

LEGAL SERVICES

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MEMORANDUM

March 19, 2010

SUBJECT: Greater Railbelt Energy and Transmission Corporation -
CSHB 182() (Work Order No. 26-GH1041\E)

TO: Representative Charisse Millett
Co-Chair of the Special Committee on Energy
Attn: Jeff Turner

FROM: Dennis C. Bailey 
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. A municipal assembly acting outside a borough and a council acting outside a city may regulate municipal utility rates unless the utility is exempted from certain provisions of the Alaska Public Utilities Act. This section adds to the list of exemptions from the Alaska Public Utilities Act, an exemption for an energy and transportation corporation created in sec. 5 of the bill.

Section 2. Provides that a wholesale agreement for the sale of power by an energy and transportation corporation, and related contracts for the wheeling, storage, regeneration, or wholesale repurchase of power are not subject to review or approval by the Regulatory Commission of Alaska (RCA) until all long-term debt incurred for the project is retired.

Section 3. Prohibits the RCA, when setting or reviewing rates for an energy and transmission corporation, from rejecting anticipated costs.

Section 4. Prohibits a municipality from regulating an energy and transmission corporation that is exempt from regulation under the Alaska Public Utilities Act.

Section 5. Exempts an energy and transmission corporation from regulation under the Alaska Public Utilities Act. The section is subject to a delayed effective date on August 16, 2015.

Section 6.

Section 6, effective August 16, 2010 under sec. 10, is contingent on the filing of letters of intent by four utilities under sec. 9:

Sec. 42.50.010(a) authorizes the organization of an energy and transmission corporation by four or more interconnected municipal or cooperative public utilities, if first authorized by law, to acquire, operate certain power and transmission projects owned by the Alaska Energy Authority, and to plan, recommend, coordinate, and address power generation and transmission in certain service territory.

Sec. 42.50.010(b) states the purposes of the corporation.

Sec. 42.50.010(c) permits the corporation to address electric power and generation issues.

Sec. 42.50.010(d) states that the corporation shall operate on a nonprofit basis and its services shall be based on uniform rates for like services under standard tariffs or contracts.

Sec. 42.50.010(e) exempts the corporation from the Alaska Cooperative Corporation Act, the Alaska Nonprofit Corporation Act, and the Electric and Telephone Cooperative Act. Excepted from the exemption for the Electric and Telephone Act are AS 42.50.060 and AS 42.50.190 (which provides that electricity sold at retail by the corporation is subject to the electric cooperative tax under AS 10.25.540 - 10.25.570.)

Sec. 42.50.010(f) states that the corporation is separate and independent from the state, is not an agency of the state, an administrative or governmental unit of the executive branch, a public corporation of the state, a municipal corporation, or a political subdivision of the state.

Sec. 42.50.010(g) asserts that the corporate exercising of power are for a public purpose.

Sec. 42.50.010(h) authorizes the corporation to provide services to electric utilities other than a public utility member. The corporation may decline to interconnect with an entity that does not meet interconnection standards.

Sec. 42.50.020(a) sets the number of directors at 13: two directors from each public utility member, and one public director appointed by the governor.

Under *Sec. 42.50.020(b)*, the term of a director representing a public utility member expires when the individual has been removed as a representative by the utility.

Sec. 42.50.020(c). The term of a director appointed by the governor is four years. Public directors may be reappointed.

Sec. 42.50.020(d). The board may only remove directors for cause on a two-thirds vote. The bylaws must provide a mechanism for appointing an alternative member if the chief executive officer of a public utility member is removed from the board.

Sec. 42.50.020(e). A majority of the board of directors constitutes a quorum.

Sec. 42.50.020(f). The chair, vice chair, and other board officers as provided in the bylaws shall be elected from among the directors.

Sec. 42.50.020(g). Directors may not receive a salary but may receive a meeting fee, per diem, and travel expenses.

Sec. 42.50.030 describes the method for holding board meetings.

Sec. 42.50.040 describes the appointment of the chief executive officer, other officers, and employees.

Sec. 42.50.050 describes who may be a member of the corporation.

Sec. 42.50.060 describes the contents of the articles of incorporation and requires that the articles or amendments to the articles be filed with the commissioner; provides for notice of change of the principal office of the corporation.

Sec. 42.50.070 describes what must be in the corporate bylaws.

Sec. 42.50.080 requires the corporation to indemnify its directors, officers, and employees.

Sec. 42.50.090(a) sets out the powers of the corporation.

Sec. 42.50.090(b) limits the power of the corporation to require its members to enter into power purchase agreements that restrict the ability of members to enter into bilateral power purchase or wheeling agreements among the members, except as a condition for participation in a specific new generation or transmission project when the condition is reasonably necessary for the corporation to finance the project.

Sec. 42.50.100. The corporation has all the powers and duties of a regulated electric public utility under the Alaska Public Utilities Regulatory Act except the corporation (1) may only make retail sales to an industrial customer; (2) is not required to obtain a certificate of public convenience and necessity; (3) is exempt from payment of a regulatory cost charge; and (4) is exempt from rate regulation.

Sec. 42.50.100(b). The corporation shall comply with provisions of the Alaska Public Utility Regulations Act relating to valuation of property, the system of accounting and reports, property records, depreciation and account, subsidiary business accounts, and records to be kept in state. The corporation is subject to the jurisdiction of the Regulatory Commission of Alaska with regard to joint use and interconnection of facilities, and failure to agree upon joint use or interconnection.

Sec. 42.50.110 requires the corporation to adopt, evaluate, and update a resource plan. If the corporation's resource plan deviates from other state energy or resource plans, the corporation's plan must explain the reasons for the deviation. The plan shall be made available to members, the governor, the legislature, and rate payers.

Sec. 42.50.120 requires the corporation to adopt, evaluate, and update a long-range fuel supply plan. If the corporation deviates from recommendations in a state plan the corporations plan must explain the deviation. The plan shall be made available to members, the governor, the legislature, and rate payers.

Sec. 42.50.130 requires the corporation to adopt, review, and update a long-range capital improvement plan. The plan shall be made available to members, the governor, the legislature, and rate payers.

Sec. 42.50.140 requires the corporation to adopt, review, and update a long-range financial management plan. The plan shall be made available to members, the governor, the legislature, and rate payers.

Sec. 42.50.150(a) permits the corporation to use any legal financing arrangement to achieve corporate purposes and objectives.

Sec. 42.50.150(b) allows the corporation to obtain financial assistance from state agencies.

Sec. 42.50.160(a) allows the corporation to assess and collect an administrative fee from the members of the corporation.

Sec. 42.50.160(b) allows the corporation to contract with its members for services rendered to the corporation by the member, and for services rendered by the corporation to the members.

Sec. 42.50.170(a) allows the corporation to acquire long-term fuel supplies, and fuel supply production, transportation, and storage facilities.

Sec. 42.50.170(b) authorizes the corporation to bid on interests in state land, including bids for oil and gas leases. The corporation may not be required to post a deposit under AS 38.05.860.

Sec. 42.50.170(c) permits the corporation to obtain fuel supplies in conjunction with another entity.

Sec. 42.50.180 requires the corporation to establish schedules of rates and charges for electric power, energy, and other services provided by the corporation; describes how the schedule for rates and charges must be established and the content of the schedule; requires the corporation to annually determine project costs for projects owned and operated by the corporation; sets out the procedure for establishing a schedule for rates and charges.

Sec. 42.50.190 exempts the real and personal property, asset, income, and receipts of the corporation from all taxes and assessments of the state or a political subdivision of the state except for taxes on electricity sold by the corporation under AS 10.25.540 - 10.25.570.

Sec. 42.50.200 requires the board to publish an annual report that includes audited financial statements, discussion of the corporation's circumstances and operations, and other information requested by the legislature or considered appropriate by the board.

Sec. 42.50.210 allows corporation members and rate papers to examine the books and records of the corporation subject to certain exceptions.

Sec. 42.50.220 requires an annual independent audit of the corporation that is submitted to the legislature and the governor.

Sec. 42.50.230 requires legislative approval before the corporation dissolves, merges, consolidates, or disposes of assets outside the ordinary course of business.

Sec. 42.50.240 requires the corporation to establish certain dispute resolution procedures in its bylaws.

Sec. 42.50.240 defines terms used in the chapter.

Section 7. Repeals AS 42.05.431(i), enacted in sec. 3 of the Act, which prevents the RCA from rejecting anticipated costs.

Section 8. Authorizes the organization of the Greater Railbelt Energy and Transmission Corporation, if a management audit of the corporation under the direction of the Legislative Budget and Audit Committee is commenced on June 30, 2013, 2015, and 2020. This section takes effect August 16, 2010.

Section 9. Requires that four of the listed utilities must sign letters of intent to become members of the Greater Railbelt Energy and Transmission Corporation before secs. 3, 6, and 8 take effect.

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Section 10. Provides for effective dates if the conditions set out in sec. 9 are met.

Section. 11. Sets the effective dates for certain sections to take effect August 16, 2015.

Section 12. Sets the effective dates for sections not affected by secs. 10 and 11.

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