



**HCS CSSB 138 (RES): Commercial Production of North Slope Gas
COMPARISION BETWEEN CSSB 138 (FIN) AM 28-GS2806\I.A AND HCS CSSB 138 (RES) -
GS2806\H**

April 11, 2014

This is a summary of the differences between CSSB 138 (FIN) am and HCS CSSB 138(RES). A summary should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Amendments to bill sections related to the Alaska Gasline Development Corporation (AS 31.25)

New section 3 amends AS 31.25.020(a), the composition of the AGDC board of directors, to remove a provision which would have allowed the governor to appoint the commissioner of natural resources and the commissioner of revenue to the AGDC board after a project under AS 43.90 (the Alaska Gasline Inducement Act) has been abandoned or the commissioners are no longer signatories on a valid contract under AS 43.90. With this amendment, the commissioners of natural resources and revenue may not be designated to serve on the AGDC board.

New section 4 amends AS 31.25.020 related to appointment of AGDC board members. A person appointed must be a citizen of the United States, but notwithstanding AS 39.05.100, a person is not required to be or have been a registered voter, and is not required to reside in the state.

An amendment was made to section 5, AS 31.25.040, to allow the AGDC board to appoint a separate program director for the in-state natural gas pipeline project, and to remove a requirement that the program director for the AK LNG project report to the AGDC board (but it retains the requirement that the program director for AK LNG project report to the AGDC executive director).

New sections 6 and 7 amend AS 31.25.050 to direct that the attorney general be legal counsel for the AGDC for legal services related to development of contracts and agreements by AGDC that relate to an Alaska liquefied natural gas project, and to consult with AGDC when procuring outside counsel. For these legal services, a new section amending AS 36.30.360 (bill section 17) was added to exempt the Department of Law from the procurement process when procuring legal counsel for AGDC for the AK LNG project. The AGDC retains the authority to retain legal counsel to advise the corporation in legal matters and represent it in litigation.

A clarifying amendment was made to section 13, the fund for AK LNG within AGDC that the revenues related to equity interests, contracts and other activities will be transferred to the appropriate fund *of the state* as determined by the commissioner of revenue (page 10, line 10).

Amendments to bill sections related to an Alaska affordable energy fund (AS 37.05)

Section 18 was amended so that the legislature may deposit into the Alaska affordable energy fund (a non-dedicated fund) 20 percent (instead of 10 percent) of the money received from the state's royalty gas transported in an AK LNG project (net of royalty payments to the Alaska permanent fund). The fund's purpose is to develop infrastructure to deliver energy to areas in the state not expected to have direct access to a North Slope natural gas pipeline.

Amendments to bill sections related to the Alaska Land Act (AS 38.05)

Changes were made to section 19, AS 38.05.020 amending the authority of the commissioner of the Department of Natural Resources (DNR) to enter into commercial agreements of not more than two years duration for project services related to the North Slope natural gas project. A new paragraph (13) was added to allow the DNR commissioner to consult with AGDC in the development of contracts or agreements for project services related to a gas treatment plant, pipeline, liquefaction facility, marine terminal, or marine transportation services.

As to AS 38.05.020(b)((12), related to contracts or agreements negotiated by the DNR commissioner, an addition was made that contracts must be available to the public at least 90 days before the proposed effective date for the terms. It was clarified in AS 38.05.020(b)(12)(B) that confidential information may be shared with legislators, their agents, or consultants, under confidentiality agreements.

New section 21 provides that an agreement or contract to which the state is a party (and is negotiated under AS 38.05.020(b)(11)) must include a requirement that the state have access to data developed under the contract if the DNR commissioner determines that a North Slope natural gas project is not making adequate progress towards a final investment decision. Subsection (b) provides that a proposed agreement or contract associated with a North Slope natural gas project may not include a provision that changes a payment in lieu of property tax on property that was previously taxable under AS 43.56.

Section 25 was added to amend AS 38.05.182(a) to direct that it is not in the best interest for the state to take royalty on gas in money from a lessee transporting North Slope natural gas if the lessee has committed to dispose of the state's royalty gas taken in kind on the same terms and conditions as the lessee markets or disposes of the lessee's gas.

Section 17 adds a provision to exempt the contracts for professional and technical services by DNR to support the development of agreements and contracts under AS 38.05.020(b)(10) and (11).

Amendments to bill sections relating to the Alaska Corporate Income tax (AS 43.20) oil and gas production tax (AS 43.55)

New section 40 was added to amend AS 43.20.144 to make clear that tax as gas is not considered a sales for the apportionment sales factor, and that fees within the consolidated business of the taxpayer paid for transporting natural gas are excluded from the numerator and denominator of the sales factor.

Bill section 44, on tax as gas, was amended to provide that tax deficiencies and interest and penalties on any tax deficiency for gas delivered to the state for production tax would be accounted for in an amount of gas or an amount of money (it had previously only allow deficiencies to be made up in money). If in money, the assessment is the product of the number of units by which the producer's

delivery of gas to the state was less than the amount required to be delivered as tax gas, multiplied by the gross value at the point of production for each unit of the producer's gas, other than gas not subject to tax, or delivered to the state under this section. This subsection also accounts for an overpayment of gas under AS 43.55.014.

Subsection (e) was amended to make clear that gas subject to the tax as gas provision would not include gas flared, released, or allowed to escape and, under AS 43.55020(e), considered as gas produced from a lease or property for the purpose of AS 43.55.011 -180.

Section 58, setting the calculation of production tax value for oil after 2022 under AS 43.55.160(h), was amended to make clear that lease expenditures for oil and gas expenditures are deductible for calculation of oil production tax value by changing "oil or gas deposits" to "oil and gas deposits."

Section 61, on the definition of the "point of production" for gas was further amended to make clear that the point of production for gas is, for gas recovered by mechanical separation but not run through a gas processing plant, the farthest upstream of the inlet of any gas pipeline system transporting the gas after mechanical separation to market.

Amendments to uncodified law

Amendments were made section 65, the Oil and Gas competitiveness review board, to add new (6)(B) to study and report to the legislature by January 15, 2017, on the oil and gas tax rates and possible incentives, including the value of a gross value reduction, for oil and gas producing areas south of 68 degrees North latitude.

New section 67 was added to direct the DNR commissioner, in consultation with AGDC, to prepare and make reports and recommendation on the delivery and availability of North Slope natural gas in the state, including identification of the means for eliminating the risks and liabilities identified in the report.

Amendments were made to section 68 requesting the Governor to establish an interim advisory board to consider the effect of a natural gas pipeline on municipalities. The amendment was to include portions of Administrative Order 269 in the bill.

A provision was added to section 70 so that the DOR commissioner shall identify and report to the legislature on a range of financing options for state acquisition of an ownership interest and participation in a North Slope natural gas project. The interim draft report will be made available on the first day of the First Regular Session of the Twenty-Ninth Alaska State Legislature, with a final report due at the time the DNR commissioner submits the first agreement or contract to the legislature under AS 38.05.020(b)(11).

New section 71 requires that the parties to the Alaska liquefied natural gas project provide briefings months before the first flow of gas in an Alaska liquefied natural gas project to interested legislators, their staff, and consultants on the progress of the project at least once every four. A briefing must include a written report from the DNR of the amount of money the state may be obligated to pay for an Alaska liquefied natural gas project if the project is terminated before the first flow of gas.