

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 4, 2013

1:32 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Craig Johnson
Representative Paul Seaton
Representative Geran Tarr (via teleconference)
Representative Chris Tuck

MEMBERS ABSENT

Representative Mike Hawker
Representative Kurt Olson

OTHER LEGISLATORS PRESENT

Representative Andrew Josephson

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4

"An Act relating to the Alaska Gasline Development Corporation; making the Alaska Gasline Development Corporation, a subsidiary of the Alaska Housing Finance Corporation, an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to the price of the state's royalty gas for certain contracts; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation

by the Regulatory Commission of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by contract carriage; relating to the Alaska Natural Gas Development Authority; relating to the procurement of certain services by the Alaska Natural Gas Development Authority; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 4

SHORT TITLE: IN-STATE GASLINE DEVELOPMENT CORP

SPONSOR(S): REPRESENTATIVE(S) HAWKER, CHENAULT

01/16/13	(H)	PREFILE RELEASED 1/7/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	RES, FIN
01/30/13	(H)	SPONSOR SUBSTITUTE INTRODUCED
01/30/13	(H)	READ THE FIRST TIME - REFERRALS
01/30/13	(H)	RES, FIN
02/04/13	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As joint prime sponsor, introduced SSHB 4.

RENA DELBRIDGE, Staff

Representative Mike Hawker

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: On behalf of Representatives Mike Chenault and Mike Hawker, joint prime sponsors of SSHB 4, provided a PowerPoint presentation and sectional analysis to further introduce the bill.

FRANK RICHARDS, Manager

Pipeline Engineering & Government Affairs

Alaska Gasline Development Corporate (AGDC)
Alaska Housing Finance Corporation (AHFC)
Department of Revenue (DOR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SSHB 4.

TINA GROVIER, Attorney, Natural Resources and Energy Law
Birch Horton Bittner & Cherot
Counsel to Alaska Gasline Development Corporation (AGDC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SSHB 4.

ACTION NARRATIVE

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CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:32 p.m. Representatives Seaton, P. Wilson, Johnson, Feige, and Saddler were present at the call to order. Representatives Tuck and Tarr (via teleconference) arrived as the meeting was in progress. Representative Josephson was also present.

HB 4-IN-STATE GASLINE DEVELOPMENT CORP

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CO-CHAIR SADDLER announced that the only order of business is SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4, "An Act relating to the Alaska Gasline Development Corporation; making the Alaska Gasline Development Corporation, a subsidiary of the Alaska Housing Finance Corporation, an independent public corporation of the state; establishing and relating to the in-state natural gas pipeline fund; making certain information provided to or by the Alaska Gasline Development Corporation and its subsidiaries exempt from inspection as a public record; relating to the Joint In-State Gasline Development Team; relating to the Alaska Housing Finance Corporation; relating to the price of the state's royalty gas for certain contracts; relating to judicial review of a right-of-way lease or an action or decision related to the development or construction of an oil or gas pipeline on state land; relating to the lease of a right-of-way for a gas pipeline transportation corridor, including a corridor for a natural gas pipeline that is a contract carrier; relating to the cost of natural resources, permits, and leases provided to the Alaska Gasline Development Corporation; relating to procurement

by the Alaska Gasline Development Corporation; relating to the review by the Regulatory Commission of Alaska of natural gas transportation contracts; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline project developed by the Alaska Gasline Development Corporation; relating to the regulation by the Regulatory Commission of Alaska of an in-state natural gas pipeline that provides transportation by contract carriage; relating to the Alaska Natural Gas Development Authority; relating to the procurement of certain services by the Alaska Natural Gas Development Authority; exempting property of a project developed by the Alaska Gasline Development Corporation from property taxes before the commencement of commercial operations; and providing for an effective date."

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REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, joint prime sponsor, first noted that this process of how to monetize Alaska's Prudhoe Bay gas and bring it to tidewater to benefit the most Alaskans has been ongoing for 30-some years. He said he is not here to argue the size, location, or destination of an in-state gas pipeline, but rather to explain the project the sponsors have put together in the belief that it has the best opportunity to bring gas to Alaskans in the near future. Building a 24 inch high pressure line or a 36 inch 1,440 pound per square inch (psi) line would be considered a big pipe anywhere else in the world.

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REPRESENTATIVE CHENAULT continued, stating that while it may not be the magical 48 inch pipe, a pipeline of this size would do a number of things. It would: bring down the cost of utilities for Fairbanks, improve the air quality which hampers how Fairbanks heats its homes, bring a long-term energy supply to the Cook Inlet, and along the way it would help rural Alaska by providing propane and possibly jobs. He pointed out that [since being established under] House Bill 369 [in 2010], the Alaska Gasline Development Corporation (AGDC) has completed every task before it and more. Now, tools are needed in AGDC's toolbox to move forward, and [SSHB 4] would provide the tools the sponsors believe would get Alaska to an open season to see if there really is a market for selling Alaska's gas.

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REPRESENTATIVE CHENAULT opined it is time to make a choice. As requested, AGDC developed a plan. Now the legislature must give AGDC its next direction and the tools to carry out its mission, or the legislature needs to pull the plug. There is no halfway unless the legislature is okay with driving up the cost to the Alaskans who will eventually pay for gas - every time there is a wait it just costs the state more. It is time to deliver the promise of gas to Alaskans through the Railbelt system.

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RENA DELBRIDGE, Staff, Representative Mike Hawker, Alaska State Legislature, on behalf of Representatives Mike Chenault and Mike Hawker, joint prime sponsors, provided a PowerPoint presentation to further introduce SSHB 4. She said she will be explaining where things are, how they got to this point, and how the sponsors would like to move forward with SSHB 4 [slide 2]. "Alaska has long wanted to develop Alaska's rich North Slope natural gas resource," she said. Development would bring a clean, reliable, reasonably priced energy solution for Alaskans that would help with electric and home heating costs, provide economic development opportunities for communities, and provide a secure gas supply for industrial development opportunities. Further, this commercialization of gas would generate state revenue through production taxes, royalty gas, and the future oil and gas exploration and development that a gas line would enable.

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MS. DELBRIDGE pointed out that Alaska has tried for decades to develop its gas resource, having been on the table before the Trans-Alaska Pipeline System (TAPS) was completed [slides 3]. Governor Tony Knowles worked to develop a gas line under the Stranded Gas Development Act, Governor Frank Murkowski [worked on the issue], and Governor Sarah Palin worked on it under the Alaska Gasline Inducement Act (AGIA). But it has not worked yet. Part of the problem, in the sponsors' opinion, is that there are divergent interests. Alaska wants in-state gas developed to serve Alaskans and to commercialize the resource, whereas the private industry that the state has looked to for support of a large pipeline needs to give a return to shareholders and make profit from a resource in the ground. To some, it is no wonder that things have not worked to date - any project would be of massive scale, massive costs, and massive risks. The state can be pretty prescriptive in demanding terms of a pipeline and size of a pipeline. Industry can be slow in

responding to meet Alaska's needs. And, markets change - where Alaska thinks it has a market for its gas in a large quantity has evaporated; so windows close and windows open. Right now, alignment with the "MOU group", where the governor has encouraged TransCanada, ExxonMobil, ConocoPhillips, and BP to work together on a new project, is promising. But the sponsors want to know how long Alaska is willing to wait until it gets gas to Alaskans.

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MS. DELBRIDGE recounted that by 2010 there was frustration with a lack of progress on a big pipeline [slide 4]. Trying to make others develop a pipeline for Alaska, on Alaska's terms, was not delivering the results that Alaskans wanted. In 2010 members of the legislature took a fresh approach, deciding that Alaska can define what it wants and then do that itself. In-state energy use, a need to get gas to Alaskans, was the primary driver of that. There was an idea to use the state as a catalyst to develop the early engineering and design work on a project that would demonstrate for the private sector that this could be, in fact, a pipeline that can work, and to demonstrate to Alaskans that an in-state gas pipeline could, in fact, deliver energy at reasonable costs. At the same time, members of the legislature wanted to continue providing opportunities for private sector partners without asking them to take on the project themselves. The legislature wanted to empower an independent entity to serve as the nexus for people interested in a project that, to date, the private sector had been unwilling or unable to take on due to its being a mega-project of huge costs and risks. Legislators saw that the public benefit of having the state serve as a catalyst is the long-term deliverability of reasonably priced gas for heating homes, generating electricity, providing economic stability and growth, and providing opportunities for industrial development, such as a power source for large mines. Legislators also clearly heard the imperative that Alaska address in-state energy issues.

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MS. DELBRIDGE outlined the goals of House Bill 369, passed in 2010: build a team under the leadership of the Alaska Housing Finance Corporation (AHFC), have the team consolidate the state's gas pipeline work to date, have the team fill in the data gaps and decide an optimal route for an in-state gas pipeline, and have the team report back to the legislature with a project plan. She said House Bill 369 passed with very broad,

bipartisan support and passed the House unanimously. The Alaska Gasline Development Corporation (AGDC) subsequently delivered with its July 2011 project plan [slide 6]. This plan showed that: a pipeline for Alaskans is possible, even without a major export component; an in-state line could deliver competitively priced gas to the major population centers, specifically Fairbanks and Southcentral Alaska; a project would require firm, long-term contracts for pipeline capacity to support financing; and some items would require legislative action.

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MS. DELBRIDGE reviewed AGDC's recommendations [slide 7] for the legislated authority that it needs to be able to: determine a pipeline ownership structure, work confidentially with private sector partners, operate as a contract carrier, and decide rates and [tariff] terms for shipping gas on this pipeline. Further, she said, AGDC recommends that the state waive property taxes and state land lease fees to help keep the pipeline costs down and to provide sufficient funding. Providing sufficient funding is not simply a dollar value, it is to carry AGDC through a stage within its process. It is difficult to secure the kinds of contracts that AGDC needs with certain engineers and designs for big ticket items, like a gas conditioning facility on the North Slope, without the surety for that private sector partner that the state is serious and the money is going to be there to support that contract through the length of the terms. The sponsors are pleased with the work that AHFC and AGDC have done to progress this project since 2010. The stage-gated and risk-based project management approach adopted by AGDC is appreciated and the plan does exactly what AGDC was asked to do.

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MS. DELBRIDGE moved from her historical review to where things are at today - SSHB 4. She said this legislation proposes to empower one entity, separated as much as possible from politics, to forge ahead and carry out this plan [slide 8]. However, SSHB 4 is not about just one gas line. The sponsors realize that with one gas line in place the possibilities for Alaska are probably endless. The bill creates a statutory framework for this corporation to go through on its project plan and to be flexible and responsive and seize opportunities in the future. The bill also maintains momentum because delays hurt - project costs go up with inflation by \$200 million or more per year of wait. These additional costs would be borne by the people, including Alaskans, using gas at the end of this pipeline.

Meanwhile, the Southcentral gas supply and cost are increasingly uncertain. Energy costs continue to be a devastating problem in Fairbanks and the air quality problem in that community has no real end in sight. As urban costs increase, rural communities also hurt more. Plus, there is a continuing expectation for the state to offset high costs of energy in these communities, be it through direct assistance or the state's responsibility for covering energy costs for its own facilities and buildings.

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MS. DELBRIDGE pointed out that the sponsors had seven guiding principles in the drafting of SSHB 4 [slide 9]. First, keep politics out of pipeline development and let the markets determine the way this pipeline looks. Second, build in maximum flexibility and options for AGDC because at the beginning of a project there is only a general idea of what the risks and costs will be; as money is spent refining the engineering, permitting, and design, there becomes a better idea of what the costs and risks will be. For example, at this point it is unknown exactly what the optimal ownership structure is going to be to get gas to Alaskans at the lowest possible price, so AGDC needs that flexibility. Third, support an aggressive, responsible schedule that is driven by the needs of Alaskans. Fourth, let markets shape pipeline decisions. Fifth, provide reasonable backstops for Alaska gas consumers. Sixth, include ways that the state can further keep costs down and enhance a pipeline project's success. By empowering AGDC to go forward with a project the state is making a defacto declaration that that is in the state's best interest, and if this project is in the state's best interest the sponsors would like to see the state assist it as much as possible. Seventh, respect the state's long-term policy of encouraging future development of Alaska's oil and gas basins through pipeline development. The state has always tried to ensure that infrastructure is developed in a way that encourages additional exploration and production in the future.

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MS. DELBRIDGE stated that SSHB 4 attempts to strike a balance between the free market forces that the sponsors are counting on to become partners to AGDC to ship gas versus the tremendous needs in Alaska that need to be met [slide 10]. There is a need to balance the public sector support in the early stages to bring the project to an open season where economics will then dictate the project's fate. Under SSHB 4, AGDC would have significant authority and autonomy, but a clear mission, that

can be used to get gas from the North Slope to Fairbanks and Southcentral Alaska at the lowest possible costs and to other communities when AGDC is able to do so at a reasonable price. She said AGDC is also poised to shift gears if another project develops that delivers gas to Alaskans at the lowest possible costs without delay. There are institutional checks and balances built into SSHB 4 - yes, a pipeline; but no, not at any cost. A pipeline under this legislation may not go forward unless there is a commercial project that has sufficient contractual support for financing without additional state financial participation. Under SSHB 4, a gas line must deliver gas to Alaskans at a competitive price.

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MS. DELBRIDGE specified that the plan going forward under SSHB 4 is that AGDC would first and foremost be empowered to continue work on the in-state gas pipeline [slide 11]. Sufficient shipper support will be required to finance a pipeline; the plan is to hold an open season in 2014, which will secure whether that is a possibility. The target date for gas flowing is 2019. Additionally, AGDC will work with TransCanada and the three producers as per the governor's request to see if those two projects can merge into one. This is uncertain as there has been no development commitment to date by TransCanada and the three producers; however, they are continuing to meet benchmarks set out by the governor and the sponsors are pleased by that. The governor has specifically identified AGDC as a partner to that as AGDC brings certain assets to the table that can help any project, including an aggressive timeline for Alaskans, an existing state right-of-way lease, and a final Environmental Impact Statement (EIS) for a federal right-of-way. At the same time, SSHB 4 equips AGDC to be prepared for participation in other frameworks. A license is still issued under AGIA, so if an export line to the Lower 48 is built, AGDC can shift gears and consider a spur line to serve Alaskans. Once a main in-state line is complete, AGDC, under SSHB 4, is in position to evaluate other pipeline opportunities, which could be connecting lines off that mainline to other communities and industrial developments to gas, as well as other smaller stand-alone Alaska gas pipelines that are needed and proved commercial.

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MS. DELBRIDGE noted SSHB 4 can be broken conceptually into three main areas [slide 12]: a statutory framework for AGDC to serve as Alaska's natural gas pipeline corporation, a maximizing of

the state's efforts in [gas] pipeline development, and resolving of regulatory uncertainties while supporting future development of Alaska's resources. Addressing the first area of statutory framework, she said AGDC has done a wonderful job as a subsidiary of AHFC, and AHFC has been a good incubator while AGDC studied the issue to see if something is possible. Now that it is known something is possible, SSHB 4 moves AGDC from its present location as a subsidiary corporation and makes it a stand-alone public corporation of the state located under the Department of Commerce, Community & Economic Development (DCCED) for administrative purposes only, which essentially means for budget requests and appropriations if necessary. Under SSHB 4, AGDC will be governed by a five-member board with expertise in relevant fields, such as natural gas pipelines, finance, and large project management. These members would be appointed by the governor and confirmed by the legislature. The bill also provides clear transition language to ensure that the re-positioning of AGDC as a corporation does not interfere with, or delay, any of the work that is ongoing or any of the progress on a pipeline project.

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MS. DELBRIDGE reiterated that the legislation clearly states AGDC's purpose [slide 14]: to advance an in-state gas pipeline as described in the July 2011 project plan, with modifications as appropriate to make gas available to Fairbanks, Southcentral Alaska, and other communities at the lowest rates possible; to develop pipelines that serve utility and industrial customers at commercially reasonable rates; and to develop pipelines offering commercial rates to shippers and that offer access for shippers that produce gas in Alaska.

MS. DELBRIDGE specified SSHB 4 provides AGDC with clear statutory abilities to function as a corporation and to accomplish its purpose [slide 15]. She said this section of the bill is long and very boilerplate; for example, a corporation needs the explicit authority to adopt a seal and to enter into contracts and hire people. The section also includes language relevant to AGDC's particular mission so that AGDC may: enter into ownership and operating partnerships; create subsidiaries, including a subsidiary to market gas, such as state royalty gas or gas belonging to others; issue revenue bonds limited to AGDC's own backing to finance a pipeline; enter into confidentiality agreements that are necessary to participate with private sector shippers, partners owning the pipeline, and financiers; and keep confidential information like field

studies, data, and tariff models, which are assets that AGDC is developing for the state with the state's money. During the time these assets are of relevancy to a project, the intent is that the state gain maximum return for these assets.

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REPRESENTATIVE P. WILSON inquired whether SSHB 4 provides that after a certain amount of time the confidential information becomes the state's purview.

MS. DELBRIDGE replied nothing in SSHB 4 explicitly states that. However, at the point in time that AGDC ceases to exist as a corporation, all of its assets are remanded to the state. Currently, the concern is the data being generated for this project remain confidential through the time that this project is built. She offered to discuss ways to be more explicit about that, but said it is important to protect the value of that asset right now, given there are other interests who may find the information beneficial.

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CO-CHAIR SADDLER asked whether it is usual for a developer of such a large project to basically be its own financier.

MS. DELBRIDGE offered her belief that with revenue bonds it is normal for a project to be able to bond for the financing of that project because it is the one pledging the revenue from its project to those funds.

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MS. DELBRIDGE, resuming her review of statutory abilities provided by SSHB 4, said AGDC would be given ability to exercise the state's existing power of eminent domain [slide 15].

CO-CHAIR FEIGE commented that the power of eminent domain could be interpreted as being fairly heavy handed and inquired why AGDC would need this power.

MS. DELBRIDGE advised that the power to exercise eminent domain for a pipeline project exists within state statute. Granting AGDC the power to exercise eminent domain is essentially delegating that power to AGDC so that AGDC itself can exercise it rather than having to go back and work through the state channels, creating the potential for delays and additional

costs. She further advised that AGDC would only be able to exercise the state's power of eminent domain along the same lines that the state would be able to exercise its power of eminent domain. Thresholds are built into statute that require good-faith negotiations be held with land owners and those must have failed to go to this route. Statute then requires that the landholder receive fair compensation for the property that is taken under eminent domain.

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MS. DELBRIDGE, turning back to her review of SSHB 4, specified that SSHB 4 exempts AGDC and Alaska Natural Gas Development Authority (ANGDA) from the state procurement code and state personnel act, as well as the Executive Budget Act [slide 16]. She said the bill also applies public official disclosure rules to AGDC's board members, therefore AGDC board members would be required to make disclosures. At Representative P. Wilson's request, Ms. Delbridge outlined the reasons for AGDC's exemptions. The intent is still that AGDC gets things from the private sector and SSHB 4 requires AGDC to, as possible, give a preference to Alaskans for procuring services, materials, and hiring, and to work through the state's labor department programs that train and fit employees for positions. Exemption from the procurement code essentially means that AGDC would not have to go through those particular channels that the state requires. When procuring items, AGDC needs to be flexible, move quickly, and be able to work through whatever terms it can to get the absolute best prices on things; that might not always look like the state procurement code procedures. The situation is also one of bulk materials and contracts. Much of AGDC's work going forward will be for contract personnel and AGDC will need the flexibility to move quickly and to move into the very best expertise that it can.

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CO-CHAIR SADDLER understood that SSHB 4 would encourage Alaska hire. He then asked whether the bill has any provision to encourage veteran procurement preference.

MS. DELBRIDGE responded no, nothing in SSHB 4 does that. Alaska Native corporations and local government entities are specifically mentioned, which, she said in further response, is in Section 1, page 3.

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REPRESENTATIVE TUCK requested some examples be provided, although not at this moment, of how the state procurement code does not fit with the flexibility the sponsors' desire.

MS. DELBRIDGE agreed to do so.

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CO-CHAIR FEIGE inquired whether these proposed provisions would put AGDC in the same situation as the Alaska Railroad.

MS. DELBRIDGE answered there are differences between the Alaska Railroad and the Alaska Permanent Fund Corporation and AHFC. She said she is unsure what specifically the railroad exemption is from the state procurement code, but said the railroad is exempt from the Executive Budget Act and AHFC is partially exempt.

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MS. DELBRIDGE, continuing her presentation, stated that AGDC shall publicize the results of an open season when it has successful bids for pipeline capacity. This provision was modeled largely after the Federal Energy Regulatory Commission's (FERC) rules governing an open season for Alaska. Once commitments are signed, AGDC must publicly state who those shippers are, how much capacity the shippers have contracted for, and over what length of time. This is reassurance to Alaskans that these are legitimate shippers, that they are actually bidding up the space required to fill up this pipeline, and that they promising those contracts for a length of time that is reasonable and lets things work for the state.

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MS. DELBRIDGE moved to slide 17 and said SSHB 4 would maximize the state's efforts in gas pipeline development. The sponsors' position is that the passage of SSHB 4 and direction of AGDC on this new mission is a defacto finding that an in-state gas pipeline is in the state's best interest and therefore the state should be supporting this pipeline as much as possible to reduce delays and keep costs as low as possible. To do this, SSHB 4 redefines the Alaska Natural Gas Development Authority (ANGDA) as an AGDC subsidiary and adapts AGDC's purpose to serve as a gas marketer. A gas marketer is a bit like a gas aggregator in that it might buy gas at the top of the pipeline, pay to

transport it, and then sell it to multiple entities at the bottom of the pipeline. The bill encourages the Department of Natural Resources (DNR) commissioner to work with AGDC, and particularly a gas marketing subsidiary, to make the state's royalty gas available for shipment through an AGDC pipeline. She noted that this is to make state royalty gas available for shipment, not to give the gas to AGDC or a subsidiary and not to sell it to any particular person at any particular price as that is a decision that the DNR commissioner makes. She pointed out that SSHB 4 also limits the judicial review of state permitting decisions and authorizations to avoid delays once construction has started.

[2:08:22 PM](#)

CO-CHAIR SADDLER inquired whether SSHB 4 establishes ANGDA as the sole venue through which this gas could be marketed.

MS. DELBRIDGE replied, "ANGDA would be able to serve as a gas marketer; AGDC has the ability to create subsidiaries for any purpose, but it needs a subsidiary to do in conjunction with carrying out its mission."

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REPRESENTATIVE JOHNSON asked whether ANGDA has the expertise to be a gas marketer.

MS. DELBRIDGE offered her belief that there is nothing left of ANGDA at the moment, no existing board members or personnel, so the intent is that ANGDA be recreated to have the expertise to carry out that function.

REPRESENTATIVE JOHNSON inquired why [recreate ANGDA].

MS. DELBRIDGE responded ANGDA was created by the voters through initiative in the early 2000s specifically to build a gas pipeline by 2005. That did not work and ANGDA took on other tasks as directed or at its own initiative over the years to try being involved in gas development in Alaska.

REPRESENTATIVE JOHNSON asked whether the intent, then, is to have a marketing subsidiary that is named ANGDA for political purposes, given ANGDA currently has no staff and no purpose and is just a name.

MS. DELBRIDGE answered AGDC does not need ANGDA to market gas.

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REPRESENTATIVE P. WILSON inquired if the reason for limiting judicial review of state permitting decisions and authorizations is because each department is encouraged to ensure the state gets this pipeline going.

MS. DELBRIDGE replied judicial review is important and gives people a voice, as do the public processes that the State of Alaska requires when issuing permit decisions and giving project authorizations. The intent is not to disallow any of that public process, but to avoid the kind of lawsuits that are filed late in the process with the specific intent to delay a project. Delay happens when a court issues injunctive relief and calls a halt to project construction until that lawsuit is settled. That lawsuit may or may not have any foundation in the end, but the project has been stopped. Delays are incredibly costly and difficult. She specified that this limit is strictly of state permitting decisions, lease issuances, and authorizations, so people would still have the public process before a decision or authorization is made in which to participate. She said she believes the limitation restricts complaints to the superior court and prohibits injunctive relief so that a court cannot delay the process. If someone has a challenge to this particular provision, he/she has a set period of time after this bill passes to challenge that. Further, if a person feels that the state has made some sort of a decision or authorization that violates his/her constitutional rights, the person has 60 days from the time that that state decision is made to challenge it. Thus, avenues are maintained for legal challenge, but the boundaries of those are restricted.

REPRESENTATIVE P. WILSON responded that makes perfect sense.

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CO-CHAIR SADDLER understood this kind of post-sanction judicial limitation has been a feature of all the gas line proposals in Alaska over the last decade and that it was also a feature of the Trans-Alaska Pipeline System (TAPS) authorization.

MS. DELBRIDGE responded she does not know about all gas pipeline projects, but the theory is that [a limitation] is reasonable when the state has decided that something is in the best interest of the people of the state and therefore wants to go through with it. She confirmed that TAPS did enjoy limits on

judicial review, and she further believed that that is also part of the 2004 federal Alaska Natural Gas Pipeline Act.

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MS. DELBRIDGE proceeded with her review of SSHB 4, saying that to maximize the state efforts at gas development the bill waives state and local property taxes during pipeline construction. The legislation requires state entities to cooperate with and share information with AGDC. This means that AGDC's requests to other state agencies would receive priority, except for AGIA requests which have already claimed priority, and also means that AGDC and state entities can enter into confidentiality agreements to share information if that information involves a third-party that needs to be protected. The bill calls on the state to provide water, sand, gravel, and other non-hydrocarbon natural resources to AGDC and AGDC will pay the usual prices to the state for these resources, but the costs cannot be included in the tariff base for the pipeline and passed on to shippers. Lastly, SSHB 4 directs DNR to waive annual fees on a state right-of-way lease for AGDC, which is currently costing nearly \$200,000 a year.

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CO-CHAIR SADDLER asked whether the proposal from AGDC would waive state and local property taxes during operations as well as during construction.

MS. DELBRIDGE answered the bill specifically waives local and state property taxes on a gas pipeline that AGDC has any involvement in; for example, a pipeline in which AGDC is part owner or a pipeline financed by AGDC. She said she believes those local and state taxes would be waived only until that gas is flowing. She noted it is not generally reasonable to have one state entity paying taxes to another; therefore Section 3, the corporate authorities for AGDC, exempts all property of AGDC from state taxes, as per most of the state's corporations. So, she said, the answer is that it does a little bit of both and what ultimately happens will depend on the ownership structure of the pipeline, whose property it is.

[2:16:49 PM](#)

MS. DELBRIDGE, resuming her review of SSHB 4, stated that a large part of the bill is an attempt to resolve regulatory uncertainties [slide 19]. Regulatory uncertainties add risk,

which adds costs and can deter private sector participation, so AGDC and its private sector partners need to know up front how a pipeline is going to be regulated. Therefore, SSHB 4 establishes a framework within the state to accommodate a contract carrier pipeline and it does this through two avenues: through allowing natural gas pipelines to operate as contract carriers via changes to the Right-of-Way Leasing Act and through Regulatory Commission of Alaska (RCA) oversight. Second, it reinforces the state's policy that gas pipeline development should be fair and should offer reasonable access to new and future shippers and encourage future development of Alaska's oil and gas resources.

[2:18:16 PM](#)

CO-CHAIR FEIGE, regarding the provision to act as a contract carrier, asked how space would be allocated in the pipeline should the commitments total more than the limit of 500 million cubic feet per day.

MS. DELBRIDGE confirmed that, under the terms of the Alaska Gasline Inducement Act (AGIA), an AGDC pipeline would currently be limited to 500 million cubic feet a day. The precise method of allocating capacity initially is something that AGDC needs to determine and make known to the RCA and to the people bidding on its pipeline. Rather than legislatively prescribing that [method], AGDC is being asked to make that part of its commercial contracting.

[2:20:03 PM](#)

CO-CHAIR FEIGE inquired whether that would bid the tariffs up or down.

MS. DELBRIDGE responded she is unsure which way the bidding would end up if people are signing contracts without knowing who else is also signing contracts at the same time. She said she thinks the scenario of a bidding war is likely if people know what the other parties are wanting to do and the terms they are wanting to do it. The sponsors are cognizant that there is a limit right now on pipeline size. However, an open season is a year and a half away and it is difficult to know if the state will still be a licensee under AGIA at that time.

REPRESENTATIVE CHENAULT quipped what a terrible position the State of Alaska would be in should people bid more gas than this proposed project could handle. He said he thinks the state

would step in and make the right choice of allowing any of them to be included and sizing the project appropriately.

2:21:34 PM

CO-CHAIR SADDLER asked whether an open season is an expression of interest or a binding commitment to ship.

MS. DELBRIDGE answered an open season in this case would be binding. She explained an open season is a period of time during which potential shippers and the pipeline carrier talk about terms and negotiate. What comes out of an open season is a precedent agreement that is binding and usually conditioned - a contract that says there is a deal provided certain things are worked out. Some of the terms on a precedent agreement are very standard, such as the project must come in within a certain plus or minus of budget, does not face delays, or any outstanding uncertainty is ironed out. Other things are more particular to a given project or a given shipper.

2:23:00 PM

MS. DELBRIDGE, turning back to her review of SSHB 4, explained the reasons for why contract carrier status [slide 20]. She said shippers on a pipeline need to know the space they are reserving by signing a long-term commitment will be available. Those firm, uninterruptible contracts are the way gas pipelines are typically financed; the future income promised through those contracts secures the revenue bonds. The bill establishes contract carrier status while providing for expansion in the future. So long as [a future] expansion does not violate any of the terms of AGIA, the regulatory framework under SSHB 4 absolutely provides for expansions - a pipeline is required to expand when it is presented with a commercially reasonable expansion project. Expansion can happen in a number of ways, such as adding compression or looping. The difference between contract carrier status and common carrier status is that expansion [of a contract carrier pipeline] cannot make the existing shippers pay more than their contracts allow, so an expansion cannot raise their rates.

2:24:53 PM

CO-CHAIR SADDLER inquired how much more capacity, in general, could be squeezed out of a 24 inch pipeline through compression or looping.

MS. DELBRIDGE replied it depends entirely on the engineering of each particular pipeline as to how much pressure can go through, how much compression is already in place, and the size of the pipeline.

CO-CHAIR SADDLER presumed there must be some absolute limit technologically.

[2:25:25 PM](#)

CO-CHAIR FEIGE recalled it being mentioned earlier that the pipeline would be a [1,480] psi line, 36 inches in diameter. He asked what the specification for wall thickness would be on such a line as well as the type of steel.

MS. DELBRIDGE deferred to an AGDC representative for an answer.

[2:25:57 PM](#)

FRANK RICHARDS, Manager, Pipeline Engineering & Government Affairs, Alaska Gasline Development Corporate (AGDC), Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), responded that the pipe specifications for AGDC's new lean gas case is 1,480 psi, American National Standards Institute (ANSI) 600 pound class, and approximately .52 inches wall thickness; thus making the pipe approximately grade X60 or X65.

[2:26:57 PM](#)

CO-CHAIR SADDLER inquired what the expandability factor might be of this pipe.

MR. RICHARDS explained that under the provisions of AGIA, AGDC is limited to designing an in-state pipeline to 500 million cubic feet per day. At the request of the committee AGDC could look at the ultimate capacity of that pipe, but AGDC has been very specific in its designs to limit it to the 500 million.

CO-CHAIR SADDLER said that contradicts what was said about the expandability of the pipeline via compression and so forth.

MR. RICHARDS answered the capacity of flow through the pipe can be increased by adding compression. As a project, however, AGDC has not done that because of the provisions of AGIA.

[2:28:07 PM](#)

REPRESENTATIVE P. WILSON asked whether the committee would be violating the terms of AGIA if it asked AGDC [to calculate an ultimate capacity].

MS. DELBRIDGE deferred to legal counsel for an answer.

[2:28:36 PM](#)

TINA GROVIER, Attorney, Natural Resources and Energy Law, Birch Horton Bittner & Cherot, Counsel to Alaska Gasline Development Corporation (AGDC), said she would need to look into that and determine how much is publically available information that could be acquired from a different source, as opposed to actually causing AGDC to go through those calculations, which, in her mind, would cause some concern.

REPRESENTATIVE P. WILSON said she thinks the committee should get that information from another source also, but that she would like to know the ramifications before going any further with this.

CO-CHAIR SADDLER encouraged Ms. Grovier to err on the side of caution in regard to the aforementioned.

[2:30:10 PM](#)

MS. DELBRIDGE, continuing her discussion about why a contract carrier pipeline is needed [slide 20], explained that a common carrier pipeline can have firm commitments, but typically those commitments are interruptible. The concept behind a common carrier is that when other people want room on that pipeline, those people with existing space are then prorated to make room for the new. Enabling contract carriage gets the state past this difficulty. In the state's case it is very much a matter of financing as well as a matter of the end users of the gas. Oil pipelines tend to feed into a hub of some sort, such as a trading hub or storage tanks. Gas pipelines often deliver gas that is used immediately for an ongoing power source. A power plant or industrial mine does not typically store a lot of the gas being received from a pipeline. People need to know that the amount of gas they are counting on through that line every day is going to always be there.

[2:31:32 PM](#)

MS. DELBRIDGE reiterated that contract carriage is enabled two ways: through the Right-of-Way Leasing Act and through

Regulatory Commission of Alaska (RCA) oversight. In regard to the Right-of-Way Leasing Act [slide 21], a lessee must agree to a set of covenants in statute to get the right-of-way lease. Many of those covenants are very nuts and bolts, such as the lessee will not abandon a pipeline, will abide by the state's rules, and will take all the necessary precautions to avoid any environmental degradation. The legislation creates a subset of covenants for contract carriage. A contract carrier is still subject to all the nuts and bolts covenants of a common carrier, but a contract carrier would not be subject to certain covenants reflecting common carrier principles. Under SSHB 4, contract carrier covenants still require a pipeline, per contractual terms, to provide connections with other pipelines and facilities. The contract carrier terms in SSHB 4 still require expansions, but on commercially reasonable terms so that the rates of existing shippers are not adversely affected. The contract carrier covenants in the bill still require a pipeline to ship without "undo discrimination", which accommodates the principle that certain classes of shippers will probably be treated a little bit differently than other classes of shippers. For example, the terms for a group of people shipping small quantities will be similar, but those terms will probably be different from the terms of a group of people shipping large quantities.

[2:34:01 PM](#)

MS. DELBRIDGE, regarding the bill's enabling of a contract carrier gas pipeline through RCA oversight [slide 22], explained that the RCA regulates as told to do so by the legislature. Currently, the RCA has statutes directing it in how to regulate public utilities and statutes directing it in how to regulate pipelines. The RCA's pipeline regulation has generally been used for oil pipelines and reflects common carriage principles. There are some provisions in statute for a North Slope pipeline that have never been tested. Therefore, SSHB 4 adds a new chapter to law, AS 42.08, for the RCA to regulate a contract carrier gas pipeline. This new regulatory section tries to walk that balance between enabling a private sector commercial contractual base project to go forward and protecting the other parties that might be involved, such as public utilities buying gas that is shipped on a line like this, or that ship gas themselves, and also ensuring that protections for the ultimate consumers of that gas are still in place through the RCA. Therefore, the contract carrier regulatory framework requires the pipeline carrier to give a baseline package of rates and terms, called a recourse tariff, to all interested parties.

Specific rates and terms are then negotiated off of that baseline. The point is to ensure that all parties have had the ability to get in on the same terms.

[2:35:56 PM](#)

CO-CHAIR SADDLER inquired whether "all interested parties" is all potential shippers or both sides of the shipper/supplier agreement.

MS. DELBRIDGE replied she is meaning shippers, the people signing contracts to ship gas on the pipeline. She said the structure requires the RCA to decide if precedent agreements made after the open season are just and reasonable. The bill's premise is that contracts entered into willingly by two parties are just and reasonable or else the contract would not have been signed. There are some checks and balances. The RCA is to take a much stronger look at contracts made between affiliated parties. They are to take a stronger look at contracts that do not include that recourse tariff and that are made between entities that have an existing relationship.

[2:36:52 PM](#)

REPRESENTATIVE P. WILSON asked whether the RCA currently deals only with common carriers.

MS. DELBRIDGE responded the RCA currently regulates public utilities and public utility pipelines and also has the ability to regulate under a chapter for common carrier pipelines. The RCA does not regulate things like field gathering lines within an oil and gas development.

[2:37:35 PM](#)

MS. DELBRIDGE, returning to her review of RCA oversight for a contract carrier gas pipeline [slide 22], stated that the contract carrier provisions in SSHB 4 try to provide certainty and protection for the state's public utilities. It is unknown whether public utilities will actually commit to long-term shipping contracts on this pipeline or whether they will buy gas that is shipped on this pipeline by the marketer/aggregator subsidiary mentioned earlier. A standard of review is created to where contracts involving public utilities can come to the RCA for approval before they are finalized. That lets the public utility know that it will be able to recover the costs it

is agreeing to incur through involvement with this pipeline in its rate base that is passed on to consumers.

[2:38:36 PM](#)

CO-CHAIR SADDLER inquired whether the regulatory authority would change based on the ultimate destination of gas, i.e. if some of this gas were to be exported out of Alaska and/or the U.S.

MS. DELBRIDGE answered that is possible, but not certain, and would depend as to what percentage of a pipeline is carrying gas to export and to what destinations. She requested Ms. Grovier to provide further explanation as to when the Federal Energy Regulatory Commission (FERC) may decide to regulate on behalf of the state.

MS. GROVIER said her understanding of the FERC regulation is that gas exported to the U.S., such as the West Coast, would be subject to FERC jurisdiction; but gas exported to other locations, such as the Pacific Rim, would not be subject to FERC jurisdiction.

[2:39:54 PM](#)

CO-CHAIR SADDLER understood, then, that FERC would be involved for gas within the U.S., but FERC would not be involved for gas exported outside the U.S.

MS. GROVIER confirmed the co-chair's understanding and added that FERC could elect not to regulate if the volume is small and has some intra-state, but that generally she thinks it fair to say that FERC would be involved if it goes to the West Coast or elsewhere in the U.S.

[2:40:25 PM](#)

CO-CHAIR SADDLER asked whether that would be exclusively or just to the percentage that was being exported. He further asked whether the RCA would have any piece of this for gas that was used inside the state solely.

MS. GROVIER offered her understanding that it would depend on the volume. She said she believes FERC could exercise complete jurisdiction, but it would depend on the volumes and the intra-state component and how significant FERC evaluated that to be.

CO-CHAIR SADDLER said the committee might follow up later on this topic with Ms. Grovier.

[2:41:05 PM](#)

REPRESENTATIVE P. WILSON requested Ms. Delbridge to define precedent agreements.

MS. DELBRIDGE explained the pipeline carrier puts together a package specifying the amount of space available, the rates, and the terms for anyone wanting to buy and reserve some of the space. In further response, she confirmed that this is done in the open season when potential shippers and the carrier talk and come to an agreement. That agreement is referred to as a precedent agreement; it is binding, but is conditional on things stated in the agreement. Once those conditions are ironed out, usually at the point of sanctioning, the precedent agreements evolve into a firm transportation contract/firm transportation service agreement. That is when the pipeline carrier has met all of those conditions in a potential shipper's contract and so that shipper is signing the final deal.

[2:42:44 PM](#)

MS. DELBRIDGE [addressed Co-Chair Saddler's earlier question], pointing out that in this regulatory statute the sponsors have been explicit that it applies to an in-state natural gas pipeline that is not subject to FERC's jurisdiction. There is no attempt to take jurisdiction when it is someone else's, she stressed.

[2:43:05 PM](#)

MS. DELBRIDGE returned to her review of the regulatory structure provided by SSHB 4. Moving to slide 23, she said the regulatory structure allows the confidential filing of those precedent agreements with the RCA. The confidentiality is because some of the terms in those agreements are still being worked out and in need of commercial protections. Once those precedent agreements become final contracts - firm transportation agreements - they are made public at the RCA; however, information can be withheld from that publication if it threatens the commercial position of one of the entities involved in the contract. The regulatory framework requires that the pipeline get from the RCA a certificate of public convenience and necessity (CPCN), which is equivalent to a building permit. The CPCN is the RCA saying that this pipeline is needed and that the people proposing this

pipeline are able to actually build, maintain, and operate it the way they say they will. The legislation puts in a few special terms for an AGDC pipeline in getting this building permit, which are intended to reflect that state-sanctioned mission. If the state is telling AGDC to build this pipeline, then the state has already decided that it is in the public interest, which is one of the findings that the RCA generally has to make in issuing that building permit. Also, the state has made sure that AGDC is financially capable of doing this by passing legislation giving AGDC that authority and ability, which is another one of the findings that the RCA would usually have to make in issuing a CPCN. The RCA will still have to make sure that AGDC is technically fit, willing, and able to do this pipeline. The RCA needs to make sure AGDC has the right expertise and personnel on board to do this and to do it right. Further, SSHB 4 allows the RCA to intervene in pipeline management when there is a dispute that cannot be resolved between contracting parties and that threatens the public health and safety; for example, if because of a contractual dispute a power plant in Southcentral Alaska would not get its gas in the middle of January, the RCA has the authority to step in and set the terms.

[2:45:50 PM](#)

CO-CHAIR SADDLER inquired whether this provision denies access to the courts in this kind of dispute resolution.

MS. DELBRIDGE responded she does not believe it denies access necessarily to the courts. The concern is that if there is a threat to the public health and safety there is no time to go through courts; someone needs to take charge, iron things out, and act promptly in the public's interest. This legislation requires that AGDC's contracts with its shippers specify and include dispute resolution methods; the bill does not say what those have to be, just that they need to be included in the contracts. Thus, any disputes between contracting parties that are not public health and safety issues will be handled per the terms of those contracts.

[2:46:46 PM](#)

CO-CHAIR SADDLER surmised this deals with the negotiation because he does not see where an imminent danger to public health is created at the point at which this kind of dispute would arise.

MS. DELBRIDGE answered it is a contingency that one hopes will never happen. However, this is a pipeline carrier that has contracts with multiple parties and something could go astray with the carrier and one party that cannot be ironed out. For example, hypothetically, it could have to do with connecting new gas into the pipeline at a given time that is being counted on by someone at the end or where it will interrupt the volume needed by a public utility to fire its power plant.

[2:47:41 PM](#)

MS. DELBRIDGE, resuming her review of the regulatory structure provided by SSHB 4 [slide 23], said the regulatory framework sets some standards. To date, she explained, the State of Alaska has never had a need for statutes regulating an open season. The federal government has some statutes regulating an Alaska open season, but something needs to be put in place to ensure that the state also has open seasons that are fair and accessible and that people know about them and have an opportunity to participate. Therefore, SSHB 4 requires that the carrier come up with its rules for an open season, that it makes those rules known, that those rules apply to all the people that come in an open season, and that everyone has that opportunity to know that the open season is happening. Also, when there is new capacity or future expansion of the pipeline, SSHB 4 requires there be an open season for that because it is an opportunity for anyone thinking about developing a project to get into the pipeline at a convenient time and make the most of any given expansion opportunity. Ms. Delbridge concluded her review of the bill's regulatory framework by noting that SSHB 4 further sets timelines that are intended to not interfere with the commercial processes. She said that is one reason why the precedent agreements are presented to the RCA before they become final transportation agreements. The RCA has an opportunity to approve them early on in the process, which means that the final agreements between the shippers and the pipeline carrier are not contingent on some future action of the RCA once the pipeline is flowing.

[2:50:46 PM](#)

MS. DELBRIDGE next provided a sectional analysis of SSHB 4. She paraphrased from the sectional analysis for Section 1, Findings and Intent [original punctuation provided]:

- Finds that an Alaska Gasline Development Corporation (AGDC) natural gas pipeline is in the best interests

of the state, and required for public convenience and necessity.

The Regulatory Commission of Alaska (RCA) uses these standards in issuing a building permit to a project. Through this section, the legislature is making these findings on behalf of the RCA.

- Finds it is the state's policy to make the state's royalty gas available to be shipped in an AGDC pipeline.

Royalty gas may be an important volume for an instate gas pipeline. This finding does not address ownership of state royalty gas, only transportation.

- Finds that locating AGDC under the Department of Commerce, Community and Economic Development [DCCED], for administrative purposes only, will advance AGDC's mission.

Establishing AGDC as an independent state entity with a clear purpose and the statutory authority to meet its mission will make AGDC more likely to succeed.

[2:52:19 PM](#)

CO-CHAIR SADDLER surmised the italicized portions of the sectional analysis are an elaboration on the main point.

MS. DELBRIDGE replied it is an attempt to explain the purpose for the legislative finding or intent.

[2:52:32 PM](#)

MS. DELBRIDGE continued paraphrasing from the sectional analysis regarding Section 1 [original punctuation provided]:

- Provides intent that AGDC's transfer from an Alaska Housing Finance Corporation (AHFC) subsidiary to a stand-alone corporation will be treated as a repositioning and not as creating a new entity.

This intent should prevent the need to dissolve AGDC and re-create it as a new corporation; as a transfer, AGDC will need to amend bylaws and regulations.

- Provides intent that AGDC will procure services, labor, products and resources from Alaska businesses, including Alaska Native corporations and municipal organizations, when prices are competitive.
- Provides intent that AGDC will, as possible, hire Alaskans; establish hiring facilities in Alaska; and use Department of Labor and Workforce Development systems.

[2:53:54 PM](#)

REPRESENTATIVE TUCK asked what the advantage is for having AGDC under DCCED rather than AHFC.

MS. DELBRIDGE responded AHFC is the state's housing finance corporation, whose basic mission is admittedly unrelated to gas pipeline development. The AHFC served as a wonderful place to incubate an idea, to name a team, and to get a plan together to see if this is possible. Now that this is possible, it is time for the state, in the sponsors' eyes, to get serious about it and create an entity that is charged with gas pipelines, that has the absolute mission, relevancy, and experience to carry that out. The private sector - potential pipeline owners, joint owners, shippers, and financiers - will react favorably to knowing the state takes this so seriously that it is willing to pull AGDC out of AHFC and make it happen.

[2:55:12 PM](#)

REPRESENTATIVE TUCK inquired why not put AGDC with the Alaska Energy Authority (AEA), which seems like a more natural spot.

MS. DELBRIDGE answered AEA is an authority and she is unsure whether AEA can make subsidiary corporations. She related that, to the sponsors, an in-state gas pipeline is all about Alaska's communities, economic development, commerce, and commercializing part of the North Slope gas resource. A stand-alone state corporation must go under something and DCCED was a logical choice of the sponsors. However, she added, it is strictly for administrative purposes, budget appropriations or requests, there is no real management interface or policy interface.

[2:56:22 PM](#)

MS. DELBRIDGE returned to paraphrasing from the sectional analysis [original punctuation provided]:

Section 2 (conforming) deletes from AS 18.56.086, *Alaska Housing Finance Corp, Creation of subsidiaries*, the ability to create a pipeline subsidiary.

Section 3 (new corporation) adds a new chapter, *Alaska Gasline Development Corporation*, to AS 31, *Oil and Gas*. This section is the statutory authority for the stand-alone corporation.

(As AHFC's statutes were the basis for developing AGDC's statutes, similarities are noted for each section.)

Sec. 31.25.010, Structure, establishes AGDC as an independent public corporation of the state, located for administrative purposes in DCCED, and makes provisions for asset distribution upon termination.

(Termination language is from AHFC 18.56.020)

[2:57:38 PM](#)

CO-CHAIR SADDLER requested the names of other state-owned corporations.

MS. DELBRIDGE replied the Alaska Permanent Fund Corporation, the Alaska Railroad, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority (AIDEA), and she believes the Tobacco Settlement Corporation.

[2:58:26 PM](#)

MS. DELBRIDGE turned back to the sectional analysis, continuing with Section 3 [original punctuation provided]:

Sec. 31.25.020, Governing body, establishes a five-member board of directors, serving staggered, seven-year terms. Members are appointed by the governor and must be confirmed by the legislature. In making appointments, the governor shall consider expertise in natural gas pipeline construction, operation and marketing; finance; and large project management. Members may be removed only for cause; vacancies will be filled in the same way as original appointments are made. Board members receive \$400 compensation per day

spent on official board business, in addition to actual expenses.

(Similar to AHFC 18.56.030, except AHFC requires a regional quota of board members, and permits board members to designate a deputy. AHFC's board includes commissioners; AGDC's board does not)

A small, highly qualified, specialized board with long terms is expected to be flexible and responsive, and able to see through an important project. Compensation is commensurate with that paid to Alaska Railroad and Permanent Fund Corporation board members; AHFC board members are compensated at a substantially lower level, \$100.

[2:59:41 PM](#)

CO-CHAIR SADDLER asked whether there would be term limits for reappointment; for example, a maximum of one or two terms.

MS. DELBRIDGE responded there is no language related to term limits.

[2:59:54 PM](#)

REPRESENTATIVE P. WILSON inquired whether a designated deputy to the board must go to the other meetings to ensure that he/she is [up to speed] on everything.

MS. DELBRIDGE answered that many of the existing frameworks do allow a deputy to be appointed. However, she said she does not believe SSHB 4 allows for deputies to the board, which is often something that is done when there are commissioners on a board whose time is pulled in many different directions.

[3:00:45 PM](#)

CO-CHAIR FEIGE inquired whether a five-member board will be enough people, given the wide variety of professions and expertise that will be needed for a project as extensive in scope as this.

MS. DELBRIDGE related there was much discussion among the sponsors as well as consultation with people who have had experience in this as to what size board is unwieldy versus too small to bring the needed leadership and expertise. Five members seemed a strong, intact board that would balance a

strong executive director of an organization and work complementary in advancing this project efficiently and quickly.

[3:02:17 PM](#)

CO-CHAIR SADDLER asked whether the board members are required to be Alaska residents.

MS. DELBRIDGE replied there is no requirement that they be Alaska residents. The sponsors anticipate that some will be, but not all, and that the governor should have some leeway in his appointments so he is able to find people with the greatest expertise to advance this project forward.

[3:02:44 PM](#)

REPRESENTATIVE TUCK inquired how the terms of the five board members will be staggered.

MS. DELBRIDGE drew attention to page 5 of the bill, lines 6-9, which state: "the terms of the initially appointed members of the board shall be set by the governor to be two years for one member, three years for one member, five years for one member, and seven years for two members."

[3:03:37 PM](#)

CO-CHAIR SADDLER surmised that is a pretty standard staggering of terms for an initial creation of a board.

MS. DELBRIDGE nodded yes.

CO-CHAIR SADDLER reminded Ms. Delbridge that he had asked about allowing a second term so the expertise of the first person coming on is not lost. He said he would come up with that.

[3:03:57 PM](#)

REPRESENTATIVE P. WILSON remarked it appears that this is going to be very intense for the first several years, so these board members may at first have to work every day of the month, including weekends, at \$400 per day. She asked how much money that could come up to be.

MS. DELBRIDGE replied the board versus executive director structure was built to ensure a strong executive director and strong management within the organization so that the board

could act more as board members instead of hands-on daily affairs managers. It is always a bit of a balancing act to determine the appropriate boundaries for corporations that have a board and an executive director. Because of the balance and because of separations that have been included in SSHB 4 so that the executive director is the one charged with running the actual corporation, the sponsors believe that [needing daily management by the board members] will not be a problem.

[3:05:29 PM](#)

REPRESENTATIVE P. WILSON presumed, then, that it would be like an advisory board.

MS. DELBRIDGE responded it would not be advisory. She said she will get back to the committee with information as to what kind of business the board will need to be doing outside of a formal meeting in order to claim that per diem.

[3:06:03 PM](#)

CO-CHAIR FEIGE commented Representative P. Wilson brings up a good point. Given this is a \$7 billion project, the state will want to get the best people it can to oversee it, he said. He questioned whether \$400 per day will be enough to attract the best people possible, as it is less than what a Twin Otter captain would make. He added that a five-member board is a lean board and will consist of the five different specialties that the governor is supposed to pick from. Given the board's small size, he suggested that the quorum to conduct business be a minimum of all five members so there is input from all five major project areas.

MS. DELBRIDGE replied that is an excellent suggestion. She said the bill as currently written requires for a meeting a quorum of three members. However, the sponsors decided that this board is going to be making some very significant decisions that Alaskans are really relying on, and therefore for substantive matters, significant board matters, including bond issuances, whether to commit to a project, whether to transfer or dispose of parts of the project, a majority of the board is required for an affirmative vote, so that a minority of the board is not able to be a majority vote on an action that is of significance.

[3:08:00 PM](#)

CO-CHAIR FEIGE specified he would still like to see all five, but said it can be addressed later.

REPRESENTATIVE JOHNSON asked whether Co-Chair Feige is talking about all five for a quorum, not for a vote.

CO-CHAIR FEIGE answered correct, a quorum to conduct business.

[3:08:25 PM](#)

MS. DELBRIDGE again turned back to Section 3, paraphrasing from the sectional analysis [original punctuation provided]:

Sec. 31.25.030, Meetings of board, directs the board to annually elect officers; defines a quorum as a majority of members; and requires meetings at least once every three months. Electronic meetings are allowed. For a meeting in which the board authorizes a bond issuance, at least 24 hours public notice is required. At least three board members are required for major votes, including bond sales; sale or disposition of assets; determining a pipeline ownership structure; and participation in a pipeline project.

(Similar to AHFC 18.56.040, with the addition of the majority for major votes threshold)

A quorum for a meeting requires three members. To avoid a situation in which a minority of the board is able to carry a major, substantive vote, this section requires a majority of members for certain votes.

Sec 31.25.035, Minutes of meetings, requires the board to keep minutes.

(From AHFC 18.56.045)

Sec. 31.25.040, Administration of affairs, allows the board to manage the assets and business of the corporation; the board may adopt, amend, and repeal bylaws and regulations; and the board will delegate corporation administration to the executive director. Requires the board to adopt formal procedures for procurement processes.

(Similar to AHFC 18.56.050, with the addition of requiring formal procedures for procurement)

AGDC is exempt from the State Procurement Code (HB 4, Section 3, 31.25.140). To ensure fairness in procurement, the board must adopt clear procedures.

[3:09:43 PM](#)

REPRESENTATIVE JOHNSON, returning to meetings of the AGDC board, observed that electronic meetings are allowed. He inquired whether that includes voting.

MS. DELBRIDGE replied the same kind of notice applies for electronic meetings. The bill provides that the board may meet and transact business by electronic media; thus, a board member would not necessarily have to be present.

[3:10:23 PM](#)

MS. DELBRIDGE, resuming her review of Section 3, paraphrased from the sectional analysis [original punctuation provided]:

Sec. 31.25.045, Executive director, requires an executive director who is appointed by and serves at the pleasure of the board. The director may not be a board member.

(From AHFC 18.56.052)

Sec. 31.25.050, Legal counsel, directs the corporation to retain legal counsel.

(AHFC 18.56.055 makes the attorney general the legal counsel for AHFC. Under this section, AGDC will retain independent legal counsel instead.)

Sec. 31.25.060, Employment of personnel, allows the board to engage professional and technical consultants, and allows the executive director to hire corporation employees and contract with consultants. The board sets duties and compensation for corporation personnel.

(Similar to AHFC 18.56.060. Both the board and the corporation have the ability to contract for services. AHFC allows the director to engage professional and technical advisors only with the board's approval. AGDC does not have this requirement as the director may have to move quickly in retaining specialized

professional services and as a high number of contracts will be awarded for technical services.)

Sec. 31.25.065, Personnel exempt from State Personnel Act, exempts AGDC from the State Personnel Act.

(From AHFC 18.56.070)

3:11:11 PM

REPRESENTATIVE TUCK re-emphasized he would like to know why the state procurement code will not work for AGDC, given the problems with independent contractors that have happened with the Port of Anchorage. He said he believes the state's procurement code allows for almost every opportunity AGDC will need to have as far as procuring services and materials. There needs to be proper oversight and strong procurement codes for a mega-project like this, he argued. An audit of the Alaska Energy Authority (AEA) showed what happened when the AEA did not follow its own procurement codes and did not have best practices. Therefore, he continued, he wants to ensure [the state] is not going to get itself in trouble.

MS. DELBRIDGE responded "duly noted" and said she will get back with that information.

CO-CHAIR SADDLER commented he believes the federal government was the overseer of the aforementioned rather than a contractor.

3:13:06 PM

CO-CHAIR SADDLER asked what the Alaska Railroad, Alaska Industrial Development and Export Authority (AIDEA), AHFC, and other state-owned corporations do for legal counsel and the personnel act.

MS. DELBRIDGE answered each one has its own similarities and differences and said she will get back to the committee with a precise comparison for the procurement code. She related that the attorney general statutorily serves as legal counsel for most other public corporations of the state.

3:13:54 PM

MS. DELBRIDGE, continuing her review of Section 3, paraphrased from the sectional analysis [original punctuation provided]:

Sec. 31.25.070, Purpose, directs AGDC to advance an instate natural gas pipeline as described in AGDC's July 2011 project plan, with modifications as necessary, making gas available as soon as practicable to Fairbanks, Southcentral, and other communities where possible; and try to ship and deliver gas at commercially reasonable rates.

[3:14:32 PM](#)

CO-CHAIR SADDLER inquired whether there is a distinction between "commercially reasonable rates" and "lowest cost to consumers" as laid out in the authorizing legislation.

MS. DELBRIDGE confirmed they are two different terms, and said consumers and Alaskans who need an in-state energy solution need gas at the lowest possible rates. It seemed reasonable that this pipeline would need to present commercially reasonable terms to people who would be using the pipeline other than those people for whom the state is trying to get gas for in the end.

[3:15:07 PM](#)

MS. DELBRIDGE, proceeding with her review of Section 3, paraphrased from the sectional analysis [original punctuation provided]:

Sec. 31.25.080, Powers and duties, lists 21 powers of the corporation, including the abilities to determine pipeline ownership and operating structures; plan, finance, construct and operate a pipeline system; lease, rent, acquire and manage property; exercise eminent domain; transfer or dispose of all or part of a pipeline system; operate as a contract carrier; conduct hearings; sue and be sued; adopt bylaws; borrow money; and invest funds. Prohibits development of a pipeline that competes under the terms of the Alaska Gasline Inducement Act (AGIA). Requires publication of open season results.

This section includes abilities for general corporation operation, such as the ability to make contracts and to adopt an official seal, carried over from AHFC statutes. This section also includes a number of abilities specific to AGDC's purpose. Under this section, AGDC may not develop a project that competes under the terms of AGIA, unless a project

under AGIA has been abandoned or the licensee is no longer receiving state inducements. If AGDC received commitments for capacity in an open season, AGDC must publicize the name of each shipper; the amount of capacity allocated; and the length of time of the commitment.

Sec. 31.25.090, Confidentiality; interagency cooperation, allows state agencies to share information with AGDC; requires state agencies to cooperate with AGDC and give priority to AGDC requests, except for requests from the AGIA coordinator; and directs AGDC to avoid duplicating state work on a pipeline. State entities must provide non-hydrocarbon resources like water, sand and gravel to AGDC at usual cost, but those costs may not be recovered in the pipeline tariffs. DNR will grant AGDC a right-of-way lease at no appraisal or rental cost if certain conditions are met; the fee waiver carries with the lease in case of a transfer, which must be approved by the commissioner. AGDC may enter into confidential agreements as necessary, including with other state entities; information covered by a confidentiality agreement is not subject to disclosure under the Public Records Act. AGDC may also keep other information confidential, including the results of field studies; technical information; trade secrets; and commercial negotiations. AGDC may waive confidentiality of some information.

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Sec. 31.25.100, In-state natural gas pipeline fund, establishes the instate-natural gas pipeline fund within AGDC and directs fund use.

Sec. 31.25.110, International borrowing, provides AGDC the authority to access international capital markets to borrow money.

(From AHFC 18.56.084)

Sec. 31.25.120, Creation of subsidiaries; sale of natural gas by a subsidiary, allows AGDC to create subsidiary corporations to meet AGDC's mission, including to acquire and ship the state's royalty gas. Allows a subsidiary, together with the DNR commissioner, to pledge state royalty gas to honor

delivery commitments. The DNR commissioner will decide how much gas to pledge, and at what price.

(Similar to AHFC 18.56.086, but tailored to AGDC)

3:18:23 PM

CO-CHAIR SADDLER asked whether the authority would actually be from the DNR commissioner. He said that seems to be a pretty important transfer of rights to a subsidiary organization and further asked how that would work.

MS. DELBRIDGE replied the language in SSHB 4 would "allow an AGDC subsidiary to make commitments to ship the state's royalty gas and then would allow DNR and the authority together to pledge gas to meet those commitments. ... The subsidiary would need to know that it has gas available, but then it would be between the subsidiary and DNR to decide, in fact, that this gas is available for shipment."

3:19:07 PM

CO-CHAIR SADDLER understood the commissioner has the authority to decide how to dispose of state royalty gas, which would work if it coincided with what was in the interest of AGDC. However, he continued, it sounds like what is being said is that the subsidiary of AGDC has the right to tell the commissioner that he "shall" dedicate royalty gas.

MS. DELBRIDGE responded the language is that the commissioner "may" pledge that royalty gas to honor those commitments made by the subsidiary. There is no "shall" - it is absolutely the DNR commissioner's authority to decide, along with the state's royalty gas board, how the state's royalty gas is managed. The language in SSHB 4 provides for the commissioner to treat management of royalty gas through an AGDC subsidiary as a disposal for other purposes, which means that there does not need to be competitive bid or the following of those kinds of regulations for those quantities.

3:20:06 PM

CO-CHAIR SADDLER commented one would assume that the AGDC subsidiary would not negotiate that in isolation from the DNR commissioner, but this would allow the DNR commissioner the ability to say no and then the mess on the other end with the subsidiary would have to be cleaned up.

MS. DELBRIDGE nodded affirmatively.

[3:20:25 PM](#)

MS. DELBRIDGE, resuming her review of Section 3, paraphrased from the sectional analysis [original punctuation provided]:

Sec. 31.25.130, Administrative procedure; regulations, exempts AGDC from the Administrative Procedure Act, except for the Open Meetings Act portion. Provides board direction related to bylaws, regulations, and public notice of meetings.

(From AHFC 18.56.088, but tailored by removing parts that relate to extending loans (for housing))

Sec. 31.25.140, Exemption from the State Procurement Code and the Executive Budget Act; corporation finances, exempts AGDC and its subsidiaries from the State Procurement Code and the Executive Budget Act. Requires an annual independent audit.

(AHFC has a partial exemption in 18.56.089. AGDC's exemption is broader. Both require annual asset reviews and independent audits.)

Sec. 31.25.150, Federal taxation of interest on bonds and bond anticipation notes, provides that, if interest on bonds or notes becomes taxable under federal income tax laws, the legislature may pay off the principal and interest.

(From AHFC 18.56.103. This section creates a moral, but not legal, obligation of the state. It serves as reassurance for lenders who count on the tax-exempt quality of revenue bonds.)

Sec. 31.25.160, Bonds and notes, allows the corporation to issue bonds and notes in one or more series, limited to the corporation's own backing.

(Similar to AHFC 18.56.110. With this section, AGDC can issue bonds to meet its corporate purpose of financing a gas pipeline, supported by anticipated revenue from the pipeline, as evidenced by long-term transportation contracts. Much of AHFC's bonding authority directly relates to housing and other specific programs, and as such was not included. Also,

AHFC is limited to the amount of bonds issued in a calendar year without legislative authorization. AGDC does not have this limitation, as exact project costs cannot be determined with certainty at this time, and may fluctuate if delays occur in project progress.)

Sec. 31.25.170, Independent financial advisor, allows the corporation to retain a financial advisor in negotiating the private sale of bonds or notes to an underwriter.

(From AHFC 18.56.115)

MS. DELBRIDGE elaborated it was explained to her that oftentimes that underwriter has a stake in the game and would like to see things done a certain way. When AGDC can bring in its independent advisor, that person's stake in the game is simply advising its client, so this provides a nice balance to ensure that AGDC's interests are well represented.

[3:22:31 PM](#)

CO-CHAIR SADDLER requested elaboration on Sec. 31.25.160 and the language "limited to the corporation's own backing". He asked what a practical limit would be.

MS. DELBRIDGE AGDC answered the language means that AGDC cannot promise the state's faith and credit, that AGDC and AGDC alone is responsible for those funds.

[3:22:55 PM](#)

MS. DELBRIDGE, returning to her review of Section 3, paraphrased from the sectional analysis [original punctuation provided]:

Sec. 31.25.180, Validity of pledge, declares as valid and binding any pledge of assets or revenue of the corporation to payment or interest.

(From AHFC 18.56.120. This is a standard statement that lenders need to see. It assures lenders that AGDC has the statutory authority to pledge revenue; in turn, that protects AGDC contracts under the U.S. Constitution contracts clause so that future state legislative action cannot violate protected contracts.)

Sec. 31.25.190, Capital reserve funds, allows AGDC to establish capital reserve funds to secure its obligations, and directs fund management. Requires annual reports to the governor and legislature.

(From AHFC 18.56.125 with structural modifications per legal counsel. This section includes a moral, but not legal, obligation of the state to replenish, if necessary, a reserve fund created to cover interest payments due on bonds.)

Sec. 31.25.200, Remedies, permits enforcement of rights by those holding AGDC obligations.

(From AHFC 18.56.130 with structural changes by legal counsel. Lenders need to see this standard statement.)

[3:24:08 PM](#)

REPRESENTATIVE P. WILSON, regarding Sec. 31.25.190, inquired whether a "moral" versus "legal" obligation means "legally you don't have to do it, but you better."

MS. DELBRIDGE replied that SSHB 4 does not bind the state, or a future legislature of the state, to appropriating money to do something; therefore it is not a legal obligation. It is a moral obligation in the sense the provision says the state may do this in the future, which is creating that moral obligation that it is [the legislature's] intent now that in the future that does occur.

REPRESENTATIVE P. WILSON concluded her statement was therefore correct.

MS. DELBRIDGE nodded yes.

[3:25:10 PM](#)

CO-CHAIR SADDLER held over HB 4.

[3:25:35 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:26 p.m.