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REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE HOUSE

SECTIONAL ANALYSIS

COMMITTEE SUBSTITUTE for HOUSE BILL 215 (JUD) am: *“An Act relating to the judicial review of a right-of-way lease or the development or construction of an oil or gas pipeline on state land; and relating to the lease of a right-of-way by the Alaska Housing finance Corporation for a gas pipeline transportation corridor.”*

Section 1: Amends AS 38.34.050(c), Cooperation and access to information. Adds language that excludes covenants found in AS 38.35.120(a) (1), (2) and (5) from the covenants required to be included in the lease. These covenants refer to a common carrier pipeline which is not applicable to the AGDC (Alaska Gasline Development Corporation) proposal. The AGDC gas pipeline proposal is to be that of a contract carrier. Without the removal of the specific covenants, AGDC will be impacted in its ability to finance the project.

Also adds language that a right-of-way lease is valid and of legal effect notwithstanding AS 38.35.120(b). This allows AGDC to continue its work through the summer under the assumption that AGDC has the ability to operate under this take or pay approach.

Section 2: Amends AS 38.35.100(d), Decision on application. Conforming language to note the changes found in Section 1.

Section 3: Amends AS 38.35.120(a), Covenants required to be included in lease. Conforming language to note the changes found in Section 1.

Section 4: Amends AS 38.35.120(b), Covenants required to be included in lease. Conforming language to note the changes found in Section 1.

Section 5: 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 6: 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 7: Amends uncodified law by adding a new section for Revisor's Instructions. Changes the catch line of AS 38.35.200 from "Judicial review of decisions of commissioner on application" to "Judicial review."