but removes other purposes including designing, constructing, operating and maintaining a pipeline and other facilities.

Section 18 (ANGDA as AGDC subsidiary) amends AS 41.41.010(b), *Public Resources, Alaska Natural Gas Development Authority, Establishment of the authority*, to make ANGDA a subsidiary of AGDC. ANGDA is currently situated in the Department of Revenue.

Section 19 (ANGDA as gas marketer) amends AS 41.41.010(d), *Public Resources, Alaska Natural Gas Development Authority, Establishment of the authority*, to clarify ANGDA's role as a gas marketer.

Section 20 (ANGDA board) repeals and reenacts AS 41.41.020, *Public Resources, Alaska Natural Gas Development Authority, Authority governing body*, to state that ANGDA will be governed by the AGDC board of directors.

Section 21 (ANGDA board compensation) amends AS 41.41.060, *Public Resources, Alaska Natural Gas Development Authority, Compensation of board members; per diem and travel expenses*, to reflect the new 31.25.020, entitling AGDC's board to receive compensation when serving as ANGDA's board.

AGDC's board will receive \$400 per day compensation when acting as ANGDA's board; this is the same amount board members receive while acting as AGDC's board.

Section 22 (ANGDA procurement) amends AS 41.41.070(d), *Public Resources, Alaska Natural Gas Development Authority, Authority staff*, to include legal and bond counsel in the services for which ANGDA may contract, and exempts contracted services from the state procurement code.

With the repeal (HB 4, Section 35) of the provision making the attorney general the legal counsel for ANGDA, this section enables ANGDA to contract for legal and bond services.

Section 23 (ANGDA disclosure) amends AS 41.41.090(b), *Public Resources, Alaska Natural Gas Development Authority, Conflicts of interest*, to remove involvement with a "project" from the circumstances requiring disclosure. ANGDA board members must disclose conflicts of interest; as ANGDA will no longer be developing projects, an interest in a project in which ANGDA has invested assets does not need to be disclosed.

Section 24 (ANGDA confidentiality) amends AS 41.41.150(a), *Public Resources, Alaska Natural Gas Development Authority, Public access to information*, to expand ANGDA's existing confidential records authority to include information in a confidential agreement between ANGDA and AGDC.

Section 25 (ANGDA as gas marketer) amends AS 41.41.200, *Public Resources, Alaska Natural Gas Development Authority, Powers of the authority*. This removes ANGDA's authority to exercise eminent domain, as ANGDA would serve as a marketing arm and not as a pipeline builder.

Section 26 (ANGDA property) amends AS 41.41.450, *Public Resources, Alaska Natural Gas Development Authority, Property of the authority*. As HB 4 deletes the definition of "project" from ANGDA's statutes, references to a "project" are changed to mean 'for the purposes of the corporation.' With this change, ANGDA is able to acquire property for the corporation's purpose, but not for a project.

Section 27 (ANGDA PLAs) amends AS 41.41.500, *Public Resources, Alaska Natural Gas Development Authority, Contract terms relating to use of Alaska resources*. As HB 4 deletes the definition of "project" from ANGDA's statutes, references to a "project" are changed to mean 'for the purposes of the corporation.' With this change, ANGDA shall have project labor agreements that secure timely completion of a project of the corporation.

Section 28 (ANGDA definitions) amends AS 41.41.990, *Public Resources, Alaska Natural Gas Development Authority, Definitions*. The definition of "board" is changed to mean the AGDC board acting as ANGDA's board.

Section 29 (RCA, conforming), amends AS 42.04.080(a), *Public Utilities and Carriers and Energy Programs, Regulatory Commission of Alaska, Decision-making procedures*, to allow the RCA to appoint a panel for hearing matters under the new 42.08.

The RCA needs the statutory authority to appoint a panel and hear a matter that comes before them under one of two existing regulatory statutes. This adds the new regulatory chapter created in HB 4, 42.08, to that statutory direction, so the RCA will be able to act on matters that come up under the new regulatory chapter.

Section 30 (RCA review of public utility contracts), amends AS 42.05, *Public Utilities and Carriers and Energy Programs, Alaska Public Utilities Regulatory Act*, by adding a new section related to RCA review of contracts entered into by a public utility with AGDC for transportation or for contracts public utilities sign to purchase gas or store gas transported on an instate natural gas pipeline regulated under 42.08. Public utility contracts with AGDC may include a covenant for public utilities to collect rates sufficient to meet contractual obligations. Contracts to buy or store gas to be shipped on an instate natural gas pipeline regulated under 42.08 must be submitted to the RCA before they take effect. The RCA has 180 days to disapprove contracts as presented or, if contracts are found not just or reasonable, to disapprove the contracts. Contracts approved are not subject to further RCA review. The RCA may extend the 180 day review period if a public utility fails to provide supplemental information that is available to the public utility.

This section provides an interface between regulation of public utilities, and regulation of a contract carrier natural gas pipeline. If the RCA approves a contract involving a utility and the pipeline carrier, the utility has assurances that it will be able to recover its costs in rates charged to utility customers.

Section 31 (RCA conforming) amends AS 42.05.711, *Public Utilities and Carriers and Energy Programs, Alaska Public Utilities Regulatory Act, Exemptions*, to exempt a pipeline subject to regulation under 42.08 from regulation under 42.05.

Section 32 (RCA conforming) amends AS 42.06, *Public Utilities and Carriers and Energy Programs, Pipeline Act*, by adding a new section to article 7 exempting a pipeline subject to regulation under 42.08 from regulation under 42.06.

Section 33 (RCA natural gas pipeline contract carrier) adds a new chapter to AS 42, *Public Utilities and Carriers and Energy Programs*, to create Chapter 08, In-state Pipeline Contract Carrier. Chapter 08 applies to an instate natural gas pipeline providing contract carriage, and exempts an in-state natural gas pipeline subject exclusively to federal jurisdiction.

House Bill 4 provides for a new category of gas pipeline carriage, contract carriage, and includes a new regulatory framework for a contract carrier gas pipeline. The new 42.08 is a shift from traditional cost-based regulation, and directs the Regulatory Commission of Alaska to instead evaluate whether negotiated contracts are fair and reasonable. Checks and balances are included to set basic rules ensuring fair and open processes; to promote exploration and development of Alaska's gas basins; to protect the public welfare; and to require heightened scrutiny for contracts entered into by affiliated parties.

Sec. 42.08.010, Application of chapter; exemption, applies this chapter to an instate natural gas pipeline providing service as a contract carrier. Exempts an instate natural gas pipeline subject exclusively to federal jurisdiction.

Sec. 42.08.020, Qualification of the Alaska Gasline Development Corporation; findings, determines that AGDC is financially and managerially fit, willing and able to provide service under 42.08. States that an AGDC pipeline is required by public convenience and necessity. Directs the RCA to determine whether any entity applying under 42.08 is technically fit, willing and able.

The findings made on behalf of the RCA in this section are findings that the RCA usually needs to make in issuing a pipeline building permit – a Certificate of Public Convenience and Necessity. The advance findings are not valid for an applicant other than AGDC. For AGDC and any applicant, the RCA will need to determine whether the entity is technically able to build the project and provide the service proposed.

Sec. 42.08.220, General powers and duties, provides enabling direction for the RCA under 42.08. Requires permits for construction, interconnections, expansions and abandonment. Enables the RCA to intervene in disputes that were not accounted for in contractual dispute resolution mechanisms, and that threaten the public safety and welfare. Prohibits the RCA from requiring rates or tariff regulations, except as provided in the chapter, and from conducting further review of contracts approved under 42.08.

Sec. 42.08.230, Commission decision-making procedures, directs the RCA to appoint a panel to consider and decide matters under 42.08, and to expeditiously adjudicate matters.

Sec. 42.08.240, Publication of reports, orders, decisions and regulations, is the standard RCA direction for publishing reports, orders, decisions and regulations.

Sec. 42.08.250, Application of Administrative Procedure Act, is the standard RCA exemption from Administrative Procedure Act adjudication procedures. Instead, the RCA's adjudication procedures would apply. The rest of the Administrative Procedures Act still applies to regulations adopted by the RCA.

Sec. 42.08.260, Annual report, requires the RCA to include in its annual report activities related to 42.08.

Sec. 42.08.300, Open seasons, sets rules a carrier must follow when holding an open season. Provides parameters for holding an open season to ensure fairness and openness for all interested potential shippers, including advance notice. Requires a carrier to hold an open season for pipeline expansion when the carrier has received requests for firm service from potential shippers that would enable a commercially reasonable expansion. Provides that expansions may not violate the terms of AGIA. Allows a carrier to make pre-subscription agreements before an open season begins. Requires a carrier to award firm transportation service without undue discrimination or preference.

Sec. 42.08.310, Transportation service, provides that firm service can only be made available through presubscription agreements or open seasons. Requires a carrier to offer a recourse tariff with rates determined on a cost-of-service basis. Allows that negotiated firm transportation rates may be different from recourse rates. Requires a carrier to provide interruptible service in capacity not used in firm service.

Sec. 42.08.320, Review of certain contracts by the commission, requires a carrier to submit all precedent agreements to the RCA; precedent agreements with other than a public utility may be kept under seal. The RCA has 180 days to approve or disapprove precedent agreements as just and reasonable. Sets the standard for determining if a contract is made at arm's length and allows additional RCA scrutiny of contracts made between affiliated parties that are not substantially similar to transactions made between unaffiliated parties. Approved contracts are not subject to further review.

Sec. 42.08.330, Contract carriage certificate, requires a certificate of public convenience and necessity (CPCN) for a carrier to construct a pipeline and to transport gas. The RCA has 180 days to issue a CPCN once application is made, providing that the applicant is found fit, willing and able to perform the services proposed. The RCA may attach conditions to and amend, suspend or revoke a CPCN. Operating authority may not be transferred and service may not be abandoned without RCA approval.

Sec. 42.08.340, Filing requirements; public inspection, requires an instate natural gas pipeline carrier to file all recourse tariffs, rules, regulations, terms and conditions pertaining to service, and all contracts with shippers. Requires changes in tariff rates/rules and service conditions to be filed with the RCA.

Sec. 42.08.350, Uniform system of accounts, requires a carrier regulated under 42.08 to maintain records and accounts in accordance with the uniform system of accounts.

Sec. 42.08.360, Expansion; dispute resolution, enables contracts to provide for expansion, unless an expansion would violate the terms of the Alaska Gasline Inducement Act. Requires contracts to include procedures for resolving disputes.

Sec. 42.08.370, Regulatory cost charge, implements the standard RCA assessment of a user fee on regulated entities; includes a cap and directs administration of the user fee.

Sec. 42.08.380, Effect of chapter on taxes and royalties, declares that nothing in 42.08 will change the calculation of production taxes or of royalties due the state.

Sec. 42.08.400, Public records, requires RCA records be available to the public, except as provided by law. Precedent agreements will be kept confidential. Firm transportation and other contracts will be public, except for information that the carrier and the RCA agree could cause competitive harm.

Sec. 42.08.410, Investigations, allows the RCA to investigate matters in 42.08, and maintains the role of the Department of Law's Regulatory Affairs and Public Advocacy section.

Sec. 42.08.510, Designation of service agents, requires an instate natural gas pipeline carrier to file a named, permanent resident as its agent (standard RCA provision).

Sec. 42.08.520, Effect of regulations, states that regulations adopted by the RCA under 42.08 have the effect of law (standard RCA provision).

Sec. 42.08.530, Judicial review and enforcement, makes RCA final orders subject to standard RCA judicial review, except in the circumstances set forth in HB 4, Section 13, addressing the development, construction and initial operation of a natural gas pipeline by AGDC.

Sec. 42.08.540, Joinder of actions, allows appeals to be joined under applicable court rules (standard RCA provision).

Sec. 42.08.900, Definitions, defines terms standard to the RCA (commission, commissioner, record) and includes HB 4 terms (instate natural gas pipeline, instate natural gas pipeline carrier).

Section 34 (property tax exemption) adds a new subsection to *AS 43.56.020, Revenue and Taxation, Oil and Gas Exploration, Production and Pipeline Transportation Property Tax, Exemptions*, exempting an AGDC-owned or financed project from state and local property taxes during construction.

This is one way the state can help an AGDC project succeed. Waiving property taxes for a period of time will help keep construction costs down during a highly risky time in pipeline development. Cost savings during construction would be reflected in the tariffs paid for gas shipped on an AGDC line.

Section 35 (repealer) repeals 11 statutes.

- Repeals AS 36.30.850(b)(45) *Public Contracts, State Procurement Code, Application of this chapter*, a prior exemption that applied to an AHFC pipeline.
- Repeals AS 38.34.030, *Public Land, In-State Natural Gas Pipeline, Joint In-State Gasline Development Team*; 38.34.040, *Duties of the Development Team*; 38.34.050, *Cooperation and access to information*; and 38.34.060, *Conflicts of interest*, all of which were part of HB 369 in 2010 and relate to the Joint In-state Gasline Development Team.
- Repeals AS 41.41.030, *Public Resources, Alaska Natural Gas Development Authority, Term of office*; 41.41.040, *Removal and vacancies*; 41.41.050, *Quorum and voting*; 41.41.080, *Legal counsel*; 41.41.100, *Budget*; and 41.41.990(4), *Definitions*, all related to the transition of ANGDA to a marketing role and to an AGDC subsidiary.

Section 36 (repealer) repeals Section 1 of 2002 Ballot Measure No. 3, the findings of which are no longer necessary with ANGDA's revised authority.

Section 37 (transition and intent) expresses the legislative intent that the existing state right-of-way lease between AGDC and DNR is amended to reflect the contract carrier covenants in HB 4 (the Alaska Constitution bars the Legislature from passing laws that apply retroactively to contracts in place). Also expresses intent for a smooth transition for AGDC from its status as a subsidiary of AHFC, to an independent corporation.

Specifically, this section includes:

- The intent is that this repositioning does not interfere with, delay or disrupt AGDC's work.
- The intent that the governor should appoint the new AGDC board within 90 days of the effective date.
- The AHFC board will remain in place until a new board is appointed; and will cooperate with the new board in a smooth transition.
- The intent is that the transition is a change in placement only, and will not require dissolving AGDC and creating a new corporation.
- The intent is that AGDC, including employees and directors, continue in-place while the boards are transitioning. This is not explicitly stated but rather is implied.

Section 38 is revisor's instructions

Section 39 sets an immediate effective date.