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1 IN THE HOUSE

BY SWANSON AND DITMAN

2 HOUSE BILL NO. 386

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Oil and Gas Pipeline
7 Authority."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44 is amended by adding a new chapter to read:

10 CHAPTER 58. ALASKA OIL AND GAS PIPELINE AUTHORITY.

11 ARTICLE 1. CREATION AND ORGANIZATION.

12 Sec. 44.58.010. CREATION OF AUTHORITY. There is created the
13 Alaska Oil and Gas Pipeline Authority. The authority is a public
14 corporation of the state. The authority is an instrumentality of the
15 state within the Department of Commerce, but has a legal existence
16 independent of and separate from the state.

17 Sec. 44.58.020. MEMBERSHIP OF THE AUTHORITY. The authority is
18 composed of nine members appointed by the governor. In making his
19 appointments the governor shall appoint one recognized petroleum
20 geologist, one recognized petroleum pipeline engineer, one recognized
21 ecologist, one recognized biologist, one recognized financial expert,
22 one recognized transportation expert, and three Alaska residents
23 recognized for their broad experience in the state. The term of office
24 for each member of the authority is six years. Upon initial appoint-
25 ment, three members serve for two years, three members serve for four
26 years, and three members serve for six years. A member appointed
27 by the governor to fill a vacancy serves for the unexpired term of
28 the member he succeeds. A chairman shall be elected by the authority
29 from among its members for one or more terms of one year each.

1 Sec. 44.58.030. MEETINGS, COMPENSATION, OFFICERS AND EMPLOYEES.

2 (a) A majority of the members of the authority constitutes a quorum
3 for the transaction of business or the exercise of a power or function
4 at a meeting of the authority. In case of a tie vote on a motion or
5 resolution pending before the authority the motion or resolution
6 shall be presented to the governor and if approved by him, is
7 considered adopted by the authority.

8 (b) The members of the authority serve without salary but each
9 member is entitled to reimbursement from authority funds for actual
10 and necessary expenses incurred in the performance of his official
11 duties as a member of the authority.

12 (c) The authority may appoint persons as officers it considers
13 advisable, including an executive director or executive vice-president,
14 and may employ professional advisors, counsel, technical experts,
15 agents, and other employees it considers advisable.

16 ARTICLE 2. PURPOSE AND POWERS.

17 Sec. 44.58.050. PURPOSE OF THE AUTHORITY. The purpose of the
18 authority is to promote, develop and advance the general prosperity
19 and economic welfare of the people of Alaska and simultaneously
20 protect the environment of the state from unnecessary waste and pol-
21 lution by providing a means of constructing, maintaining, and
22 operating oil and gas common carrier transmission pipelines, related
23 roads and other necessary facilities.

24 Sec. 44.58.060. POWERS. (a) In the effectuation of its
25 corporate purposes stated in sec. 50 of this chapter, the authority
26 may

- 27 (1) exist continuously as a corporation;
28 (2) adopt a seal;
29 (3) adopt bylaws and regulations governing the business

1 of the corporation;

2 (4) sue and be sued;

3 (5) appoint officers, employees, trustees for certificate
4 holders, and agents, and prescribe their powers and duties;

5 (6) make contracts and execute instruments necessary or
6 convenient in the exercise of its corporate powers;

7 (7) acquire by purchase, lease, bequest, devise, gift, the
8 satisfaction of debts, or the foreclosure of mortgages, and hold,
9 maintain, use, operate and convey real or personal property;

10 (8) borrow money and issue secured and unsecured evidence
11 of indebtedness, including negotiable revenue debentures, for a
12 corporate purpose, or fund, refund, pay, or discharge outstanding
13 obligations, and enter into agreements and contracts concerning these
14 obligations;

15 (9) secure the payment of its obligations by pledge or
16 mortgage or other lien on its contracts, revenues, income, or property,
17 except that it may not incur secondary liability by guaranty or
18 endorsement of the obligations of another corporation or legal entity,
19 except endorsement of checks, bank drafts, or other commercial paper
20 in the ordinary course of business;

21 (10) accept grants or loans from and contract with the
22 federal government, the state, or its political subdivisions, and to
23 that end comply with the provisions of federal, state, or local
24 programs when necessary;

25 (11) lease, alienate, and dispose of property;

26 (12) acquire, hold, and dispose of stocks, memberships,
27 contracts, bonds, or other interests in another corporation or legal
28 entity, and exercise the powers or rights in connection with these
29 interests which are provided in contracts or agreements and which are

1 allowed by law concerning the satisfaction of debts;

2 (13) do what is necessary to carry out the powers granted
3 by this chapter or other laws of the state, or the laws and regulations
4 of the federal government.

5 (b) The authority may not pledge the credit or the taxing
6 power of the state or its political subdivisions. The state and its
7 political subdivisions are not liable for the debts of the authority.

8 Sec. 44.58.070. CONSTRUCTION OF OIL AND GAS PIPELINES, RELATED
9 ROADS AND FACILITIES. When in the judgment of the Department of
10 Natural Resources it is considered in the best interest of the state
11 that an oil and gas pipeline and related roads and facilities be con-
12 structed, maintained and operated by the state, the department shall
13 submit its recommendation to that effect to the authority together
14 with preliminary estimates of the cost of construction and an estimate
15 of the amount necessary to be raised for that purpose by the issuance
16 of revenue bonds, and a statement of the probable amount of money,
17 property, materials or labor to be contributed from other sources in
18 aid of the construction. If the authority concurs in the recommendation
19 of the department or on its own motion determines to construct, maintain
20 and operate an oil and gas pipeline and related roads and facilities, it
21 shall adopt a resolution declaring that public interest and necessity
22 require the construction, maintenance and operation of an oil and gas
23 pipeline and related roads and facilities, and may thereafter issue
24 bonds, notes and debentures for that purpose as provided for in this
25 chapter.

26 Sec. 44.58.080. AUTHORITY TO ACQUIRE RIGHT-OF-WAY IN CONSTRUCTING.
27 When the authority authorizes the construction of an oil and gas pipe-
28 line and related roads and facilities, the Department of Natural
29 Resources is empowered to secure right-of-way for it and for approaches

1 to it by gift or purchase, or by condemnation in the manner provided
2 by law for the taking of private property for public purposes.

3 Sec. 44.58.090. RIGHT-OF-WAY ACROSS STATE LAND, STREETS, ROADS
4 AND COMPENSATION. The right-of-way is hereby given, dedicated and
5 set apart upon which to locate, construct and maintain oil and gas
6 pipelines and related roads and facilities, through, over or across
7 any of the lands which are now or may be the property of this state,
8 including highways, and through, over or across the streets, alleys,
9 lanes and roads within a city, borough, or other political subdivision
10 of the state. If property belonging to a city, borough or other
11 political subdivision of the state is required to be taken for the
12 construction of an oil and gas pipeline and related roads and facilities
13 or should the property be injured or damaged by the construction,
14 compensation for it as may be proper or necessary and as shall be agreed
15 upon may be paid by the authority to the particular borough, city, or
16 other political subdivision of the state owning the property, or con-
17 demnation proceedings may be brought for the determination of the
18 compensation.

19 Sec. 44.58.100. RESOLUTION OF NECESSITY IN ACQUIRING RIGHT-OF-
20 WAY AND EFFECT. (a) Before proceeding with an action to secure a
21 right-of-way or to construct an oil and gas pipeline and related roads
22 and facilities, under this chapter the authority shall first pass a
23 resolution that public interest and necessity require the acquisition
24 of right-of-way and construction. The resolution shall state and be
25 conclusive evidence

- 26 (1) of the public necessity of the construction;
27 (2) that the property is necessary for it; and
28 (3) that the proposed construction is planned or located
29 in a manner which will be most compatible with the greatest public

1 good and the least private injury.

2 (b) When it becomes necessary for the Department of Natural
3 Resources to condemn real estate to be used as provided for in this
4 chapter, the attorney general of the state shall represent the depart-
5 ment. In eminent domain proceedings to acquire property for any of
6 the purposes of this chapter, real property, personal property,
7 franchises, rights, easements or other property or privileges appurte-
8 nant to them appropriated or dedicated to a public use or purpose by a
9 person, firm, private, public or municipal corporation, borough, city
10 district or political subdivision of the state, may be condemned and
11 taken, and the acquisition and use as provided in this section for the
12 same public use or purpose to which the property has been so appropri-
13 ated, dedicated, or for any other public use or purpose, shall be con-
14 sidered a superior and permanent right and necessity, and a more necessary
15 use and purpose than the public use or purpose to which the property
16 has already been appropriated or dedicated. It is not necessary in an
17 eminent domain proceeding under this chapter to plead or prove any acts
18 or proceedings preliminary or before the adoption of the resolution
19 referred to in (a) of this section describing the property sought to be
20 taken and directing the proceedings.

21 Sec. 44.58.110. ANNUAL REPORT. Before December 1 of each year,
22 the authority shall submit to the governor and the legislature a
23 comprehensive report describing the operations, fiscal transactions,
24 financial condition, and future plans of the authority. The governor
25 may prescribe the form of the report.

26 Sec. 44.58.120. ANNUAL AUDITS. (a) The authority shall have
27 its financial records audited annually. The legislative auditor shall
28 conduct the annual audit. If an audit conducted by a certified public
29 accountant is satisfactory in the judgment of the legislative auditor,

1 it may be accepted instead of the state audit. The legislative
2 auditor may prescribe the form and content of the financial records
3 of the authority and may have access to these records at any time.

4 (b) The state bank examiner shall examine the records of the
5 authority at least annually.

6 ARTICLE 3. FINANCIAL PROVISIONS.

7 Sec. 44.58.130. CAPITAL. Appropriations and loans from the
8 state general fund necessary for the operation of the authority are
9 authorized.

10 Sec. 44.58.140. BONDS, NOTES, AND DEBENTURES. The authority
11 may issue negotiable bonds, notes, and debentures in such principal
12 amounts as is considered necessary to provide sufficient funds for
13 achieving the purposes stated in sec. 50 of this chapter, including
14 the payment of interest of bonds of the authority, the establishment
15 of reserves to secure bonds, notes and debentures, and all other expendi-
16 tures of the authority incidental to and necessary or convenient to
17 carry out the purposes of this chapter.

18 Sec. 44.58.150. NATURE OF AUTHORITY OBLIGATIONS. Except as
19 otherwise expressly provided by the authority, every issue of its notes,
20 debentures or bonds is a general obligation of the authority payable
21 out of any revenues or money of the authority, subject only to agree-
22 ments with the holders of particular notes, debentures or bonds pledging
23 particular receipts or revenues.

24 Sec. 44.58.160. NEGOTIABILITY OF OBLIGATIONS. Whether or not
25 the notes, debentures, or bonds are of the form and character to be
26 negotiable instruments under the provisions of the negotiable instru-
27 ments law, the notes, debentures or bonds of the authority are
28 negotiable instruments within the meaning of and for the purposes of
29 the negotiable instruments law.

1 Sec. 44.58.170. AUTHORIZATION AND CONTENTS OF ISSUANCE. The
2 notes, debentures, and bonds shall be authorized by resolution of
3 the members of the authority. The notes, debentures, and bonds shall
4 bear the date or dates, and mature at the time or times in the case
5 of a note or debenture or renewals not to exceed five years from the
6 date of issue of the original note or debenture, and in the case of
7 a bond, not to exceed 50 years from the date of issue, as the
8 resolution or resolutions may provide. The notes, debentures, and
9 bonds shall bear interest at the rate or rates, be in the denominations,
10 be in the form, either coupon or registered, be executed in the
11 manner, be payable in the medium of payment at the place or places,
12 be subject to the terms of redemption and carry the registration
13 pledges which the resolution or resolutions may provide.

14 Sec. 44.58.180. ADDITIONAL PROVISIONS OF RESOLUTION AUTHORIZING
15 OBLIGATIONS. The resolutions authorizing issuance of notes, debentures
16 or bonds may contain provisions which shall be a part of the contract
17 with the holder as to

18 (1) pledging all or part of the money received in payment
19 of the loans made by the authority and interest on the loans, and
20 other money received or to be received, to secure the payment of the
21 notes, debentures or bonds or of any issue of them subject to
22 existing agreements with bondholders or noteholders, or debenture
23 holders;

24 (2) pledging all or a part of the assets of the authority,
25 including any mortgages or other documents or agreements, to secure
26 the payment of the notes, debentures or bonds or any issue of notes,
27 debentures, or bonds, subject to existing agreements with noteholders,
28 debenture holders, or bondholders;

29 (3) the application, use and disposition of the revenues

1 and receipts to be derived by the authority from its loans;

2 (4) the setting aside of reserves or sinking funds and
3 the regulation and disposition of them;

4 (5) limitations on the purpose to which the proceeds of
5 sale of notes, debentures or bonds may be applied and pledging the
6 proceeds to secure the payment of notes, debentures or bonds or of
7 an issue of them;

8 (6) limitations on the issuance of additional notes,
9 debentures or bonds, the terms upon which additional notes, debentures
10 or bonds may be issued and secured, or the refunding of outstanding
11 or other notes, debentures or bonds;

12 (7) the procedure, if any, by which the terms of a contract
13 with noteholders, bondholders or debenture holders may be amended or
14 abrogated, the amount of notes, debentures, or bonds the holders of
15 which must consent thereto, and the manner in which the consent may
16 be given;

17 (8) vesting in a trustee or trustees the property, rights,
18 powers, and duties in trust as the authority may determine, which may
19 include any or all of the rights, powers, and duties of the trustee
20 appointed by the bondholders under this section, and limiting or
21 abrogating the right of the bondholders to appoint a trustee under
22 this section, or limiting the rights, powers and duties of the trustee;

23 (9) the replacement of lost, destroyed or mutilated bonds,
24 notes and debentures;

25 (10) any other matter which affects the security or protects
26 the notes, bonds or debentures.

27 Sec. 44.58.190. MANNER OF SALE. The notes, debentures, and bonds
28 of the authority may be sold at public or private sale at a price
29 determined by the authority.

1 Sec. 44.58.200. NONLIABILITY OF AUTHORITY MEMBERS. The members
2 of the authority and persons executing the notes, debentures or bonds
3 are not liable personally on the notes, debentures or bonds or subject
4 to personal liability or accountability by reason of their issuance.
5 It is the intention of the legislature that a pledge made with respect
6 to the bonds, notes or debentures shall be valid and binding from
7 the time the pledge is made that the money or property so pledged
8 thereafter received by the authority shall immediately be subject to
9 the lien of the pledge without physical delivery or further act; and
10 that the lien of the pledge is valid and binding as against all
11 parties having claims of any kind in tort, contract or otherwise
12 against the authority, irrespective of whether the parties have notice
13 thereof. Either the resolution, trust indenture or any other instrument
14 by which a pledge is made may be recorded.

15 Sec. 44.58.210. NONLIABILITY OF STATE. The state is not liable
16 on notes, bonds or debentures of the authority and the notes, bonds,
17 or debentures are not a debt of the state.

18 Sec. 44.58.220. RIGHTS OF OBLIGATION HOLDERS. Subject to con-
19 tractual limitations or restrictions under secs. 90 - 170 of this
20 chapter, the holder of bonds, notes or debentures, in addition to
21 other remedies, may by appropriate action, require the authority to
22 carry out its covenants and agreements made with or for the holder's
23 benefit.

24 ARTICLE 4. GENERAL PROVISIONS.

25 Sec. 44.58.230. PIPELINE REVOLVING FUND. There is established
26 a pipeline revolving fund which shall be administered by the authority
27 exclusively for the purposes of this chapter. The fund is composed
28 of money appropriated by the legislature to the authority for the
29 purposes of this chapter. Expenditures may be made from this fund for

1 the administration of this chapter as well as for the establishing,
2 constructing and operating of oil and gas pipelines, related roads,
3 and other necessary facilities authorized by the provisions of this
4 chapter. The authority may pledge any money in this fund to secure
5 the payment of any bonds, notes or debentures issued under this
6 chapter.

7 Sec. 44.58.240. REPAYMENT TO GENERAL FUND. All money made
8 available to the pipeline revolving fund from the general fund of
9 the state is a loan from the general fund. All surplus at the end
10 of a fiscal year over amounts made available to the fund from the
11 general fund of the state shall be repaid to the general fund until
12 the loan is repaid in full. Repayments need not begin until after
13 the first five complete fiscal years after the fund is created.

14 Sec. 44.58.250. INVESTMENTS BY AUTHORITY. The authority shall
15 place money held in the reserve funds or in the pipeline revolving
16 fund in one or more of the following: deposits in banks or trust
17 companies having their principal places of business in the United
18 States; or obligations of the United States, the state, or its
19 political subdivisions if the obligations are secured by the general
20 taxing power of the obligor.

21 Sec. 44.58.260. TAX EXEMPTION. Because the purpose of the
22 authority, as an instrumentality of the state, is to benefit the
23 people of Alaska by increasing their commerce, prosperity, and general
24 well-being, the authority is exempt from all taxes and assessments
25 in the state. Bonds, notes, and debentures issued by the authority,
26 their transfer and their income are exempt from all taxes and assess-
27 ments in the state.

28 Sec. 44.58.270. ESTABLISHING RATES. The authority shall establish
29 rates to be charged persons utilizing its oil and gas pipelines, roads,

1 and related facilities.

2 Sec. 44.58.280. REGULATIONS. The authority may adopt regulations
3 or bylaws to implement the purposes of this chapter.

4 Sec. 44.58.290. EXPENSES. The authority shall bear all of its
5 own expenses.

6 Sec. 44.58.300. AUTHORITY MAY EMPLOY PERSONNEL. The authority
7 may appoint other officers, hire employees and agents, and engage
8 professional and technical services and advice upon employment or
9 independent contract basis. The authority shall prescribe the duties
10 and compensation of association personnel.

11 Sec. 44.58.310. PERSONNEL EXEMPT FROM STATE PERSONNEL ACT. The
12 personnel of the authority are in the exempt state service under
13 AS 39.25.110.
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