

CS FOR SENATE BILL NO. 316(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/29/06

Referred: Rules

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending provisions of the Alaska Stranded Gas Development Act relating to**
2 **establishing when records and files relevant to development of a contract for payments**
3 **in lieu of taxes and for the other purposes described in that Act become public records,**
4 **to the content of the preliminary and final findings and determinations that apply to a**
5 **proposed contract negotiated under that Act, to legislative review of, and authorization**
6 **to execute, a proposed contract negotiated under that Act, to vesting of rights under a**
7 **contract negotiated under that Act, and to judicial review of the final findings and**
8 **recommendation that support a proposed contract, of its authorization, and of its**
9 **enforceability; extending to at least 60 days the period during which the public and**
10 **members of the legislature may comment on a proposed contract under that Act; and**
11 **providing for an effective date."**

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

1 * **Section 1.** AS 43.82.310(f) is amended to read:

2 (f) If the commissioner of revenue chooses to develop a contract under
3 AS 43.82.020, the portions of the records and files of the Department of Revenue, the
4 Department of Natural Resources, the Department of Law, and a municipal advisory
5 group established under AS 43.82.510 that reflect, incorporate, or analyze information
6 that is relevant to the development of the position or strategy of the commissioner of
7 revenue, the commissioner of natural resources, or the attorney general with respect to
8 a particular provision that may be incorporated into the contract are [NOT] public
9 records after [UNTIL] the commissioner of revenue gives public notice under
10 AS 43.82.410 of the commissioner's preliminary findings and determination under
11 AS 43.82.400. Nothing in this subsection

12 (1) makes a record or file of the Department of Revenue, the
13 Department of Natural Resources, or the Department of Law a public record that
14 otherwise would not be a public record under AS 40.25.100 - 40.25.220;

15 (2) affects the confidentiality provisions of (a) - (e) of this section; or

16 (3) abridges a privilege recognized under the laws of this state,
17 whether at common law or by statute or by court rule.

18 * **Sec. 2.** AS 43.82.400(a) is amended to read:

19 (a) If the commissioner develops a proposed contract under AS 43.82.200 -
20 43.82.270, the commissioner shall

21 (1) make preliminary findings and a determination that the proposed
22 contract terms are in the long-term fiscal interests of the state and whether the
23 contract meets the requirements and [FURTHER THE] purposes of this chapter;
24 and

25 (2) prepare a proposed contract that includes those terms and shall
26 submit the contract to the governor.

27 * **Sec. 3.** AS 43.82.410 is amended to read:

28 **Sec. 43.82.410. Notice and comment regarding the contract.** The
29 commissioner shall

30 (1) give reasonable public notice of the preliminary findings and
31 determination made under AS 43.82.400;

1 (2) make copies of the proposed contract, the commissioner's
 2 preliminary findings and determination, and, to the extent the information is not
 3 required to be kept confidential under AS 43.82.310, the supporting financial,
 4 technical, and market data, including the work papers, analyses, and recommendations
 5 of any independent contractors used under AS 43.82.240 available to the public and to

6 (A) the presiding officer of each house of the legislature;

7 (B) the chairs of the finance and resources committees of the
 8 legislature; and

9 (C) the chairs of the special committees on oil and gas, if any,
 10 of the legislature;

11 (3) offer to appear before the Legislative Budget and Audit Committee
 12 to provide the committee a review of the commissioner's preliminary findings and
 13 determination, the proposed contract, and the supporting financial, technical, and
 14 market data; if the Legislative Budget and Audit Committee accepts the
 15 commissioner's offer, the committee shall give notice of the committee's meeting to
 16 the public and all members of the legislature; if the financial, technical, and market
 17 data that is to be provided must be kept confidential under AS 43.82.310, the
 18 commissioner may not release the confidential information during a public portion of
 19 a committee meeting; and

20 (4) establish a period of at least 60 [30] days for the public and
 21 members of the legislature to comment on the proposed contract and the preliminary
 22 findings and determination made under AS 43.82.400.

23 * **Sec. 4.** AS 43.82.430(a) is amended to read:

24 (a) Within 30 days after the close of the public comment period under
 25 AS 43.82.410(4), the commissioner of revenue shall

26 (1) prepare a summary of the public comments received in response to
 27 the proposed contract and the preliminary findings and determination;

28 (2) after consultation with the commissioner of natural resources, if
 29 appropriate, and with the pertinent municipal advisory group established under
 30 AS 43.82.510, prepare a list of proposed amendments, if any, to the proposed contract
 31 that the commissioner of revenue determines are necessary to respond to public

1 comments;

2 (3) make final findings and a determination as to whether the proposed
3 contract and any proposed amendments prepared under (2) of this subsection meet the
4 requirements and purposes of this chapter **and findings and determination that the**
5 **proposed contract is in the long-term fiscal interests of the state.**

6 * **Sec. 5.** AS 43.82.430(b) is amended to read:

7 (b) After considering the material described in (a) of this section and securing
8 the agreement of the other parties to the proposed contract regarding any proposed
9 amendments prepared under (a) of this section, **and after** [IF] the commissioner
10 determines that the contract is in the long-term fiscal interests of the state, the
11 commissioner shall submit the contract to the governor.

12 * **Sec. 6.** AS 43.82.435 is repealed and reenacted to read:

13 **Sec. 43.82.435. Legislative authorization.** (a) The governor may transmit a
14 contract developed under this chapter to the legislature together with a request for
15 authorization to execute the contract.

16 (b) Concurrent with transmittal of the contract and request for authorization
17 under (a) of this section, the governor shall

18 (1) submit to the legislature the commissioner's final findings and
19 determination and the financial, technical, and market data, including the work papers,
20 analyses, and recommendations of any independent contractors used under
21 AS 43.82.240, that were considered by the commissioner to make the findings and
22 determination; and

23 (2) make available to the public copies of the proposed contract and, to
24 the extent a record or information is not required to be kept confidential under
25 AS 43.82.310, the material described in (1) of this subsection.

26 (c) After considering the material described in (b)(1) of this section and other
27 information that the legislature considers relevant that it has requested from the
28 governor and state agencies and received, the legislature may, by law, authorize the
29 state to execute the contract transmitted by the governor.

30 (d) A contract developed under this chapter is not binding on or enforceable
31 against the state or other parties to the contract unless the governor is authorized to

1 execute the contract by law.

2 (e) The state and the other parties to the contract may execute the contract
3 within 60 days after the effective date of the law authorizing the contract.

4 * **Sec. 7.** AS 43.82.440 is amended to read:

5 **Sec. 43.82.440. Judicial review; delayed vesting of rights in contracts.**
6 **Notwithstanding any other provision of law, a** [A] person may not bring an action
7 challenging **a final agency decision of the commissioner of revenue made under**
8 **AS 43.82.430(c),** the constitutionality of a law authorizing a contract enacted under
9 AS 43.82.435, or the enforceability of a contract executed under a law authorizing a
10 contract enacted under **this chapter until that contract has been executed and**
11 [AS 43.82.435] unless the action is commenced within 120 days after the date that the
12 contract was executed by the state and the other parties to the contract.

13 * **Sec. 8.** AS 43.82.440 is amended by adding a new subsection to read:

14 (b) Rights under a contract entered into under this chapter may not vest until
15 the day after the deadline to bring an action under (a) of this section.

16 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).