

SENATE FINANCE COMMITTEE

April 11, 2013

9:23 a.m.

9:23:25 AM

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 9:23 a.m.

MEMBERS PRESENT

Senator Pete Kelly, Co-Chair
Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Suzanne Armstrong, Staff, Senator Kevin Meyer; Rena Delbridge, Staff, Representative Mike Hawker; David Teal, Director, Legislative Finance Division; Jo Ellen Hanrahan, Director, Division of Administrative Services, Department of Commerce, Community and Economic Development; Frank Richards, Alaska Gasline Development Corporation; Representative Mike Hawker.

SUMMARY

CSSSHB 4(FIN)

ALASKA GASLINE DEVELOPMENT CORP; RCA

SCSCSSHB 4(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note from the Senate Finance Committee for the Alaska Gasline Development Corporation, a new fiscal impact note from the Senate Finance Committee for the In-state Natural Gas Pipeline Fund, a new fiscal impact note from the Senate Finance Committee for the

Department of Environmental Conservation, a new fiscal impact note from the Senate Finance Committee for the Department of Environmental Conservation, a new fiscal impact note from the Senate Finance Committee for the Department of Transportation and Public Facilities, and a new fiscal impact note from the Senate Finance Committee for the Department of Law.

CSHB 71(FIN)

AK REGIONAL ECONOMIC ASSISTANCE PROGRAM

CSHB 71(FIN) was SCHEDULED but not HEARD.

CSHB 129(FIN)

OIL & GAS EXPLORATION/DEVELOPMENT AREAS

CSHB 129(FIN) was SCHEDULED but not HEARD.

CSHCR 6(EDT)

EST. LEG. TASK FORCE ON UNMANNED AIRCRAFT

CSHCR 6(EDT) was SCHEDULED but not HEARD.

#hb4

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 4(FIN)

"An Act relating to the Alaska Gasline Development Corporation; establishing the Alaska Gasline Development Corporation as 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 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; repealing the statutes relating to the Alaska Natural Gas Development Authority and making conforming changes; 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."

[9:24:34 AM](#)

Vice-Chair Fairclough MOVED to ADOPT the proposed committee substitute for HB 4, Work Draft 28-LS0021\T (Bullock, 4/10/13) as a working document.

Co-Chair Meyer OBJECTED for the purpose of discussion.

SUZANNE ARMSTRONG, STAFF, SENATOR KEVIN MEYER, discussed the proposed changes to HB 4 from a document titled "Proposed Changes in Senate Finance CS for CS SS HB 4 Version 28-LS0021\T" (copy on file). She read from the document.

Legislative Findings & Intent Section

Page 2, line 25 – 31 to Page 3, line 1

Adds intent language that the Board of Directors of AGDC commits to governing so as to affect positively as many Alaskans as possible, including those in rural and coastal communities and to extend opportunities for all Alaskans to benefit from the natural gas resources of the state, including propane and associated gas-related hydrocarbons.

Page 3, lines 17-21

Adds intent language that AGDC and its subsidiaries will wind up and dissolve when no bonds, notes, or other obligations are outstanding and AGDC or its subsidiaries are no longer engaged in the development, financing, construction, or operation of an in-state natural gas pipeline.

Section 3: Amending the Structure of the Corporation
Established by Chapter 25

Page 4, lines 27-31

Provides that the corporation may dissolve when no bonds, notes, or other obligations of the corporation or subsidiary of the corporation are outstanding and is no longer engaged in the development, financing, construction, or operation of an in-state natural gas pipeline.

Corporation Purpose; Beginning on Page 7, line 22

Provides that the purpose of the corporation is established for the benefit of the state.

Page 8, lines 1 - 2 and lines 7 -8

Provides that the corporation shall endeavor to develop a natural gas pipeline or other transportation mechanism to deliver natural gas and to develop a natural gas pipeline or other transportation mechanism that offers commercially reasonable rates for shippers and access for shippers who produce natural gas.

Corporation Powers & Duties: Beginning on page 8

At line 18, provides that the corporation may plan, finance, construct, develop, acquire, maintain, and operate a pipeline system or other transportation mechanism to facilitate the production, transportation and delivery of natural gas or other related natural resources. This provision also applies to the creation of subsidiaries by AGDC to carry out the same activities (found at page 14, line 28).

Page 9, line 30-31- Page 10, line 1

Removes language from the previous version of the bill that would limit AGDC's ability to borrow money for a construction project that may last multiple years.

Page 10, line 13-18

New subsection (g) [corrected to subparagraph 22] was added to provide AGDC with the opportunity to sway, hedge, cap, or other enter into other contracts providing for payments based on levels of or changes in interest rates or indices or in the cost or price of any commodity, supply or expense expected to be used or incurred in connection with the acquisition, construction, or operation of any facility or property owned, leased or operated by the corporation.

Ms. Armstrong noted the error after "Page 10, line 13-18", new subsection (g) should read, "Subparagraph 22." She continued with the explanation of changes.

Page 10, beginning line 19-30

Provides that upon commencement of construction of an in-state natural gas pipeline, the corporation shall analyze potential natural gas pipelines and other transportation mechanisms in other regions of the state, and that, if the method is in the best interest of the state, may move forward with financing, constructing, or operating a natural gas pipeline or other transportation mechanism.

Page 11, lines 13- 16

Provides that after the conclusion of an open season, if the corporation determines that the commitments received during the open season are not sufficient to allow the corporation to move forward with the development or construction of a natural gas pipeline, the corporation shall report to the Legislature within 30 days. The subparagraph also discusses what the corporation shall do if commitments are received to acquire firm transportation capacity during an open season.

Ms. Armstrong reiterated that notification of the open season's results will be forwarded to the President of the Senate, the Speaker of the House, and the public within ten days of accepting and executing the agreements. She continued her discussion.

Page 11, lines 17-26

Provides that the corporation shall, without delaying the progress of an in-state natural gas pipeline project or without causing the in-state natural gas pipeline project to become a competing project under AGIA, coordinate with developers of a large-diameter in-state natural gas pipeline by planning for the development and use of common pipeline facilities from the North Slope to the Livengood area, and for a pipeline which may be constructed south to tidewater either in Prince William Sound or Cook Inlet.

Refunding Obligations of the Corporation: Beginning on
Page 23

Page 24, lines 8-11

Removes the limitation that was currently in the bill on AGDC investing bond proceeds in U.S. Treasury bills. Removal of the language allows increased flexibility for AGDC.

General Provisions Pertaining to the Corporation

Page 26, lines 1-5

Provides that after a decision of the corporation to dissolve, the corporation shall provide a final report to the Governor, the Legislature, and the public that summarizes the reasons for dissolution of the corporation. A statement by an independent outside auditor for the corporation and the subsidiaries must accompany the final report, indicating that no bonds, notes, or other obligations are outstanding.

Under Section 11: Covenants Required to be in a Lease to a Natural Gas Pipeline that is a Contract Carrier

Page 32, lines 25-28

Clarifies that a lease for state land for a right-of-way for which an applicant has applied as a contract carrier for a natural gas pipeline valued at \$1 million or greater may be granted to a lessee, as long as the lessee does not construct or expand a natural gas pipeline that would compete with a project licensed under AGIA.

[9:33:07 AM](#)

AT EASE

[9:34:18 AM](#)

RECONVENED

Ms. Armstrong continued to discuss the proposed changes in the new CS.

General Powers & Duties of the Regulatory Commission of Alaska

Beginning at Page 40, lines 29-31

Provides that the RCA may not investigate a dispute under (b) (3) – found at Page 39, lines 5-26 – if a complete formal complaint has not been filed with the commission within 60 days after the event occurs which gives rise to the complaint.

Contract Review; Contract Carriage Certificate; Open Seasons

Beginning at Page 42, line 6 - 8

Clarifies that a carrier shall publish notice in advance of an open season and that the notice shall state the methods for awarding capacity set out in the carrier's recourse tariff and whether pre-subscription agreements have been executed.

Page 42, line 11-12

Clarifies that presubscription agreements are subject to the methods for awarding capacity, which are set out in the open season notice.

Page 42, lines 18-24

Clarifies that an open season for an expansion of a pipeline system when it has received one or more requests for firm transportation service from potential shippers and that expansion of the pipeline system will not cause it to be a competing natural gas pipeline project under AGIA.

At Page 42, line 31- Page 43, line 1-8

Provides that if precedent agreements are received, the carrier shall within 10 days after accepting and executing the agreements, inform the public of results and include the name of each prospective shipper, the amount of capacity allocated, and the period of commitment. Also provides that if the carrier does not receive sufficient commitments during the open season to continue the development or construction of an in-state natural gas pipeline, the corporation will notify the RCA within 30 days.

Review of Certain Contracts by the RCA - Rate Payer Protection Measure

Page 45, lines 2 - 4

Provides that a precedent agreement or a related contract public utility is not considered arm's length if the rate paid for transportation on an in-state natural gas pipeline is greater than the recourse rate. The issue/circumstance was discussed in a previous committee of referral that a public utility might try and negotiate a higher rate than the recourse tariff rate, which would result in higher prices for utility customers. This change would make public utility contracts that are for a greater rate than the recourse rate to automatically fail meeting the RCA's arm's length standard. If this does occur,

the contracts would be evaluated by the RCA on a heightened review standard (the same standard used between affiliated parties.)

Initial or Revised Rates

Beginning on Page 48, line 3

Provides that the review and notice period for the review of initial recourse rates runs concurrently with the timeline for the RCA to make a decision on the recourse rate. The timeline on decision for the tariff was established at 90 days, the change in the Senate Finance CS under the Initial Review and Revised Rates provides that the review and notice period occurs during the same timeframe.

Page 48, line 28

Provides that the RCA may initiate a suspension period of no longer than 30 days from the day the initial recourse tariff would otherwise go into effect. Provides that the RCA must hold a hearing on the suspended recourse tariff filing and issue its order before the end of the suspension period.

Expansion; Dispute Resolution

Page 50, line 19-22

Provides that an in-state natural gas pipeline carrier may enter into a contract for expansion, as long as the expansion would not cause it to be considered a competing natural gas pipeline project under AGIA.

Investigations

Page 53, lines 14-19

Provides that in conducting an investigation related to a timely filed dispute, the RCA shall issue a final order within 150 days after a formal complaint is filed with the RCA, except for disputes related to open seasons. In the case of open season, the final order must be issued within 60 days.

Definitions that Pertain to the Title 42, Chapter 8 – In-State Pipeline Contract Carrier Page 55, lines 29 – 31, Page 56, lines 1 – 5

Provides a definition of "affiliated" or "affiliated interest" Previous versions of the bill did not include a definition of "affiliated" or "affiliated interest". While there is a definition under RCA statutes, it was thought wise to include one

specifically in the Title and Chapter pertaining to In-State Pipeline Contract Carrier and will provide more explicit direction to the RCA.

Senator Olson asked for clarification about the length of time the Regulatory Commission of Alaska (Regulatory Commission of Alaska) had to investigate a complaint from the time of the event. Ms. Armstrong replied that the CS stipulated that the date began when the dispute was filed with the RCA and had 150 days to issue a final order.

Senator Olson asked for further clarification about the 60 day investigative period for the RCA on page 40 of the legislation. He inquired whether the 60 day period was a similar length of time in other jurisdictions nationwide.

RENA DELBRIDGE, STAFF, REPRESENTATIVE MIKE HAWKER, answered that she did not know about other jurisdictions. She explained that the provisions regarding dispute resolution on page 39 of the bill pertained to the types of disputes the RCA could hear. Most disputes would be governed under contractual dispute resolution mechanisms. In the case of an open season, if a complaint was lodged against the carrier by a non-contractual party there was the potential to hold up further progress. If the RCA discovered that the open season process was unfair the open season might be repeated.

Senator Bishop queried whether there needed to be a written complaint in order for the RCA to investigate. Ms. Delbridge replied in the affirmative and that a formal complaint must be lodged within 60 days of the action.

[9:43:01 AM](#)

Co-Chair Meyer WITHDREW his OBJECTION.

There being NO OBJECTION, Work Draft 28-LS0021\T was ADOPTED.

Co-Chair Meyer MOVED to ADOPT Amendment 1.

Amendment 1
OFFERED TO SENATE FINANCE
TO: SCS CSSSHB 4 (Fin)/T

Page 8 line 1 after pipeline Delete "or" Add "and"

Page 8 line 7 after pipeline Delete "or" Add "and"
Page 8 line 18 after system Delete "or" Add "and"

Vice-Chair Fairclough OBJECTED for the purpose of discussion.

Ms. Armstrong related that Amendment 1 corrected a drafting error in the CS. The error was discovered by Senator Hoffman's staff.

Vice-Chair Fairclough WITHDREW her OBJECTION.

There being NO further OBJECTION, AMENDMENT 1 was ADOPTED

[9:44:38 AM](#)

Ms. Armstrong explained the six new fiscal notes attached to the bill. She relayed that the first fiscal note for Department of Commerce, Community and Economic Development (DCCED) appropriated to the Alaska Gasline Development Corporation in the amount of \$4,058.3 for FY 2015. The fiscal note reflected a fund source change from CIP (capital improvement projects) receipts to the new Instate Natural Gas Pipeline Fund created in the legislation on page 14, lines 16 through 25. She pointed to the new fiscal note from the Department of Law (DOL) appropriated to the Civil Division in the amount of \$102.3 in FY 2014 for one permanent full-time position. She turned to the fiscal note for the Department of Transportation and Public Facilities (DOT) appropriated to Design, Engineering and Construction in the amount of \$711.8 in FY 2014 for three permanent full-time positions. She moved to the fiscal note for the Department of Environmental Conservation (DEC) appropriated to Environmental Health in the amount of \$54.6 for FY 2014. She cited the fiscal note for DEC appropriated to the Division of Water in the amount of \$236.2 for FY 2014 for two permanent full-time positions. The last fiscal note was for a Fund Capitalization into the Instate Natural Gas Pipeline fund for the amount of \$330,000.0.

[9:48:19 AM](#)

AT EASE

[9:50:31 AM](#)

RECONVENED

Ms. Armstrong directed attention to the analysis on page 2 of the DCCED fiscal note. She explained that the total for all departments in FY 2014 was \$5.163.2 with increases

projected in the out years. She alerted the committee that the increases will appear in future budgets.

Senator Hoffman wondered why the capitalization of the fund was not included in the total on the fiscal note. Ms. Armstrong replied that the fund capitalization was not considered an operating budget expense.

Senator Hoffman understood that fund capitalization was an expenditure.

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, confirmed that the fund capitalization was an expenditure. He added that the fiscal note reflected the appropriation that capitalized the fund.

[9:54:11 AM](#)

AT EASE

[9:55:02 AM](#)

RECONVENED

Co-Chair Meyer announced that DCCED wanted to add another fiscal note.

JO ELLEN HANRAHAN, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, explained that AGDC was not exempted from the Executive Budget Act in the current version of the CS. As part of DCCED and included in the Executive Budget Act, AGDC must participate in the cost allocation plan stipulated in the law. The corporation needed the authority to pay the costs to the department. The new fiscal note would include the increased costs for AGDC.

Co-Chair Meyer inquired how much the fiscal note increase was. Ms. Hanrahan replied that the increase was approximately \$120 thousand.

Co-Chair Meyer inquired whether the amount should be included. Mr. Teal responded that the issue was whether DCCED needed to add new staff. He offered that if DCCED could handle the transfer of AGDC to the department with existing staff the fiscal note would be a net zero. The department would charge AGDC \$120 thousand and reduce the collections from other divisions and agencies. Technically a fiscal note was not necessary to collect the funds from AGDC.

Ms. Hanrahan agreed that a fiscal note was not necessary but AGDC needed the authority to pay the funds to DCCED.

Mr. Teal commented that any charges AGDC had to pay in interagency receipts would come out of its existing appropriation. He advised that AGDC report, for the record the amount AGDC had to pay to DCCED for administrative services and clarify what services they would receive.

FRANK RICHARDS, ALASKA GASLINE DEVELOPMENT CORPORATION, stated that the expectation was that AGDC would not have any administrative expenses under DCCED; therefore the corporation was exempted from the Executive Budget Act in previous versions of the bill. Without the exemption, AGDC incurred the \$120 thousand administrative expense for annual budget preparation that was not included in the original calculation.

Co-Chair Meyer did not believe that another fiscal note was needed. Mr. Richards answered that the amount would be deducted from the fund capitalization money.

Ms. Hanrahan concurred with the comments from Mr. Richards.

Senator Hoffman cited the \$330,000 as an expenditure in FY 2014 to point out the expenditure's inclusion in the FY 2014 spending plan. He felt that the \$5.163.2 amount cited earlier, which did not include the \$330,000 was misleading. He supported the bill but wanted clarity about the expenditure.

Co-Chair Meyer appreciated the comments of Senator Hoffman and remarked that the funds were being appropriated from the Alaska Housing [Alaska Housing Capital Corporation] fund established in 2008. The purpose of the fund was for a gas pipeline or other capital items. He believed the fund source was an "excellent" choice.

Senator Hoffman wanted assurance that any further "and" "or" errors would be corrected while drafting the final version of the CS. Ms. Armstrong replied that she sent instructions to the legal drafters to correct any additional errors.

Senator Olson requested an explanation of what the amendment actually accomplished. Ms. Armstrong related that

the references deleted "or" and added "and" on page 8 before the words, "other transportation mechanisms to deliver natural gas to communities in the state."

Vice-Chair Fairclough MOVED to REPORT SCSCSSSHB 4(FIN) out of committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

SCSCSSSHB 4(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note from the Senate Finance Committee for the Department of Commerce, Community and Economic Development, a new fiscal impact note from the Senate Finance Committee for a Fund Capitalization, a new fiscal impact note from the Senate Finance Committee for the Department of Environmental Conservation, a new fiscal impact note from the Senate Finance Committee for the Department of Environmental Conservation, a new fiscal impact note from the Senate Finance Committee for the Department of Transportation and Public Facilities, and a new fiscal impact note from the Senate Finance Committee for the Department of Law.

10:05:01 AM

AT EASE

10:16:27 AM

RECONVENED

10:17:16 AM

#

ADJOURNMENT

The meeting was adjourned at 10:17 a.m.