

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 12, 2014

8:59 a.m.

**MEMBERS PRESENT**

Senator Fred Dyson, Chair  
Senator Cathy Giessel, Vice Chair  
Senator John Coghill  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Bert Stedman

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 383(RLS)

"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
04/08/14	(H)	Moved CSHB 383(RLS) Out of Committee
04/08/14	(H)	MINUTE(RLS)
04/09/14	(H)	RLS RPT CS(RLS) 7DP
04/09/14	(H)	DP: HAWKER, GRUENBERG, HERRON, OLSON, CHENAULT, KELLER, JOHNSON
04/09/14	(H)	TRANSMITTED TO (S)
04/09/14	(H)	VERSION: CSHB 383(RLS)
04/11/14	(S)	READ THE FIRST TIME - REFERRALS
04/11/14	(S)	STA
04/12/14	(S)	STA AT 9:00 AM BUTROVICH 205

**WITNESS REGISTER**

REPRESENTATIVE MIKE CHENAULT  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 383 that was introduced by House Rules at his request.

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

**POSITION STATEMENT:** Provided supporting testimony for HB 383.

JOHN J. BURNS, Chair  
Alaska Gasline Development Corporation (AGDC)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

#### **ACTION NARRATIVE**

[8:59:59 AM](#)

**CHAIR FRED DYSON** called the Senate State Affairs Standing Committee meeting to order at 8:59 a.m. Present at the call to order were Senators Wielechowski, Coghill, Giessel, and Chair Dyson.

#### **HB 383-AK GASLINE DEVELOPMENT CORP. MEMBERSHIP**

[9:00:17 AM](#)

CHAIR DYSON announced the consideration of HB 383. "An Act relating to the membership of the board of the Alaska Gasline Development Corporation; and providing for an effective date." This was the first hearing. [CSHB 383(RLS) was before the committee.]

[9:00:51 AM](#)

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, Juneau, Alaska, introduced HB 383, which was sponsored by House Rules at his request. He explained that the bill amends the Alaska Gasline Development Corporation (AGDC) statute to allow for out-of-state board appointments, which was the intent of the legislature when it considered and passed House Bill 4 last year. The intent of that bill was that the governor should have the ultimate discretion in appointing the most qualified people in leading AGDC in carrying out its mission to develop projects that get gas to Alaskans.

REPRESENTATIVE CHENAULT highlighted that during the Alaska Constitutional Convention, the framers amended Section 26 to replace the state residency requirement with the U.S. citizen requirement. Delegate John Hellenthal said he had faith in the executive and the legislature to pick qualified men, and he would be worried if such a restrictive provision limiting board appointments to residents of Alaska were included in the Alaska Constitution. Representative Chenault noted he was citing the convention minutes on page 2239. He then cited delegate John McNees who said that the executive should not be limited in reaching out to appoint the best available man, irrespective of where that may be.

REPRESENTATIVE CHENAULT explained that the AGDC Board includes two commissioners and five public members appointed by the governor. The governor is encouraged to appoint people who bring particular qualifications and expertise. By statute the AGDC mission requires the board and corporation to act in the best interest of Alaska. He noted that all but one member of the current board are Alaskans.

REPRESENTATIVE CHENAULT continued to discuss HB 383 speaking to the following sponsor statement:

Committee Substitute for House Bill 383(RLS) amends the Alaska Gasline Development Corporation's (ADC) statutes to allow for out of state appointments. Last session, the legislature passed House Bill 4. This extensive legislation laid out a structure for AGDC as a corporation, defining what the legislature wanted and included language to define board appointments, items generally addressed in AS 39.05, existing statutes related to public officers and employees. AS 39.05.100 requires board appointees to be Alaskans, unless otherwise provided. House Bill 4 articulated board requirements, without specifically stating whether members had to be Alaskans or not, with the understanding that by not specifying, appointments could be U.S. citizens as stated in the Alaska Constitution. Legal guidance at the time, plus testimony, was that House Bill 4 language allowed both out-of-state citizens and Alaskan residents to serve.

What the sponsors neglected to do, and this was an oversight, is specifically exempt AGDC from AS 39.05.100.

CSHB 383(RLS) corrects this oversight.

9:04:23 AM

CHAIR DYSON noted That Dan Fauske and Miles Baker with AGDC were available to answer questions.

SENATOR WIELECHOWSKI asked if there was an opinion from Legislative Legal that this legislation falls under AS 39.05.100, because AGDC is a corporation.

9:05:11 AM

TOM WRIGHT, Staff, Representative Mike Chenault, affirmed that it does.

SENATOR WIELECHOWSKI asked if there was an opinion from Legislative Legal that legislative confirmation is required for this position.

MR. WRIGHT affirmed that this position would require legislative confirmation.

SENATOR WIELECHOWSKI asked if he disagrees with the statement that has been made that the governor could appoint anyone he wants without legislative approval.

MR. WRIGHT offered his belief that confirmation is required under AS 31.25.020. It says "public members of the board shall be appointed by the governor and are subject to confirmation by the legislature."

CHAIR DYSON opened public testimony.

9:06:33 AM

JOHN BURNS, Chair, Alaska Gasline Development Corporation (AGDC), Fairbanks, Alaska, testified in support of HB 383. He said this legislation will correct an oversight in House Bill 4 and will ensure that the board will be able to achieve the mission and responsibility conferred on AGDC by the passage of House Bill 4. He described this legislation as one of the most comprehensive, enabling pieces of legislation that has passed in many years. It embodies the hopes of Alaskans and commitment that Alaskan's gas will be developed and made available to Alaskans. The responsibility to achieve that objective was conferred on AGDC, and the board is committed to deliver on that responsibility.

MR. BURNS stated that if SB 138 passes it will add to AGDC's responsibility, because it will be its role to conduct a thorough evaluation and recommend which of the two gas projects to sanction. The ability for AGDC to achieve its mission is dependent on the composition of the board. Its members must have the required skillset. The composition of a board is particularly important when the subject is highly technical and specialized. HB 383 will empower the board to achieve the mission to develop and construct a gasline.

He pointed out that the committee knows who the governor intends to appoint to the board and the work he has done on behalf of AGDC in the six months since his appointment. He posited that Mr. Rabinow exemplifies why the passage of the bill makes sense and is in the state's best interest as the owner of AGDC. Mr. Rabinow has four decades of pipeline experience and expertise in large project development, implementation and management. He attested to Mr. Rabinow's integrity, commitment to AGDC's mission and objectives, and his active participation during board meetings. He provides an owner's perspective and insight about pipeline construction, management, and financing that is invaluable.

MR. BURNS spoke to Mr. Rabinow's loyalty. He took an oath of office and signed a confidentiality agreement, just like all other AGDC board members. Mr. Burns said that without exception, our loyalty is to the state and our fiduciary responsibility is to AGDC. He emphasized that appointments to the AGDC Board should focus on a person's ability rather than their residency. He concluded that HB 383 is in the best interest of the state and should go forward.

[9:14:24 AM](#)

SENATOR COGHILL asked if the Act is retroactive to September 1, 2013 because that's when Mr. Rabinow was appointed.

MR. WRIGHT clarified that the appointments were made on September 13, 2013.

SENATOR COGHILL asked if the expectation under House Bill 4 was that the appointment was legitimate, but later it was found that wasn't the case.

REPRESENTATIVE CHENAULT affirmed that is reason for the bill.

SENATOR COGHILL expressed appreciation that the sponsor brought the legislation forward. He said he often struggles with retroactivity, but in this circumstance it's warranted.

REPRESENTATIVE CHENAULT responded that the intent is to see the confirmation process go forward.

CHAIR DYSON observed that this legislation is consistent with the sponsor's understanding of the intent of House Bill 4.

MR. WRIGHT agreed that the intent of HB 4 was to allow the best and brightest to serve on the AGDC Board regardless of residency, as long as they are a U.S. citizen.

SENATOR GIESSEL noted that some boards and commissions don't go through the confirmation process yet subsection (b), page 1, lines 5-6, specifically leaves a political process in place. She asked if it was left for a reason.

MR. WRIGHT affirmed that the intent is to have a confirmation process for this board.

CHAIR DYSON said this state has a citizen legislature and most boards are expected to be made up of citizens, but expertise is needed with a board like AGDC. He opined that it's shortsighted to think that Mr. Rabinow can't be objective.

MR. WRIGHT said the board is fortunate to have two members who have an understanding of pipelines: Albert N. Bolea and Richard A. Rabinow.

CHAIR DYSON commented on the importance of expertise and experience.

MR. WRIGHT added that a large number of consultants the state relies on aren't residents.

CHAIR DYSON found no further questions or discussion and solicited a motion.

[9:19:29 AM](#)

SENATOR GIESSEL moved to report CSHB 383(RLS), labeled 28-LS1656\U, from committee with individual recommendations and attached zero fiscal note(s).

[9:19:47 AM](#)

SENATOR WIELECHOWSKI objected.

CHAIR DYSON asked for a roll call.

A roll call vote was taken. Senators Giessel, Coghill, and Dyson voted in favor of moving HB 383. Senator Wielechowski voted against it. Therefore, CSHB 383(RLS) was reported out of the Senate State Affairs Standing Committee by a vote of 3:1.

9:20:20 AM

There being no further business to come before the committee, Chair Dyson adjourned the Senate State Affairs Standing Committee meeting at 9:20 a.m.