

27-LS0075J
Bullock
4/12/12

SENATE CS FOR CS FOR HOUSE BILL NO. 9(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES CHENAULT, Millett, Thompson, Hawker, Pruitt, Johnson, Costello

SENATORS Huggins, Giessel, McGuire, Menard, Meyer

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Development Corporation, a subsidiary created**
2 **by the Alaska Housing Finance Corporation; requiring legislative approval before**
3 **construction of an in-state natural gas pipeline by the Alaska Gasline Development**
4 **Corporation; establishing and relating to the in-state natural gas pipeline fund; making**
5 **certain information provided to or by the Alaska Gasline Development Corporation**
6 **exempt from inspection as a public record; relating to the Joint In-State Gasline**
7 **Development Team; relating to the Alaska Natural Gas Development Authority; and**
8 **providing for an effective date."**

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

10 *** Section 1.** AS 18.56 is amended by adding a new section to read:

11 **Sec. 18.56.087. Alaska Gasline Development Corporation.** (a) The Alaska
12 Gasline Development Corporation, a subsidiary created under AS 18.56.086, shall
13 have all powers granted to it by the corporation. The Alaska Gasline Development

1 Corporation shall, to the fullest extent possible,

2 (1) construct, own, operate, manage, or participate in natural gas
3 pipelines and associated facilities and operations for the purpose of making natural gas
4 available to Fairbanks, the Southcentral region of the state, and other communities in
5 the state at the lowest rate possible for a natural gas pipeline that operates in a manner
6 consistent with safe and prudent standards;

7 (2) endeavor to develop natural gas pipelines to deliver natural gas to
8 public utility and industrial customers in areas of the state to which the natural gas
9 may be delivered at commercially reasonable rates; and

10 (3) endeavor to develop natural gas pipelines to provide shippers
11 access to natural gas produced in the state for transport at commercially reasonable
12 rates.

13 (b) The Alaska Gasline Development Corporation may not begin to construct
14 an in-state natural gas pipeline before project sanction and before receiving
15 authorization by law to proceed with the construction. In this subsection,

16 (1) "authorization by law" means a law passed by the legislature and
17 enacted into law or an appropriation for the construction of the pipeline that is not
18 entirely vetoed;

19 (2) "sanction" means having financial commitments that are adequate
20 to proceed with the construction of the in-state natural gas pipeline.

21 (c) In addition to the powers granted to it by the corporation, the Alaska
22 Gasline Development Corporation may acquire, by purchase, lease, or gift, land,
23 structures, real or personal property, an interest in property, a right-of-way, a
24 franchise, an easement, other interest in land, or an interest in or right to capacity in
25 any pipeline system determined to be necessary or convenient for the development,
26 financing, construction, or operation of an in-state natural gas pipeline project or part
27 of an in-state natural gas pipeline project.

28 (d) The in-state natural gas pipeline fund is established in the Alaska Gasline
29 Development Corporation and consists of money appropriated to it. Unless otherwise
30 provided by law, money appropriated to the fund lapses into the general fund on the
31 day this subsection is repealed. The Alaska Gasline Development Corporation shall

1 manage and invest the fund to yield competitive market rates. The Alaska Gasline
2 Development Corporation shall invest money in the fund in the same manner and on
3 the same conditions as permitted for investment by the commissioner of revenue of
4 funds belonging to the state or held in the treasury under AS 37.10.070 and as
5 provided for fiduciaries of state funds under AS 37.10.071. Interest and other income
6 received on money in the fund shall be separately accounted for and may be
7 appropriated to the fund. The Alaska Gasline Development Corporation may use
8 money appropriated to the fund for the planning, designing, financing, development,
9 construction, and operation of an in-state natural gas pipeline.

10 (e) If commitments to acquire firm transportation capacity are received in an
11 open season conducted by the Alaska Gasline Development Corporation, the Alaska
12 Gasline Development Corporation shall, within 10 days after executing the
13 commitments, report the results of the open season to the president of the senate and
14 the speaker of the house of representatives and inform the public of the results of the
15 open season through publication on the Internet website of the Alaska Gasline
16 Development Corporation and in a press release or other announcement to the media.
17 The results made public must include the name of each prospective shipper, the
18 amount of capacity allocated, and the period of the commitment.

19 (f) In this section, "in-state natural gas pipeline" and "natural gas pipeline"
20 have the meanings given in AS 38.34.099.

21 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

22 (49) contracts by the Alaska Natural Gas Development Authority
23 under AS 41.41.070(d).

24 * **Sec. 3.** AS 38.34.050(a) is amended to read:

25 (a) The Alaska Gasline Development Corporation [JOINT IN-STATE
26 GASLINE DEVELOPMENT TEAM] may have access to information of all state
27 agencies that is directly related to the planning, design, construction, or operation of
28 the in-state natural gas pipeline. If a state agency finds that the information to be
29 transferred under this subsection is confidential, the state agency may require the
30 Alaska Gasline Development Corporation to enter into a confidentiality
31 agreement before the transfer of that information, or, if the state agency

determines that a law or provision of a contract to which the state agency is a party requires the state agency to preserve the confidentiality of the information and that delivering the information to the Alaska Gasline Development Corporation would violate the confidentiality provision of that law or contract, the state agency shall identify the applicable law or contract provision to the Alaska Gasline Development Corporation and may require the Alaska Gasline Development Corporation to obtain the consent of the person who has the right to waive the confidentiality of the information under the applicable law or contract provision before the state agency transfers the information to the Alaska Gasline Development Corporation.

* Sec. 4. AS 38.34.050(b) is amended to read:

(b) All state agencies or entities shall cooperate with and, except for requests from the Alaska Gasline Inducement Act coordinator (AS 43.90.250), give priority to requests for information from the Alaska Gasline Development Corporation [JOINT IN-STATE GASLINE DEVELOPMENT TEAM]. The Alaska Gasline Development Corporation [DEVELOPMENT TEAM] shall avoid duplicating studies, plans, and designs that have already been produced or otherwise obtained by other state entities.

* Sec. 5. AS 38.34.050 is amended by adding a new subsection to read:

(e) Information in the possession of the Alaska Gasline Development Corporation may be disclosed to the public, except that information that discloses the particulars of the business or affairs of a private enterprise, an investor, or a person entering into a contract with the Alaska Gasline Development Corporation or information subject to a confidentiality agreement with a state agency under (a) of this section is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140. A contract to sell all or a portion of an in-state natural gas pipeline or a contract to operate or manage an in-state natural gas pipeline is public information and may be disclosed to the public.

* Sec. 6. AS 38.34.099 is amended by adding new paragraphs to read:

(3) "Alaska Gasline Development Corporation" means the corporation created under AS 18.56.086 that is authorized to exercise the powers and take the

1 actions described in AS 18.56.087;

2 (4) "natural gas pipeline" means all the facilities of a total system of
3 pipe for transportation of natural gas for treatment or conditioning, delivery, storage,
4 or further transportation, and including all pipe, pump and compressor stations, station
5 equipment, and all other facilities used or necessary for an integral line of pipe to carry
6 out the transportation of the gas.

7 * **Sec. 7.** AS 40.25.120(a) is amended to read:

8 (a) Every person has a right to inspect a public record in the state, including
9 public records in recorders' offices, except

10 (1) records of vital statistics and adoption proceedings, which shall be
11 treated in the manner required by AS 18.50;

12 (2) records pertaining to juveniles unless disclosure is authorized by
13 law;

14 (3) medical and related public health records;

15 (4) records required to be kept confidential by a federal law or
16 regulation or by state law;

17 (5) to the extent the records are required to be kept confidential under
18 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
19 or retain federal assistance;

20 (6) records or information compiled for law enforcement purposes, but
21 only to the extent that the production of the law enforcement records or information

22 (A) could reasonably be expected to interfere with enforcement
23 proceedings;

24 (B) would deprive a person of a right to a fair trial or an
25 impartial adjudication;

26 (C) could reasonably be expected to constitute an unwarranted
27 invasion of the personal privacy of a suspect, defendant, victim, or witness;

28 (D) could reasonably be expected to disclose the identity of a
29 confidential source;

30 (E) would disclose confidential techniques and procedures for
31 law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

(7) names, addresses, and other information identifying a person as a participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 - 14.40.817;

(8) public records containing information that would disclose or might lead to the disclosure of a component in the process used to execute or adopt an electronic signature if the disclosure would or might cause the electronic signature to cease being under the sole control of the person using it;

(9) reports submitted under AS 05.25.030 concerning certain collisions, accidents, or other casualties involving boats;

(10) records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the state, or to a detailed description or evaluation of systems, facilities, or infrastructure in the state, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160;

(13) information in the possession of the Alaska Gasline Development Corporation that may not be disclosed to the public under AS 38.34.050(e).

* **Sec. 8.** AS 41.41.010(a) is amended to read:

(a) There is established the Alaska Natural Gas Development Authority, the purpose of which is to provide one or more of the following services and functions in order to **acquire** [BRING] natural gas **produced in** [FROM THE NORTH SLOPE OR OTHER REGIONS OF] the state **for delivery** to market, including

[(1)] the acquisition and conditioning of natural gas [;

(2) THE DESIGN AND CONSTRUCTION OF THE PIPELINE SYSTEM;

(3) THE OPERATION AND MAINTENANCE OF THE PIPELINE SYSTEM;

(4) THE DESIGN, CONSTRUCTION, AND OPERATION OF OTHER FACILITIES NECESSARY FOR DELIVERING THE GAS TO MARKET, INCLUDING MARKETS IN THE STATE;] and

[(5)] the acquisition of natural gas market share sufficient to ensure the long-term feasibility of pipeline system projects.

* **Sec. 9.** AS 41.41.010(d) is amended to read:

(d) The acquisition of natural gas from the North Slope and other regions of the state, including the Alaska outer continental shelf, and **making that natural gas available to** [ITS DELIVERY TO MARKETS IN THE STATE FOR USE BY] markets in the state or **for export from the state** [TO TIDEWATER FOR SHIPMENT TO MARKET BY THE AUTHORITY] are essential government functions of the state.

* **Sec. 10.** AS 41.41.020 is repealed and reenacted to read:

Sec. 41.41.020. Authority governing body. The authority shall be governed

by the board of directors of the Alaska Housing Finance Corporation.

* **Sec. 11.** AS 41.41.060 is amended to read:

Sec. 41.41.060. Compensation of board members; per diem and travel expenses. Members of the board described in AS 18.56.030(a)(4) are entitled to compensation and reimbursement as provided in AS 18.56.030(e) when on official business of the authority [PER DIEM AND TRAVEL EXPENSES AUTHORIZED FOR BOARDS AND COMMISSIONS UNDER AS 39.20.180].

* **Sec. 12.** AS 41.41.070(d) is amended to read:

(d) In addition to its employees, the authority may contract for and engage the services of [BOND COUNSEL,] consultants, experts, [AND] financial advisors, and legal counsel, including bond counsel, the authority considers necessary for the purpose of developing information, furnishing advice, or conducting studies, investigations, hearings, or other proceedings. The procurement of services under this subsection is exempt from AS 36.30, including AS 36.30.015(d) and (f).

* **Sec. 13.** AS 41.41.090(b) is amended to read:

(b) If a member of the board or an employee of the authority acquires, owns, or controls an interest, direct or indirect, in an entity [OR PROJECT] in which assets of the authority are invested, the member shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the first board meeting following the disclosure.

* **Sec. 14.** AS 41.41.150(a) is amended to read:

(a) Information in the possession of the authority is a public record, except that information that is contained in or subject to a confidentiality agreement between the authority and the Alaska Gasline Development Corporation or that discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record for purposes of AS 40.25.110 - 40.25.140. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding.

* **Sec. 15.** AS 41.41.200 is amended to read:

Sec. 41.41.200. Powers of the authority. In furtherance of its corporate purposes, in addition to its other powers, the authority may

- 1 (1) sue and be sued;
- 2 (2) adopt a seal;
- 3 (3) adopt, amend, and repeal bylaws and regulations;
- 4 (4) make and execute contracts and other instruments;
- 5 (5) in its own name acquire property, lease, rent, convey, or acquire
- 6 real and personal property [; A PROJECT SITE OR PART OF A PROJECT SITE
- 7 MAY BE ACQUIRED BY EMINENT DOMAIN];
- 8 (6) acquire natural gas supplies;
- 9 (7) issue bonds and otherwise incur indebtedness in accordance with
- 10 AS 41.41.300 - 41.41.410 in order to pay the cost of a project;
- 11 (8) accept gifts, grants, or loans from and enter into contracts or other
- 12 transactions regarding gifts, grants, or loans with a federal agency or an agency or
- 13 instrumentality of the state, a municipality, private organization, or other source;
- 14 (9) enter into contracts or agreements with a federal agency, agency or
- 15 instrumentality of the state, municipality, or public or private individual or entity, with
- 16 respect to the exercise of its powers;
- 17 (10) charge fees or other forms of remuneration for the use of authority
- 18 properties and facilities;
- 19 (11) defend and indemnify a current or former member of the board or
- 20 an employee or agent of the authority against the costs, expenses, judgments, and
- 21 liabilities as a result of actions taken in good faith on behalf of the authority; and
- 22 (12) purchase insurance to protect its assets, services, and employees
- 23 against liabilities that may arise from authority operations and activities.

24 * **Sec. 16.** AS 41.41.990(2) is amended to read:

25 (2) "board" means the board of directors of the Alaska Housing

26 Finance Corporation acting as the board of the Alaska Natural Gas Development

27 Authority;

28 * **Sec. 17.** AS 38.34.030, 38.34.040, 38.34.060; AS 41.41.030, 41.41.040, 41.41.050, and

29 41.41.990(4) are repealed.

30 * **Sec. 18.** Section 1, 2002 Ballot Measure No. 3, is repealed.

31 * **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).