

SENATE BILL NO. 310

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR THERRIAULT

Introduced: 2/19/02

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the Alaska Right-of-Way Leasing Act to provide for the assignment**
2 **and coordination in one office within the Department of Natural Resources, the State**
3 **Pipeline Coordinator's Office, of the responsibility for state authorizations for and state**
4 **oversight of the preconstruction, design, and construction of pipelines to transport**
5 **natural gas from the North Slope to market, and to require the cooperation of state**
6 **agencies in the work of the office; and providing for an effective date."**

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that
11 (1) it is in the best interests of the people of the state and the nation that
12 (A) Alaska's North Slope natural gas be expeditiously transported to
13 market in a manner that makes the maximum contribution to the development and

1 standard of living of the residents of the state; and

2 (B) North Slope natural gas pipelines be designed and constructed in a
3 safe and environmentally sound manner;

4 (2) it is desirable that the state have

5 (A) a unified voice representing the state's interests in dealing with
6 Canadian and federal agencies, gas owners, pipeline companies, and contractors
7 relating to permitting, authorization, and oversight of North Slope natural gas
8 pipelines; and

9 (B) a single point of contact for permits, authorizations, and oversight
10 of North Slope natural gas pipelines to ensure coordination among state, federal, and
11 international authorizing agencies and, if appropriate, to develop substantially similar
12 terms and conditions in pipeline-related documents;

13 (3) the system of permitting, authorization, and oversight of gas pipelines that
14 currently involves many state agencies should be replaced by a single, coordinated state
15 approval and oversight process for North Slope natural gas pipelines that provides for internal
16 alignment and dispute resolution; internal alignment fosters efficiency in state permitting,
17 approval, and oversight functions;

18 (4) it is in the best interests of the people of the state to relocate authority for
19 permits and authorizations from existing government structures and processes to one state
20 officer to the maximum extent possible, optimize state pipeline expertise and performance,
21 and minimize the effects to ongoing functions of government; and

22 (5) the state pipeline coordinator's office, established and maintained in the
23 Department of Natural Resources by a series of administrative orders dating from
24 September 1981, is the appropriate lead and single point of contact for the permitting,
25 authorization, and oversight of proposals for North Slope natural gas pipelines.

26 (b) It is the intent of the legislature that the provisions of this Act

27 (1) supersede comparable or substantially similar provisions of Administrative
28 Orders 70 (September 1, 1981), 104 (October 28, 1987), 121 (August 22, 1990), 134
29 (April 15, 1993), and 187 (January 8, 2001), all directed at the management system for design
30 and construction of the Alaska Natural Gas Transportation System; and

31 (2) not affect activities undertaken under authority of AS 38.35.015(7) and

1 38.35.210 or otherwise under AS 38.35 that relate to the development and oversight of oil
 2 pipelines and other pipelines not described in (a) of this section on state land, and not modify
 3 or impede the commissioner's authority, delegated to the state pipeline coordinator's office, to
 4 coordinate with the United States Bureau of Land Management in the development and
 5 oversight of the leases affecting the Trans Alaska Pipeline System and its ancillary facilities.

6 * **Sec. 2.** AS 38.35.015 is amended to read:

7 **Sec. 38.35.015. Powers of the commissioner.** The commissioner has all
 8 powers necessary and proper to implement the policy, purposes, and provisions of this
 9 chapter, so as to subserve, as the exercise of reasoned discretion determines, the public
 10 interest, convenience, and necessity, including but not limited to

11 (1) granting leases of state land for pipeline right-of-way purposes;

12 (2) leasing, purchasing, or otherwise acquiring (including condemning
 13 by declaration of taking) easements or other interests in land in this state for the
 14 purpose of utilizing or granting leases of the land, easements, or interests for pipeline
 15 right-of-way purposes;

16 (3) purchasing interests in pipelines in accordance with options
 17 included in right-of-way leases;

18 (4) investigating any matters concerning any lessee with a view to
 19 assuring compliance by it with its right-of-way lease, this chapter, and any other
 20 applicable state or federal law;

21 (5) developing from time to time and maintaining a comprehensive
 22 master plan for pipeline transportation development;

23 (6) developing and promoting programs to foster efficient, economical,
 24 and safe pipeline transportation services in the state;

25 (7) coordinating the activities of the commissioner under this chapter
 26 with the transportation and other relevant activities of other public agencies and
 27 authorities; **the provisions of AS 38.35.400 - 38.35.495 apply to the activities of the**
 28 **commissioner under this chapter that relate to authorizations and oversight of**
 29 **North Slope natural gas pipelines except that the provisions do not apply to the**
 30 **commissioner's duties that are explicitly not subject to delegation;**

31 (8) constructing, extending, enlarging, improving, repairing, acquiring,

operating, or engaging in transportation, service, or sale by any pipeline or providing for these by contract, lease, or other arrangement on those terms that the commissioner may consider necessary, convenient, or desirable with any agency, corporation, or person, including but not limited to any carrier or any state agency, when the commissioner determines that a lessee carrier is not willing to undertake and complete the action within a reasonable time, and to sell, lease, grant, and dispose of any property constructed or acquired in the exercise of this power.

* **Sec. 3.** AS 38.35.210 is amended to read:

Sec. 38.35.210. Delegation of commissioner's authority. Except as required by AS 38.35.470, the [THE] commissioner shall delegate to the state pipeline coordinator the duties prescribed in this chapter relating to the authorization and oversight of North Slope natural gas pipelines that require or allow delegation and may delegate to an employee of the Department of Natural Resources or the Department of Law the authority otherwise granted under this chapter. However, a delegation made under this section may not include [, EXCEPT FOR] the authority to execute leases.

* **Sec. 4.** AS 38.35 is amended by adding new sections to read:

Article 2. Authorization and Oversight of North Slope Natural Gas Pipelines.

Sec. 38.35.400. Authorization and Oversight of North Slope natural gas pipelines. The commissioner is the principal executive official for state communication and coordination with appropriate federal and Canadian agencies related to the authorization and oversight of North Slope natural gas pipelines, including routing, design, and construction.

Sec. 38.35.410. Office of the state pipeline coordinator. (a) There is created in the Department of Natural Resources the office of the state pipeline coordinator. The office consists of an employee of the department who shall be the state pipeline coordinator and employees supervised by the coordinator. The commissioner shall exercise the communication and coordination duties described in AS 38.35.400 through the state pipeline coordinator.

(b) The state pipeline coordinator

(1) is, except to the extent of the authority assigned under

1 AS 38.35.470, the designee of the commissioner as to all matters described in
 2 AS 38.35.400 - 38.35.495 and, as the designee, has the lead responsibility for
 3 coordinating and communicating about the authorization and oversight of North Slope
 4 natural gas pipelines;

5 (2) shall exercise the authority assigned under AS 38.35.470;

6 (3) shall establish and maintain within the office a gas pipelines group
 7 to coordinate actions by the state agencies that relate to the authorization and oversight
 8 of North Slope natural gas pipelines; and

9 (4) shall coordinate agency program and financial plan submissions
 10 under AS 37.07 (Executive Budget Act) that relate to the authorization and oversight
 11 of North Slope natural gas pipelines.

12 (c) The office of the state pipeline coordinator shall

13 (1) establish preconstruction and construction field teams that the
 14 office determines, after consultation with affected agencies, are necessary for data
 15 gathering and oversight; the field teams established under this paragraph

16 (A) are composed of employees from the agencies composing
 17 the gas pipelines group established under (b)(3) of this section and from other
 18 state agencies; and

19 (B) may be assigned or reassigned the responsibilities and
 20 authorities of the affected agencies without regard to the agency affiliation of
 21 the employees, but assignment or reassignment may be made under this
 22 subparagraph only after consultation among the heads of the affected agencies
 23 and may not be made contrary to another provision of law; and

24 (2) prepare and submit to the governor and the heads of the principal
 25 departments of the state government and the persons responsible for the agencies
 26 composing the gas pipelines group periodic progress reports that summarize the
 27 office's goals and objectives and the accomplishments of the office in meeting those
 28 goals and objectives.

29 **Sec. 38.35.420. Obligations of designated agencies.** The head of each state
 30 agency that is part of the gas pipelines group established under AS 38.35.410(b)(3)
 31 shall

1 (1) appoint an agency employee as a liaison officer and assign the
 2 person appointed to the gas pipelines group established under AS 38.35.410(b)(3); the
 3 head of the state agency shall require that, for matters affecting the agency, the person
 4 appointed under this paragraph

5 (A) serve as the single point of contact for the agency in all
 6 matters relating to authorization and oversight of North Slope natural gas
 7 pipelines during the preconstruction and construction phases; and

8 (B) report directly to the head of the agency; and

9 (2) to the maximum extent consistent with applicable law, delegate to
 10 the liaison officer appointed under (1) of this section signatory authority for or on
 11 behalf of the agency during the preconstruction and construction phases for
 12 development of draft permits and authorizations for North Slope natural gas pipelines.

13 **Sec. 38.35.430. Duties of agency liaison officers.** A liaison officer appointed
 14 under AS 38.35.420(1) shall

15 (1) be available to manage and perform work necessary to process
 16 permits and applications for North Slope natural gas pipelines by the liaison officer's
 17 employing agency;

18 (2) assist as necessary with the permits and authorizations of other
 19 agencies;

20 (3) manage and perform work necessary to oversee construction of
 21 North Slope natural gas pipelines;

22 (4) provide other necessary technical assistance to the office;

23 (5) develop and provide to the office annual work plans for
 24 accomplishing the tasks described in (1) - (4) of this section for review and approval
 25 by the state pipeline coordinator; the plans must include schedules, budgets, and
 26 staffing plans for authorization and oversight work; each liaison officer shall monitor
 27 progress against the officer's approved work plan and provide periodic reports to the
 28 state pipeline coordinator;

29 (6) have daily supervision of staff employed in the liaison officer's
 30 employing agency for work necessary to process permits and applications for North
 31 Slope natural gas pipelines by the liaison officer's employing agency; however, the

1 authority of this paragraph does not extend to supervision of staff from the agency's
 2 central or regional office providing support services for work necessary to process
 3 permits and applications for North Slope natural gas pipelines;

4 (7) manage the administrative functions of the employing agency for
 5 the work necessary to process permits and applications for or otherwise assist in
 6 development of North Slope natural gas pipelines;

7 (8) maintain at the office of the gas pipelines group established under
 8 AS 38.35.410(b)(3) a complete set of records on all aspects of the agency's activities
 9 relating to the processing of permits and applications for North Slope natural gas
 10 pipelines;

11 (9) provide to the state pipeline coordinator

12 (A) for review and comment copies of all

13 (i) applications and requests for permits and
 14 authorizations to be issued by the liaison officer's employing agency
 15 that relate to preconstruction and construction of North Slope natural
 16 gas pipelines; and

17 (ii) proposed permits and authorizations to be issued by
 18 the liaison officer's employing agency that relate to preconstruction and
 19 construction of North Slope natural gas pipelines; and

20 (B) copies of all permits and authorizations issued by the
 21 liaison officer's employing agency that relate to preconstruction and
 22 construction of North Slope natural gas pipelines;

23 (10) coordinate with the state pipeline coordinator all public notices
 24 and other public hearing processes required by law that relate to activities of the
 25 liaison officer's employing agency involving the processing of permits and
 26 applications for North Slope natural gas pipelines;

27 (11) process in the gas pipelines group established under
 28 AS 38.35.410(b)(3) all permits and authorizations issued by the liaison officer's
 29 employing agency relating to preconstruction and construction activities for North
 30 Slope natural gas pipelines;

31 (12) to the extent allowed by law and whenever feasible, consult with

1 the state pipeline coordinator and consider the state pipeline coordinator's advice
 2 before the taking of an enforcement action by the liaison officer's employing agency
 3 relating to preconstruction and construction activities for North Slope natural gas
 4 pipelines; however, the obligation set out in this paragraph may not limit the exercise
 5 of employment authority by the agency.

6 **Sec. 38.35.440. Financial considerations.** (a) The provisions of AS 37.07
 7 (Executive Budget Act) apply to the agency program and financial plans of an agency
 8 described in AS 38.35.410(b)(3) that relate to the authorization and oversight of North
 9 Slope natural gas pipelines. However, in order to develop a consolidated budget
 10 request,

11 (1) each agency shall prepare and submit to the state pipeline
 12 coordinator an annual program budget request for all appropriations, including costs
 13 reimbursed or reimbursable under AS 38.35.140(b) or 38.35.145 and fees for permits
 14 authorized by statute or regulation, that relate to activities of the agency for the
 15 authorization and oversight of North Slope natural gas pipelines; after review and
 16 approval by the state pipeline coordinator, the commissioner shall consolidate and
 17 submit the requests for review and recommendation under AS 37.07.060; and

18 (2) an agency described in AS 38.35.410(b)(3) may not request an
 19 appropriation for a portion of its work that relates to activities of the agency for the
 20 authorization and oversight of North Slope natural gas pipelines except under (1) of
 21 this subsection.

22 (b) When money has been appropriated by the legislature, the state pipeline
 23 coordinator shall

24 (1) negotiate with each agency described in AS 38.35.410(b)(3) one or
 25 more reimbursable services agreements for work that relates to activities of the agency
 26 for the authorization and oversight of North Slope natural gas pipelines; and

27 (2) take action to ensure that payment or reimbursement is secured
 28 promptly for costs incurred by the agency for its work.

29 (c) In addition to the limitation under AS 37.07.080(d) relating to employment
 30 of additional agency employees, for an agency's activities relating to the authorization
 31 and oversight of North Slope natural gas pipelines, the agency may not employ

1 personnel in addition to the number of employees allowed in the appropriations
 2 approved under AS 37.07 (Executive Budget Act) without the prior approval of the
 3 state pipeline coordinator.

4 **Sec. 38.35.450. Interagency relationships; disposition of disputes.** (a) If
 5 there is a dispute between agencies as to a matter subject to the provisions of
 6 AS 38.35.400 - 38.35.495,

7 (1) the state pipeline coordinator and the liaison officers of the affected
 8 agencies shall use their best efforts to resolve the dispute;

9 (2) if the parties cannot achieve a complete resolution of the dispute
 10 under (1) of this subsection, the commissioner and the heads of the affected principal
 11 departments of the state government or persons responsible for the work of the
 12 affected agencies shall use their best efforts to resolve the dispute;

13 (3) if the parties cannot achieve a complete resolution of the dispute
 14 under (1) and (2) of this subsection, the governor, after consultation with and
 15 consideration of any recommendation made by the members of the gas pipelines
 16 group, shall resolve the dispute.

17 (b) The appropriate authority within the Office of the Governor responsible
 18 for making coastal management consistency determinations shall coordinate
 19 consistency reviews and determinations of activities of multiple agencies relating to
 20 the authorization and oversight of North Slope natural gas pipelines required under
 21 AS 44.19.145 and applicable program regulations.

22 **Sec. 38.35.460. Legal matters.** The attorney general is the legal advisor to
 23 and shall furnish legal services for the gas pipelines group established under
 24 AS 38.35.410(b)(3).

25 **Sec. 38.35.470. State pipeline coordinator to issue all permits and**
 26 **authorizations relating to North Slope natural gas pipelines.** Notwithstanding any
 27 other provision of law, the state pipeline coordinator shall have final authority to issue
 28 a permit or authorization relating to preconstruction and construction activities for a
 29 North Slope natural gas pipeline.

30 **Sec. 38.35.480. Interpretation and application.** Except as specifically
 31 provided in AS 38.35.470, the provisions of AS 38.35.400 - 38.35.495 may not be

1 applied so as to create rights or modify the statutory or regulatory authority of an
 2 agency designated by the governor that relates to the authorization and oversight of
 3 North Slope natural gas pipelines.

4 **Sec. 38.35.495. Definitions for AS 38.35.400 - 38.35.495.** In AS 38.35.400 -
 5 38.35.495,

6 (1) "North Slope natural gas pipeline" means all the facilities of a total
 7 system of pipe, whether owned or operated under a contract, agreement, or lease, used
 8 by a carrier for transportation of North Slope natural gas, as defined by AS 42.06.630,
 9 in commercial operation for delivery, for storage, or for further transportation,
 10 including all pipe, pump, or compressor stations, station equipment, tanks, valves,
 11 access roads, bridges, airfields, terminals and terminal facilities, including docks and
 12 tanker loading facilities, operations control centers for both the upstream part of the
 13 pipeline and the terminal, tanker ballast treatment facilities, fire protection system,
 14 communications system, and all other facilities used or necessary for an integral line
 15 of pipe, taken as a whole, to carry out transportation, including an extension or
 16 enlargement of the line;

17 (2) "office" means the office of the state pipeline coordinator.

18 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 **TRANSITION.** The provisions of this Act apply to applications for right-of-way
 21 leases on state land for a North Slope natural gas pipeline, as that term is defined in
 22 AS 38.35.495, added by sec. 4 of this Act, that are pending on the effective date of this Act or
 23 that are made under AS 38.35 on or after the effective date of this Act.

24 * **Sec. 6.** This Act takes effect July 1, 2002.