

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 26, 2010

1:06 p.m.

MEMBERS PRESENT

Representative Craig Johnson, Co-Chair
Representative Mark Neuman, Co-Chair
Representative Kurt Olson
Representative Paul Seaton
Representative Peggy Wilson
Representative David Guttenberg

MEMBERS ABSENT

Representative Bryce Edgmon
Representative Scott Kawasaki
Representative Chris Tuck

COMMITTEE CALENDAR

HOUSE BILL NO. 369

"An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, the Joint In-State Gasline Development Team, and the In-State Gasline Steering Committee; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 369

SHORT TITLE: IN-STATE PIPELINE/ MANAGER/TEAM

SPONSOR(s): REPRESENTATIVE(s) CHENAULT

02/23/10	(H)	READ THE FIRST TIME - REFERRALS
02/23/10	(H)	RES, FIN
02/26/10	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 369.

TOM WRIGHT, Staff,
Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HB 369 on behalf of Representative Chenault, sponsor.

TAM COOK, Director
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 369, answered questions.

ACTION NARRATIVE

[1:06:11 PM](#)

CO-CHAIR CRAIG JOHNSON called the House Resources Standing Committee meeting to order at 1:06 p.m. Present at the call to order were Representatives Seaton, P. Wilson, Olson, Neuman, and Johnson. Representative Guttenberg arrived as the meeting was in progress.

HB 369-IN-STATE PIPELINE/ MANAGER/TEAM

[1:06:22 PM](#)

CO-CHAIR JOHNSON announced that the only order of business is HOUSE BILL NO. 369, "An Act relating to an in-state natural gas pipeline, the office of in-state gasline project manager, the Joint In-State Gasline Development Team, and the In-State Gasline Steering Committee; and providing for an effective date."

[1:07:22 PM](#)

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, sponsor of HB 369, paraphrased from the following written sponsor statement [original punctuation provided]:

House Bill 369 was introduced as an effort to expedite the process for an in-state natural gas pipeline. The in-state gasline has been a topic of discussion in the Legislature and the Administration for a number of

years. Currently, there are two separate state entities, the Alaska Natural Gas Development Authority and the in-state gasline coordinator, working on a project. House Bill 369 combines these two entities along with the Department of Transportation and Public Facilities and the Alaska Railroad Corporation to create a Joint In-state Gasline Development Team within the Office of the Governor. The Development Team is to ensure the in-state gasline is construction ready by July 1, 2011 with gas flowing by 2015. It is my hope the Development Team will be able to focus the state's efforts in putting a construction plan together and leverage the best ideas and data to get a gasline built.

The Department of Transportation and Public Facilities and the Alaska Railroad Corporation were included as members of the team due primarily to their having existing rights of way which could speed up any permitting process that may need to be undertaken. The Alaska Railroad Corporation also has bonding ability which could be an answer in financing a gasline.

The Development Team will cover all aspects of the line's development and are to select the most economically sound route that will deliver gas to Alaskans, plan permitting and construction by using existing rights of way and take any action necessary to get the project underway as soon as possible.

House bill 369 also creates an In-state Gasline Steering Committee to provide advice and recommendations to the development team. Their duties are spelled out within the legislation. Proposed members of the Steering Committee come from the private sector, municipalities, state agencies and the two presiding officers of the Legislature.

The bill provides for an expedited review and action process and the sharing of information that may already have been accumulated or completed. The bill also requires that state agencies or entities cooperate with and give priority to requests for information from the Development Team.

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REPRESENTATIVE CHENAULT added that an in-state gasline would provide economic opportunities and supply Alaskans' energy needs for many years. It is time for Alaska to move forward and an in-state gasline gives the opportunity to do just that. He held up a garden spade and quipped that he is shovel-ready.

CO-CHAIR NEUMAN, in regard to the 2015 deadline for gas flow, inquired whether specific measuring sticks have been established for dates along the way to ensure that that deadline is met.

REPRESENTATIVE CHENAULT responded that such a timeline is not available today, but the in-state coordinator is working on that process and the Alaska Natural Gas Development Authority (ANGDA) has its own timelines on a project. He is pushing for this combined group to come out with that information. He acknowledged that this is an aggressive timeline for having a project by 2011. However, he said this project has been worked on for years and it is time to quit studying the project and put together the information that has already been gathered to actually build a pipeline.

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CO-CHAIR NEUMAN said he is of the same opinion about meshing everything together. He cautioned that this timeline could be thrown forward or back depending upon a sea lift or gas treatment plant in Prudhoe Bay and that right now, while the economy is slow, would be a good time to start ordering materials. He asked whether there would be penalties for missing the dates, or whether the measurement would be done through reports to the legislature.

REPRESENTATIVE CHENAULT concurred the dates are aggressive and the timeline could change. Some people say being aggressive can increase the costs, he related. However, [as a contractor] he has never worked on a construction project that did not have a deadline, and the sooner a contractor completes a project the more money in the contractor's pocket.

CO-CHAIR NEUMAN added he thinks the project could come in under cost by having the aggressive timeline and starting to get things built in the factory.

REPRESENTATIVE CHENAULT agreed.

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TOM WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature, provided a sectional analysis of HB 369. He said Section 1 would add a new chapter, Chapter 34: In-State Natural Gas Pipeline, and new sections to AS 38, which deals with public lands. Sec. 38.34.010 would create the position and describe the duties of an in-state gasline project manager who is appointed by the governor. There is currently no statute for such a manager, so a statutory provision is necessary to put that person into the position of the Joint In-state Gasline Development Team with certain duties.

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REPRESENTATIVE SEATON inquired whether this proposed project manager and the current in-state gas project manager/coordinator would work in parallel positions.

MR. WRIGHT replied no, it would be the same person and that would be the person currently holding the coordinator position. He related that Legislative Legal and Research Services advised that statutory language is needed because this person would be in the administrative branch. This position would be filled until one year after completion of the project, he added.

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REPRESENTATIVE SEATON noted that page 2, lines 9-12, would require written monthly progress reports, but that no due date for the reports is specified in the language. He suggested a due date be defined for the reports and added to the language.

MR. WRIGHT answered that the sponsor would be willing to look at such an amendment.

CO-CHAIR JOHNSON pointed out that there are several cleanup amendments that will be presented.

MR. WRIGHT reiterated that the sponsor is amenable to looking at language specifying a timeline for the reports.

CO-CHAIR JOHNSON noted that Representative Seaton's suggestion is not included in any of the cleanup amendments.

MR. WRIGHT, in response to Representative Seaton, stated that the fifteenth of the month following the completion of the

previous month's activities would suffice for the written monthly report deadline.

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CO-CHAIR NEUMAN, in regard to establishing the project manager within the governor's office, related there is currently concern among legislators, including himself, that an in-state pipeline is being slow-tracked due to fear of competition from the large-diameter line created through the Alaska Gasline Inducement Act (AGIA). He said this concern is caused by the current project manager being housed within the Department of Administration. He asked how a manager appointed by the governor and in the governor's office will stand alone and be separated from that.

MR. WRIGHT responded that this is addressed in further sections of the bill, but the whole team would be within the office of the governor. To accomplish what was wanted to be accomplished, the team had to be put under the control of a state agency, which he will explain later in the sectional analysis. An expedited process is only possible by having this development team within the administration.

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MR. WRIGHT resumed his sectional analysis, explaining that Sec. 38.34.020 would provide for an expedited review and action by state agencies. Any state agency conducting and taking action relating to the in-state gasline shall be expedited. The state agency may not include in any project certificate, right-of-way, permit or other authorization issued to a licensee a term or condition that is not required by law if the in-state project manager determines the term or condition would prevent or impair the expeditious construction and operation or expansion of the in-state gasline. A state agency may not, unless required by law, amend or abrogate any certificate, right-of-way, permit or other authorization issued to a licensee if the project manager determines the action would prevent or impair the expeditious construction and operation or expansion of the in-state gasline.

[1:28:22 PM](#)

REPRESENTATIVE SEATON drew attention to the language on page 2, line 17, "Notwithstanding any contrary provision of law," and line 19, "that is not required by law". He interpreted the line 17 language as abrogating the provisions of law related to rights-of-way or permits and asked whether this is the intent.

He suggested a clarification of the language because it seems to him that it is saying no other law applies and this provision takes precedence over everything else.

MR. WRIGHT replied the intent is that, notwithstanding any other law, this is to be followed. He said he thinks this is more drafting style than anything else and suggested the question be directed to the bill drafter, Ms. Tam Cook. The intent is that agencies are to cooperate and provide information in an expedited manner to the Joint In-state Gasline Development Team unless something prohibits this, such as a natural disaster that takes an agency's time away from the gasline.

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REPRESENTATIVE SEATON stated that unless he is reading the language wrong, "Notwithstanding any contrary provision of law" provides that a right-of-way permit is not needed as required by other law because this takes precedence over all other law. He offered to ask Ms. Cook the question.

MR. WRIGHT agreed it would be beneficial to ask Ms. Cook.

CO-CHAIR NEUMAN said he reads this language as meaning an in-state gasline will become the number one priority for Alaska.

MR. WRIGHT responded that he is not trying to avoid answering Representative Seaton's question; sometimes drafting style stymies him as well. He agreed with Co-Chair Neuman that the intent is to plow forward.

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REPRESENTATIVE P. WILSON said she reads page 2, line 19, as meaning that the project manager can require agencies to do what the manager requests.

MR. WRIGHT replied yes.

REPRESENTATIVE P. WILSON added that she is questioning this because there may be other projects that are going on simultaneously that may be just as important to someone else as is the gasline to the project manager. Therefore, this sounds to her like the state is going to stop everything else until an in-state gasline is done.

MR. WRIGHT answered yes, that could happen if it was taken to that letter. However, common sense will likely prevail and there are ample state employees working on other things that will not be involved in this project.

[1:35:50 PM](#)

CO-CHAIR JOHNSON said there is a perception of slow rolling.

REPRESENTATIVE P. WILSON argued that those parts of state government that are slowing things down should be fixed.

CO-CHAIR JOHNSON responded he is unsure that can be done because of the separation of powers, but that Representative P. Wilson has struck the nail on the head.

[1:37:17 PM](#)

MR. WRIGHT continued his sectional analysis. He said Sec. 38.34.030 would establish the Joint In-state Gasline Development Team within the governor's office for the reasons stated previously and would name the Alaska Railroad's chief executive officer as the chair. The development team would be allowed to hire staff, enter into contracts, and exercise any other powers it needs to carry out its functions.

MR. WRIGHT explained that Sec. 38.34.040 describes the duties of the development team. These duties would be to ensure that construction for an in-state gasline is ready to commence by July 1, 2011 and to take any necessary actions to enable the flow of natural gas by 2015. The team is to select a route that: runs from the North Slope to tidewater that is the most economical, will provide gas to the greatest number of residents at a reasonable cost, uses state land and existing state highway and railroad rights of way to the maximum extent, uses existing highway and railroad bridges, gravel pits, equipment yards, maintenance facilities, and other existing facilities and resources to the maximum extent possible. He noted that the sponsor will have an amendment that addresses the issue of providing gas to the greatest number of residents at a reasonable cost. Team duties would also be to: identify land or rights of ways that must be obtained for construction and operation of the in-state gasline and take necessary action to enable the Department of Transportation & Public Facilities to acquire those interests; prepare plans and designs necessary for the construction of the in-state gasline; identify all permits and applications needed to construct the gasline and proceed

with applications for those permits and licenses; prepare and update estimates of construction and other costs of construction; and take any necessary action so that construction may begin by July 1, 2011.

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REPRESENTATIVE SEATON inquired whether the term "economical" as used on page 3, line 18, means the most economical to build, or to operate, or serves the most people for the least cost.

MR. WRIGHT replied the sponsor is looking at the most economical to construct.

REPRESENTATIVE SEATON asked whether the sponsor would be amenable to an amendment that clarifies this.

MR. WRIGHT replied yes.

REPRESENTATIVE CHENAULT nodded his head yes.

CO-CHAIR JOHNSON added that saying the most economical would also lower the tariffs by the nature of building the most economical, but that the clarification would be appreciated.

[1:40:39 PM](#)

CO-CHAIR NEUMAN asked whether this setup would be a separate corporation like the Alaska Railroad. He said he is asking this in regard to state procurement codes and guidelines and whether all of this could be done faster when the entity is a separate corporation.

MR. WRIGHT answered that page 3, line 8, provides that the development team may enter into contracts; they are not under the procurement code. In further response, he reiterated that the team would not be under the state procurement code. [See differing response of Ms. Tam Cook under 1:49:53 p.m.]

REPRESENTATIVE P. WILSON inquired whether that means the team does not have to issue requests for proposals (RFPs).

MR. WRIGHT responded that the team would not have to do RFPs. [See differing response of Ms. Tam Cook under 1:49:53 p.m.]

[1:42:29 PM](#)

REPRESENTATIVE SEATON presumed the authority there would be to do sole-source contracting dependent upon the project manager.

MR. WRIGHT replied this would be under the development team's purview, not solely with the in-state gasline project manager.

CO-CHAIR JOHNSON clarified it is not being said that a pipeline would be built as a sole-source project. This is just the developing of the team and some of the information.

MR. WRIGHT added that this is to obtain the information that is needed to construct the gasline, such as engineering and any other actions necessary to get to the construction stage.

REPRESENTATIVE P. WILSON surmised that what is being said is that an in-state gasline project would not be subject to jumping through as many hoops as a federal project, which would save time and money.

MR. WRIGHT answered yes, unless the gasline goes through federal land, which would be avoided at all cost.

[1:44:31 PM](#)

CO-CHAIR JOHNSON returned to Representative Seaton's question regarding Sec. 38.34.020.

REPRESENTATIVE SEATON reiterated his previous question in regard to the language on page 2, line 17, "Notwithstanding any contrary provision of law," and the language on line 19, "that is not required by law".

TAM COOK, Director, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, responded that the state agency would be required to continue to apply other law, but it could not include additional requirements that the agency might believe particular to this particular project. This proposed language is modeled on AS 43.90.260(b), which is the language that currently applies to the in-state coordinator under existing law.

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REPRESENTATIVE SEATON understood Ms. Cook to be saying that if the proposed gasline project manager determines that a term or condition would prevent or delay the building date beyond July 1, 2011, the state agencies would still have the authority to

put in all the conditions that they are required to do under existing law.

MS. COOK replied she believes that is correct. The language comes directly out of the 2007 Alaska Gasline Inducement Act (AGIA), and it has not yet been construed as far as she knows.

REPRESENTATIVE P. WILSON reiterated her supposition that the language on page 2, line 19, would mean the project manager could require agencies to do what the manager requests.

MS. COOK answered that that is exactly what it would mean and it would be akin to the powers that the Alaska Gasline Inducement Act attempts to give to the AGIA coordinator.

[1:48:46 PM](#)

CO-CHAIR NEUMAN inquired whether the current in-state gasline coordinator has that authority.

MS. COOK responded yes, it is available in AS 43.90.260(b). In further response, she said the language in HB 369 is precisely modeled on that, except the name of the officer has been changed.

MS. COOK, in response to Co-Chair Johnson, clarified that something new would be created in that a similar power would be given to this new state official. The existing act is not appealed, amended, or changed in any way, so there is still a similar power that is vested under the Alaska Gasline Inducement Act and its coordinator.

[1:49:53 PM](#)

REPRESENTATIVE SEATON stated it seems the power that would be given to the gasline development team under Sec. 38.34.040(b)(6) on page 4, line 5, is extremely broad. He asked what the constraints would be on the team under this provision.

MS. COOK replied she believes this power is indeed extremely broad and she expects it would be circumscribed only by laws that precisely conflict.

REPRESENTATIVE SEATON inquired whether the breadth would go beyond the permitting and licenses to other aspects, be it workforce development, procurement codes, or sole-source contracting.

MS. COOK answered that even though it is extremely broad, she does not think it would enable an action to be taken that violates an existing law. For example, nothing in this particular legislation exempts this particular agency from requirements of the procurement code.

CO-CHAIR JOHNSON corrected his previous misunderstanding in this regard, and clarified that according to Ms. Cook's statement everything under HB 369 would be subject to the procurement code, RFPs, and basic laws.

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REPRESENTATIVE GUTTENBERG referenced Sec. 38.34.040(b)(6) on page 4, line 5, and posed a scenario in which the gasline development team determines that the only way construction can begin on July 1, 2011, is if the pipe is ordered today. He asked whether it would be within the team's purview to do so.

MS. COOK responded she thinks that the team would have broad authority to enter into contracts within the scope of the procurement code and to solicit requests for proposals and that sort of thing, but the team's ability to execute these would be subject to appropriations available to them for the purpose. There is the requirement that appropriations be available to any agency that enters into a contract.

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REPRESENTATIVE GUTTENBERG commented that it is appealing to appoint someone as pipeline manager and telling him or her to steam right through and get it done. He presumed that the most economical provision on page 3, line 18, would pertain only to the construction cost of the gasline without consideration of other costs such as doing the project another way, waiting a year, state ownership, or a mainline contract.

MS. COOK replied that page 3, line 18, is a subparagraph that relates to the process of selecting a route for an in-state natural gas pipeline, so the proposed development team would be required to select a route that is the most economical. The team would be required to consider three other things as well.

REPRESENTATIVE GUTTENBERG said he is trying to see if it excludes other things that may bring down the cost.

CO-CHAIR JOHNSON added he thinks what is being dealt with is the selection of the most economical route as opposed to the most economical pipe or actually starting the construction.

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REPRESENTATIVE OLSON surmised the bill's proposed timeline would have gas in Fairbanks four years earlier than anything else that is currently being looked at.

REPRESENTATIVE CHENAULT answered that he feels it is an aggressive timeline and the state does not have the luxury to wait for someone else to control its destiny. In further response, he said he believes the state would be buying pipe considerably earlier than would be the case for any other project that has been laid out thus far.

REPRESENTATIVE OLSON inquired what would be done about the 0.5 billion cubic feet per day (Bcf/d) limit.

REPRESENTATIVE CHENAULT responded he does not have the answer to that and it may be another question the legislature needs to take up at some future time. He offered his belief that the current in-state gas pipeline team is looking at three options for gas flow through an in-state line - 250 million, 500 million, and 1 billion cubic feet of gas per day. The costs for each option are being looked at, including the differences in tariff rates. In further response, he said he does not know if this could be fixed in the House Finance Committee as he is no longer on that committee.

[1:59:39 PM](#)

CO-CHAIR JOHNSON said if the numbers shake out that the state must look at exceeding the 0.5 Bcf/d, then knowing this sooner would be much better than later given the cost will be three times greater.

REPRESENTATIVE CHENAULT replied he wishes the state had the need for 0.5 Bcf/d in Alaska because that would mean Alaskans are working and the economy is thriving.

CO-CHAIR NEUMAN, in regard to the 0.5 Bcf/d, offered his belief that if the state were to sell off and no longer be involved, and industry wanted to have throughput of more than 0.5 Bcf/day, then it would not matter because the state would not be involved in that part.

CO-CHAIR JOHNSON answered that that is debatable, but it would be a pleasant conversation to be having.

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MR. WRIGHT apologized for misspeaking about the procurement question and offered his appreciation for the clarification by Ms. Cook. He noted that the Joint In-state Gasline Development Team is to report an outline of its plans to the legislature by July 1, 2011. There is an appropriation question that can only be answered by the legislature, depending upon what type of plan the development team derives. Thus, the legislature would have final say at some point over how this would be financed. The steering committee and the team are being tasked with providing the legislature with answers to these questions.

MR. WRIGHT resumed his sectional analysis. He said Sec. 38.34.050 deals with cooperation and access to information. This section would provide that the development team has access to a state entity's information, including confidential information that may relate to the in-state gasline or prove useful in planning, design, construction, or operation of the gasline; the development team must keep this confidential information confidential. This section would also provide that all state agencies are to cooperate and give priority to requests for information from the development team. Additionally, the development team is to avoid duplicating studies, plans, and designs that have already been produced or otherwise obtained by state entities.

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REPRESENTATIVE SEATON asked whether the state would be in conflict with the triple damages provision [of the Alaska Gasline Inducement Act] should an in-state gasline be designed with a capacity greater than 0.5 Bcf/d.

REPRESENTATIVE CHENAULT responded that in regard to economics, the more gas pushed through a line the cheaper the tariffs. He said he does not think the state has the answer from any of the studies as to whether crossing over that 0.5 Bcf/d gets the state into a legal matter. Unless it is a very small line, any gasline can be pressured to go above 0.5 Bcf/d. These may be issues that have to be addressed in the future.

[2:05:10 PM](#)

REPRESENTATIVE SEATON, in regard to the provision on page 4, line 14, that state agencies shall give priority to requests for information from the development team, said he thinks this runs directly against the provision to cooperate. The priority language could elevate the request above the statutory language in the Alaska Gasline Inducement Act and could possibly cause legal damage to the state by going beyond the AGIA process.

REPRESENTATIVE CHENAULT allowed that Representative Seaton may be right. He said his understanding is that the state's departments have been given the priority to assist on the AGIA project. Therefore, his argument for leaving this priority language in the bill is that as long as the Joint In-state Development Team gets the same priority as the AGIA process, he does not believe this would cross the legal line of putting the state in non-compliance with the AGIA process. If the development team is given more authority than is given the AGIA process, then he thinks the state would get into trouble.

[2:08:10 PM](#)

REPRESENTATIVE SEATON said he is raising this issue given that HB 369 would be the later-passed law, and if the later-passed law requires that its provisions have priority he thinks it would result in [elevating the priority above the AGIA language]. He requested that the sponsor consider whether to leave this language in the bill.

CO-CHAIR JOHNSON doubted that giving an equal priority is the same as incentivizing. He said he thinks the treble damage is going to end up in court regardless what other kind of pipeline is built. Cleanup of the language is up to the sponsor, he added, but this is splitting hairs way down the road.

CO-CHAIR NEUMAN agreed with Co-Chair Johnson. He noted that the administration has been looking at a 24-inch gasline, which optimally carries about 1 Bcf/d. He offered his belief that AGIA states shipping, not the ability to ship, because the intent was not to further inhibit in the future.

REPRESENTATIVE CHENAULT concurred and said that, at a minimum, in-state gas should have the same priority as the other project.

CO-CHAIR JOHNSON said he thinks HB 369 would set up something very similar to the federal government pipeline coordinator

whose job it is to cut through all the red tape and get the process done expeditiously without inter-agency fighting.

REPRESENTATIVE P. WILSON urged this be verified with Ms. Cook or other legal counsel.

REPRESENTATIVE CHENAULT agreed to do so.

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MR. WRIGHT returned to his sectional analysis and explained that Sec. 38.34.060 deals with conflicts of interest. A member of the Joint In-state Development Team would be required to make an immediate disclosure if he or she acquires, owns, or controls a direct or indirect interest in property, an organization, or business that might be affected by the in-state gasline project or other matters under consideration by the development team. This disclosure would be part of the public record and would be included in the minutes of the development team's first meeting after the disclosure has been made.

MR. WRIGHT said Sec. 38.34.070 creates the In-state Gasline Steering Committee within the governor's office to provide advice to the development team. Members would serve without compensation but would collect per diem and travel expenses authorized for boards and commissions. The steering committee would select a chair and vice-chair from its membership.

[2:12:36 PM](#)

REPRESENTATIVE CHENAULT, in response to Representative P. Wilson, stated that the Alaska Permanent Fund Corporation would be included as one of a number of different organizations on the steering committee because of the investing and financing knowledge that the fund would bring to a project of this size. It is not being said that the fund should invest or that it is wanted for the fund to invest. The fund has the state's biggest pot of money and has done well on the state's investments.

CO-CHAIR JOHNSON inquired whether designating a member of the legislature to an administrative branch is constitutional.

MR. WRIGHT responded that the sponsor was advised of that by the Legislative Legal and Research Services, and the sponsor's position is to fight it.

CO-CHAIR JOHNSON said he supports that.

MR. WRIGHT added this would be part of the steering committee, which provides information to the development team. The development team is the one to come up with the entire game plan based on advice from steering committee members.

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REPRESENTATIVE SEATON surmised the corporation referred to on page 5, lines 13-14, of the bill would be a regional Native corporation.

MR. WRIGHT replied correct.

REPRESENTATIVE SEATON presumed the nonprofit corporation referred to on page 5, lines 15-16, of the bill would be a nonprofit formed under one of the regional corporations.

MR. WRIGHT answered correct.

REPRESENTATIVE SEATON asked whether tribal governments would be included in the steering committee.

MR. WRIGHT responded the hope is that these regional and nonprofit corporations would represent those interests.

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MR. WRIGHT, in response to Co-Chair Johnson, said he does not believe a village corporation would be considered a nonprofit corporation. A nonprofit corporation would be one of the 13 original regional corporations and he does not believe that goes down to the village level.

CO-CHAIR JOHNSON offered his belief that a nonprofit could be a nonprofit village organization formed by a Native organization under federal law.

MR. WRIGHT allowed that could be, as long as it is nonprofit.

REPRESENTATIVE GUTTENBERG noted that the Denali Borough is not listed as a member of the steering committee. He pointed out that the steering committee has an even number of members and someone may want to address that it be made an odd number.

REPRESENTATIVE OLSON supposed that the steering committee member representing the North Slope Borough on page 5, line 23, would be Inupiat.

[2:18:28 PM](#)

MR. WRIGHT commenced his sectional analysis and stated that Sec. 38.34.090 deals with conflicts of interest for the steering committee and would apply the same provisions as for the development team.

MR. WRIGHT addressed Sec. 38.34.080, which provides for the steering committee's duties. This section would give the development team the authority to assign specific issues to the steering committee and the committee is to report its conclusions and recommendations to the development team.

[2:19:45 PM](#)

REPRESENTATIVE SEATON, in regard to steering committee members representing an institution, asked whether a conflict of interest would be based on the institution being represented or the individual personally.

MR. WRIGHT replied he reads the bill as meaning individually because, for example, a municipality might gain if an in-state gasline goes through.

CO-CHAIR JOHNSON said a steering committee member must disclose a conflict but would not be excluded from participating.

REPRESENTATIVE SEATON agreed disclosure is appropriate.

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REPRESENTATIVE GUTTENBERG inquired whether HB 369 tightens or loosens the disclosure of conflicts of interest.

MR. WRIGHT allowed it is loosened a bit because the financial information disclosure requirements that are applied to public officials would not be required of steering committee members as otherwise no one would want to serve. He added that a number of people who would be steering committee members already have to file financial disclosure forms.

REPRESENTATIVE CHENAULT said the pipeline coordinator would be giving the steering committee a task that must be reported back

with recommendations. Steering committee members would not be voting on how the coordinator moves the project forward, which is some of the reasoning for lessening the conflict of interest requirements.

[2:23:35 PM](#)

REPRESENTATIVE P. WILSON referenced page 6, line 30, of the bill and requested an explanation of AS 39.52.

MR. WRIGHT responded that AS 39.52 is the Alaska Executive Branch Ethics Act, and under HB 369 this act would not apply to a member of the steering committee.

REPRESENTATIVE P. WILSON surmised that steering committee members would then not have to abide by any of the ethics that are applied to legislators or the administration.

MR. WRIGHT replied correct. A steering committee member would have to disclose a conflict of interest but would not be subject to financial disclosure or the other requirements that public officials must go through. In further response, he pointed out that members of the development team are already subject to conflict of interest disclosure [so HB 369 does not need a provision in this regard].

[2:25:18 PM](#)

REPRESENTATIVE SEATON understood that under Sec. 38.34.060 a member of the Joint In-state Gasline Development Team could have a direct financial stake in what is being decided by the team as long as it is disclosed.

MR. WRIGHT answered that the development team individuals are probably already under the provisions of AS 39.52, although he cannot say for sure. He agreed that Representative Seaton is bringing up a valid point in that the desire is to avoid any conflict of interest.

REPRESENTATIVE SEATON offered his belief that development team members are not exempt from the Alaska Executive Branch Ethics Act, but it is good to point out that the only provision is that a financial conflict of interest must be disclosed.

MR. WRIGHT responded that members of the development team are not excluded because as public officials they have had to already file their financial information.

[2:27:50 PM](#)

REPRESENTATIVE P. WILSON pointed out that the project manager would be picked by the governor and would therefore be brand new, so this person would not have had to disclose any information. Additionally, the project manager would be partially exempt under AS 39.25.120.

MR. WRIGHT replied that the sponsor has an amendment to put the project manager under exempt.

MR. WRIGHT concluded his sectional analysis by noting that Sec. 38.34.100 is the definitions section in which the in-state natural gas pipeline and the North Slope are defined. Section 2 of the bill would amend AS 39.25.120(c) to provide for partially exempt service for the in-state gasline project manager. However, the sponsor has an amendment at the request of the governor's office to put the manager under exempt service. Section 3 is the immediate effective date.

[2:28:54 PM](#)

REPRESENTATIVE P. WILSON noted that the administration is funneling everything to AGIA, and that HB 369 would have the governor appoint the in-state project manager and others. She inquired how this bill would make one entity work on both projects.

REPRESENTATIVE CHENAULT answered he hopes that the governor does not have to be made to do this and that this is a project the governor wants to get on board with. There is frustration in regard to the different entities that are working; a date would be added and authority would be given to the manager - who would not necessarily be a different person - that is similar to that of the Alaska Railroad chief executive officer. He acknowledged the governor could select a manager and give directions to not come back to the legislature with a completed project by 2011. However, the legislature has the ability to affect the governor's office and budgets, as well as department budgets. Unfortunately, the legislature cannot do the project itself and must give the authority to the administration and a department. He said he thinks the current in-state coordinator is headed down the right path, but he believes there are other entities in this building and departments across the state that feel the state should be going in a different direction. This is not a

sure-fire thing, but it heads in the direction of bringing back a project that moves Alaska forward.

2:33:06 PM

REPRESENTATIVE OLSON surmised that the bullet line envisioned by Representative Chenault would flow from the north to the south and not from Cook Inlet upward.

REPRESENTATIVE CHENAULT responded he wishes that Cook Inlet had the gas to be able to ship north to Fairbanks, but such a fuel supply has not yet been found in the inlet. It is known where there is a minimum of 35 trillion cubic feet of gas; that supply is 800 miles away and it is time for the legislature and the governor to get on board with a project that puts Alaskans first, not others.

REPRESENTATIVE OLSON commented that if a similar bill had been before legislators three years ago, the state would be about one year away from gas.

REPRESENTATIVE CHENAULT agreed.

CO-CHAIR JOHNSON said he shares the sponsor's frustrations and he would like nothing more than a private entity coming in and saying that this makes sense. He said he thinks the state has signaled that it is closed for business; for example, he has talked to companies that drill in Cook Inlet and that build pipelines and both have said they believe there is gas in Cook Inlet but that they are not going to do business in Alaska. This bill clearly sends a signal that the state is open for business.

2:35:45 PM

CO-CHAIR NEUMAN moved to adopt Amendment 1, labeled 26-LS1527\R.1, Cook, 2/24/10, written as follows [original punctuation provided]:

Page 1, line 13:

Delete "partially exempt service under AS 39.25.120"

Insert "exempt service under AS 39.25.110"

Page 7, line 6:

Delete "AS 39.25.120(c)"

Insert "AS 39.25.110"

Page 7, line 7:
Delete "(21)"
Insert "(43)"

REPRESENTATIVE OLSON objected for discussion purposes.

[2:36:42 PM](#)

MR. WRIGHT explained that Amendment 1 is at the recommendation of the governor's office because none of the employees in the Office of the Governor are under partially exempt service. Amendment 1 would change the partially exempt service to exempt service under AS 39.25.110.

REPRESENTATIVE SEATON noted that exempt service is subject to the Alaska Executive Branch Ethics Act.

MR. WRIGHT replied correct.

CO-CHAIR JOHNSON added that exempt employees "serve at the pleasure."

MR. WRIGHT answered correct.

REPRESENTATIVE OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

[2:37:30 PM](#)

CO-CHAIR NEUMAN moved to adopt Amendment 2, labeled 26-LS1527\R.2, Cook, 2/24/10, written as follows [original punctuation provided]:

Page 6, line 3, following "Valdez":
Insert "
(Q) an individual who represents the Denali
Borough"

CO-CHAIR JOHNSON objected for purposes of explanation.

MR. WRIGHT allowed that during the drafting of HB 369 the Denali Borough was inadvertently left out of the list of steering committee members. He apologized for this omission.

CO-CHAIR JOHNSON removed his objection. There being no further objection, Amendment 2 was adopted.

2:38:49 PM

CO-CHAIR NEUMAN moved to adopt Amendment 3, labeled 26-LS1527\R.3, Cook, 2/24/10, written as follows [original punctuation provided]:

Page 3, line 19:

Delete "the greatest number of"

CO-CHAIR JOHNSON objected for purposes of explanation.

2:38:58 PM

REPRESENTATIVE CHENAULT explained that upon looking at the legislation it was determined that by stating greatest number of residents the pipeline coordination group was being told which route to run. That is not what he feels the legislature should be involved with; rather, there needs to be the ability to look at either project/either route and a decision made on the facts. He wants it to be clear that it is gas orientated, not route orientated.

REPRESENTATIVE GUTTENBERG noted that residents are people as compared to utilities. He inquired whether it could include utilities.

REPRESENTATIVE CHENAULT responded that it could, but it is known that if gas is to residents of the state so will the utilities be.

CO-CHAIR JOHNSON interjected that he thinks most of the utilities in the state are cooperatives and represent residents.

2:41:07 PM

CO-CHAIR NEUMAN said getting power over to Donlin Creek Gold Mine and the economies of scale must be looked at in addition to the greatest number of people. The project could continue to grow from where it is today and over to western Alaska. He presumed the sponsor's intent is to have gas at a reasonable cost to the residents of the state; for example, it would not be for export of liquefied natural gas (LNG) to China.

REPRESENTATIVE CHENAULT replied that all Alaska residents should have the opportunity. The hope is - if the first line is ever constructed - that at a future date it will effectively help all

Alaskans across the state, but certainly not with this one particular pipeline and certainly not at the very beginning. At a future date there would be opportunities for additional pipelines or LNG and other options to be able to affect the energy costs of Alaskans. He does not have a problem with putting Alaskans in there, but he thinks residents pretty much covers the issue that needs to be covered.

CO-CHAIR NEUMAN said he does not intend to offer an amendment, but only wanted clarification from the sponsor that the intent is residents of the state.

CO-CHAIR JOHNSON offered his appreciation for this language because he thinks there is also an opportunity for a pipeline to have offtakes for taking high-value gas and propanes to other parts of the state and he does not wish to exclude the people in those areas. He removed his objection. There being no further objection, Amendment 3 was adopted.

[2:44:44 PM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 4, stated as follows:

Page 2, line 12:

Insert "Reports are due on the fifteenth of the month following the month covered by the report."

CO-CHAIR NEUMAN objected. He said much of this could be nitpicked to death and he feels a date is unnecessary; for example, where the line is drawn if the fifteenth of the following month falls on a weekend.

REPRESENTATIVE SEATON argued that a report due date follows the idea of this bill - it sets a deadline. Without a date the monthly reports could be submitted six months later. The law should be specific enough that the people generating the reports know when they are due, whether that due date is the thirtieth day of the month following or some other date. He said it does not matter how many days it is, there just needs to be a timeline set for when they are due.

[2:47:37 PM](#)

CO-CHAIR JOHNSON appreciated both arguments, but said he is concerned about a date certain on the fifteenth.

REPRESENTATIVE SEATON withdrew Conceptual Amendment 4.

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 5, stated as follows:

[Page 2, line 12:]

[Insert] "Reports are due at the end of the month following the month for which that report is covered."

CO-CHAIR NEUMAN objected, then removed his objection. There being no further objection, Conceptual Amendment 5 was adopted.

[2:49:06 PM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 6, stated as follows:

Page 3, line 18, after "economical":
Insert "to construct"

CO-CHAIR NEUMAN objected.

REPRESENTATIVE SEATON noted that the sponsor had previously said this amendment was advisable and inquired whether the sponsor still agrees.

REPRESENTATIVE CHENAULT said that is the intent so Conceptual Amendment 2 would be acceptable.

CO-CHAIR JOHNSON clarified that this is just picking the route and therefore he believes the amendment is appropriate.

CO-CHAIR NEUMAN contended the amendment is unneeded wordsmithing that could tie people's hands. He maintained his objection.

A roll call vote was taken. Representatives Johnson, Seaton, and P. Wilson voted in favor of Conceptual Amendment 6. Representatives Neuman, Guttenberg, and Olson voted against it. Therefore, Conceptual Amendment 6 failed by a vote of 3-3.

[2:53:56 PM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 7, stated as follows:

Page 4, lines 13-14:
Delete "and give priority to"

CO-CHAIR NEUMAN objected.

REPRESENTATIVE SEATON expressed his concern that including these words in the bill could run afoul of other statutes. Removing the words would get around this potential problem while still directing state agencies to cooperate.

REPRESENTATIVE P. WILSON commented that she questioned this language during the sponsor's testimony and he assured her at the time that he would check into it. She said she is hesitant to do something until the sponsor does something and therefore her vote on adopting the amendment will be no.

[2:56:21 PM](#)

CO-CHAIR NEUMAN argued that he thinks priority must be given to an in-state gasline and priority is what Alaskans want. He does not think the bill's current language gives permission to break the law of existing statute.

REPRESENTATIVE OLSON objected to the amendment because he thinks it will cost time and he does not want to be here four years from now trying to explain to constituents why something has not been started.

REPRESENTATIVE SEATON said there is no intent to slow things down; rather, he thinks it avoids a legal problem that might slow things down. He withdrew Conceptual Amendment 7 with the understanding that the sponsor plans to check on this before the bill's next hearing.

CO-CHAIR JOHNSON held over HB 369 and said he will open public testimony when the bill is considered again on Monday, 3/1/10.

[2:59:37 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:00 p.m.