

**ALASKA STATE LEGISLATURE
HOUSE RULES STANDING COMMITTEE**

April 8, 2014

5:02 p.m.

MEMBERS PRESENT

Representative Craig Johnson, Chair
Representative Kurt Olson, Vice Chair
Representative Mike Chenault
Representative Mike Hawker
Representative Bob Herron
Representative Wes Keller
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 383

"An Act relating to the membership of the board of the Alaska Gasline Development Corporation; and providing for an effective date."

- MOVED CSHB 383(RLS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 383

SHORT TITLE: AK GASLINE DEVELOPMENT CORP. MEMBERSHIP

SPONSOR(s): RULES BY REQUEST

04/04/14	(H)	READ THE FIRST TIME - REFERRALS
04/04/14	(H)	RLS
04/08/14	(H)	RLS AT 5:00 PM CAPITOL 120

WITNESS REGISTER

TOM WRIGHT, Staff
House Majority Office
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 383, explained Amendment 1.

HILARY MARTIN, Attorney
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 383, answered questions.

ACTION NARRATIVE

5:02:20 PM

CHAIR CRAIG JOHNSON called the House Rules Standing Committee meeting to order at 5:02 p.m. Representatives Chenault, Hawker, Herron, Keller, Olson, Gruenberg, and Johnson were present at the call to order.

HB 383-AK GASLINE DEVELOPMENT CORP. MEMBERSHIP

5:02:29 PM

CHAIR JOHNSON announced that the only order of business would be HOUSE BILL NO. 383, "An Act relating to the membership of the board of the Alaska Gasline Development Corporation; and providing for an effective date."

5:02:51 PM

REPRESENTATIVE CHENAULT informed the committee that HB 383 was sponsored by the House Rules Standing Committee per his request. The legislation amends AGDC [Alaska Gasline Development Corporation] statute in order to allow for out-of-state board appointments. He opined that AGDC statute should be amended to fix a technical oversight and reflect the intent of the legislature, which was clear in testimony [regarding HB 4] last year. That intent last year was to provide the governor with the ultimate discretion in appointing the most qualified people to serve on the AGDC Board and develop projects that move gas to Alaskans. Furthermore, the Framers of the Alaska State Constitution amended Section 26 to replace the state residency requirement with the U.S. [residency] requirement. In fact, on page 2239 of the Alaska Constitutional Convention proceedings, Delegate Hellenthal and Delegate McNees were quoted as saying, respectively:

I have faith in the executive, I have faith in the legislative, and I am sure that they will pick

qualified men. It might be that those qualified men would be men of residence elsewhere and recent arrivals or they might even be sought out elsewhere. I would be worried if such a restrictive provision limiting board appointments to residents of the state were included in the constitution.

An executive should not be limited in reaching out and picking the best available man, irrespective as to where that might be.

REPRESENTATIVE CHENAULT then informed the committee that the AGDC Board is currently comprised of two commissioners and five public members appointed by the governor. The governor, he highlighted, is encouraged to appoint individuals with specific qualifications and expertise in pipeline construction, large project management, and etcetera. By statute, AGDC's mission requires the board and the corporation to act in the best interest of Alaskans. Currently, the AGDC Board is comprised of all Alaskans, save one appointee. House Bill 4 was complex legislation that specifically laid out a structure for AGDC as a corporation and defined what the legislature wanted in terms of board appointments, which is generally addressed in AS 39.05 relating to public officers and employees. Alaska Statute 39.05.100 requires board appointments to be Alaskans unless otherwise specified. House Bill 4 addressed board requirements without specifically stating whether members had to be Alaskans. Legal guidance at the time and testimony related that HB 4 allowed for individuals from out-of-state as well as Alaskans to serve. The legislation, however, failed to specifically exempt AGDC from AS 39.05.100, which he characterized as an oversight. Therefore, HB 383 addresses that oversight.

[5:06:50 PM](#)

REPRESENTATIVE OLSON moved that the committee adopt Amendment 1, 28-LS1656\A.1, Martin, 4/7/14, which read:

Page 1, following line 14:

Insert a new bill section to read:

"* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. Section 1 of this Act is retroactive to September 1, 2013."

Renumber the following bill section accordingly.

CHAIR JOHNSON objected for discussion purposes.

[5:07:07 PM](#)

TOM WRIGHT, Staff, House Majority Office, Alaska State Legislature, explained that after discussions with Representative Gruenberg, [the sponsor] he felt it was important to check with Legislative Legal Services regarding whether the legislation should be retroactive. Legislative Legal Services felt an amendment specifying retroactivity would clarify that the legislation applies back to September 1, 2013, when the governor made his appointments. Therefore, there would be no question as to whether the appointments [to the AGDC Board] would be lost on a technicality.

[5:08:10 PM](#)

CHAIR JOHNSON withdrew his objection. There being no further objection, Amendment 1 was adopted.

[5:08:56 PM](#)

REPRESENTATIVE GRUENBERG moved Amendment 2, 28-LS1656\A.3, Martin, 4/8/14, which read:

Page 1, line 14, following "state.":

Insert "If the governor appoints a public member to the board who is not a registered voter in the state or a resident of the state, the governor shall send a written statement to the legislature with the notice of appointment explaining the governor's reasons for making the appointment."

Page 1, following line 14:

Insert a new bill section to read:

"* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The requirement in AS 31.23.020(b), amended by sec. 1 of this Act, that the governor send a written statement explaining an appointment of a person to the board of the Alaska Gasline Development Corporation who is not a registered voter in the state or a resident of the state applies to a person appointed on or after the effective date of this Act."

Renumber the following bill section accordingly.

CHAIR JOHNSON objected for discussion purposes.

[5:09:12 PM](#)

REPRESENTATIVE GRUENBERG explained that Amendment 2 simply requires that if the governor appoints a member to the board who isn't an Alaska registered voter nor a resident of the state, the governor must submit a statement to the legislature regarding why he/she is doing so. He likened this statement to that required with a veto by the governor. Because Mr. Rabinow has already been appointed, the applicability section was necessary to include so that wouldn't apply to him, Representative Gruenberg explained. The requirement of the statement will be 90 days after the governor signs it.

[5:10:31 PM](#)

MR. WRIGHT stated that he has no objection to Amendment 2, but highlighted that the legislature has a confirmation hearing process during which an appointee's residency can be determined and whether the appointee is fit for the appointment. He then inquired as to whether the applicability clause of Amendment 2 has a typo such that the statutory reference to "AS 31.23.020(b)" should be replaced with "AS 31.25.020(b)".

[5:11:28 PM](#)

HILARY MARTIN, Attorney, Legislative Legal Services, Legislative Affairs Agency, confirmed that Mr. Wright is correct in that the reference to "AS 31.23.020(b)" in the applicability clause should be replaced with "AS 31.25.020(b)".

[5:11:51 PM](#)

MR. WRIGHT said he wanted to be sure that the retroactive date doesn't apply to these sections.

REPRESENTATIVE GRUENBERG related his intent that the retroactivity does not to apply [to those sections]. He then related his understanding that if Amendment 2 is adopted, the retroactivity clause won't apply to the message that would be sent more than 90 days after the governor signs it.

MS. MARTIN clarified that [the retroactivity clause] would apply after the effective date of the act, which has an immediate effective date. Therefore, it does not apply retroactively.

REPRESENTATIVE GRUENBERG acknowledged that it would apply after the effective date.

[5:12:57 PM](#)

REPRESENTATIVE HAWKER expressed the need to ensure that although there is an immediate effective date, the retroactivity clause embodied in Amendment 1 will not conflict with the statements made in Amendment 2 and somehow disqualify the individual appointed in September [2013].

MS. MARTIN clarified that the effective date and retroactive date are two different things. Therefore, [the statement required of the governor] as laid out in Amendment 2 doesn't apply retroactively.

[5:14:03 PM](#)

CHAIR JOHNSON questioned whether the governor's letter specifying that he has appointed the most qualified person would be the same [as the requirement in Amendment 2] regardless of residency. Therefore, the governor wouldn't have to specify the residency of the appointee.

REPRESENTATIVE GRUENBERG pointed out that all of the transmittal letters for the governor's appointees state the individuals' [residency].

CHAIR JOHNSON asked then if the transmittal letter would suffice for the letter [specified in Amendment 2].

REPRESENTATIVE GRUENBERG replied yes, but like the veto messages would include a sentence or two. He clarified that he wanted [the letter] to place members on notice regarding the appointee's [residency].

[5:15:28 PM](#)

REPRESENTATIVE GRUENBERG moved Conceptual Amendment 1 to Amendment 2 such that the reference to "AS 31.23.020(b)" is deleted and replaced with "AS 31.25.020(b)". There being no objection, Conceptual Amendment 1 to Amendment 2 was adopted.

[5:16:10 PM](#)

REPRESENTATIVE HERRON asked whether Amendment 2, as amended, is necessary.

REPRESENTATIVE GRUENBERG opined that it's helpful to ensure that everything is disclosed, the process is preserved, and the matter can be addressed on its merits.

[5:17:05 PM](#)

CHAIR JOHNSON withdrew his objection. There being no further objection, Amendment 2, as amended, was adopted.

[5:17:47 PM](#)

CHAIR JOHNSON opened public testimony.

[5:18:16 PM](#)

MR. WRIGHT pointed out that the testimony of Mr. Burns and Mr. Fauske during the April 3, 2014, House Rules Standing Committee meeting is included in the committee packet.

[5:18:49 PM](#)

CHAIR JOHNSON, upon determining no one wished to testify, closed public testimony.

[5:19:41 PM](#)

REPRESENTATIVE HAWKER noted that HB 383 is accompanied by zero fiscal notes.

[5:19:52 PM](#)

REPRESENTATIVE GRUENBERG mentioned his appreciation for the legislation as well as the addition of amendments as it cures a problem.

[5:20:27 PM](#)

REPRESENTATIVE OLSON moved to report HB 383, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 383(RLS) was reported from the House Rules Standing Committee.

[5:20:48 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at 5:20 p.m.