

Original sponsor: Rules Committee by
request of the Governor

Offered: 6/5/78
Referred: Finance

1 IN THE HOUSE

BY THE SPECIAL COMMITTEE ON THE
SALE OF ROYALTY OIL AND GAS

2 CS FOR HOUSE BILL NO. 943

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Alaska Gas Pipeline Financing
7 Authority; and providing for an effective date."

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 Sec. 44.55.010. LEGISLATIVE FINDINGS. The legislature finds that

11 (1) pending the state's final determination that production
12 of natural gas from the Prudhoe Bay reservoir will be consistent with
13 optimal recovery of oil and gas from the reservoir, and pending positive
14 action by the Congress of the United States and federal regulatory
15 agencies with respect to matters of natural gas policy, timely construc-
16 tion of the Alaska Highway Natural Gas Pipeline Project is in the best
17 interest of the state and of the United States;

18 (2) state assistance to the financing of the project will
19 promote an essential public purpose in assuring timely transportation to
20 market of Prudhoe Bay natural gas;

21 (3) the project is essential to the development of the natu-
22 ral resources and the long-term economic growth of the state, and will
23 directly and indirectly provide employment in the state;

24 (4) additional benefits to Alaska from the project include
25 increased state and local tax revenue, enhanced availability of natural
26 gas for Alaska communities, and stimulus and expansion of the private
27 sector economy, including greater potential for development of in-state
28 manufacturing, refining and processing facilities;

29 (5) construction of the project is a matter of statewide

1 concern; there is no existing general law adequate for the purpose of
2 assisting with financing of the project, as provided in this chapter;

3 (6) it is a public purpose of the State of Alaska to promote
4 timely completion of the project through the creation of an instrumen-
5 tality empowered to sell revenue bonds, the interest on which is exempt
6 from federal income tax except when held by a substantial user or re-
7 lated person as these terms are defined in sec. 103 of the Internal
8 Revenue Code of 1954 as amended, and to use the proceeds to purchase or
9 otherwise acquire obligations issued with respect to the project;

10 (7) an amendment by Act of Congress to sec. 103 of the In-
11 ternal Revenue Code of 1954 as amended is required if the authority is
12 to be empowered to sell revenue bonds, the interest on which is exempt
13 from federal income tax and that the authority should be established in
14 the event Congress does decide that the amendment would be in the
15 national interest;

16 (8) establishment of the authority as contained in this
17 chapter, and equity-related direct state financial participation in the
18 pipeline project in the amount of \$500,000,000, as substantially de-
19 scribed in "A Plan for Alaska's Financial Participation in the Alaska
20 Highway Pipeline Project" dated April 17, 1978, and subject to legisla-
21 tive approval of such direct equity-related investment, shall be the
22 state's sole direct or indirect financial participation in or financial
23 support of the project;

24 (9) establishment of the authority as contained in this
25 chapter constitutes no waiver, either explicit or implied, of valid
26 state laws or regulations, or of the state's power to make such laws or
27 regulations as it considers necessary;

28 (10) the best interests of the project during inception,
29 construction, and operation would be served by election as a member of

1 the Board of Partners of Alaskan Northwest Natural Gas Transportation
2 Company a person who is knowledgeable with respect to major corporate
3 activities in the State of Alaska;

4 (11) certain communities, especially those located near the
5 proposed pipeline right-of-way, will bear a disproportionate share of
6 the social and economic costs of the project and the state and the
7 project sponsors have a responsibility to assist these local communities
8 in predicting, preparing for and minimizing these costs;

9 (12) realization of the state and national interests enumer-
10 ated in this section is dependent on the state making a quantifiable
11 judgment determination as to the amount of natural gas that can be
12 produced from Prudhoe Bay consistent with optimal recovery of oil and
13 gas reserves from the Prudhoe Bay reservoir, and upon favorable reso-
14 lution by the national government of the policy and regulatory issues
15 pertaining to the production, transportation and sale of North Slope
16 natural gas.

17 Sec. 44.55.020. CREATION OF AUTHORITY. There is created the
18 Alaska Gas Pipeline Financing Authority. The authority is a public
19 corporation of the state. It is an instrumentality of the state within
20 the Department of Revenue, but has a legal existence independent of and
21 separate from the state. Exercise by the authority of the powers con-
22 ferred by this chapter is an essential governmental function of the
23 state.

24 Sec. 44.55.030. MEMBERSHIP. The membership of the authority
25 consists of the commissioner of revenue, the commissioner of commerce
26 and economic development, and the commissioner of natural resources.
27 The commissioner of revenue is chairman of the authority. If a member
28 is unable for any reason to attend a meeting of the authority, the
29 member may, by a written instrument filed with the authority, designate

1 a person within his department to act in the member's place at the
2 meeting. For all purposes of this chapter, the designee is a member of
3 the authority at the meeting.

4 Sec. 44.55.040. OFFICERS AND QUORUM. The members may elect other
5 officers as they consider desirable. Two members constitute a quorum.
6 Action may be taken and motions and resolutions adopted by the authority
7 at a meeting by the affirmative vote of at least two members.

8 Sec. 44.55.050. COMPENSATION. The members of the authority serve
9 without compensation but are entitled to the same travel pay and per
10 diem as provided by law for board members who are state employees.

11 Sec. 44.55.060. STAFF. The authority may employ an executive
12 director who may, with the approval of the authority, select and employ
13 additional staff as necessary. Employees of the authority are in the
14 exempt service under AS 39.25.110. In addition to its staff of regular
15 employees, the authority may contract for and engage the services of
16 bond counsel, consultants, experts, and financial advisors the authority
17 considers necessary for the purpose of developing information, furnish-
18 ing advice, or conducting studies, investigations, hearings, or other
19 proceedings.

20 Sec. 44.55.070. LEGAL COUNSEL. The attorney general is the legal
21 counsel for the corporation. He shall advise the corporation in legal
22 matters and represent it in legal actions.

23 Sec. 44.55.080. PURPOSE OF AUTHORITY. The purpose of the autho-
24 rity is to assist in the financing of the project through the issuance
25 of revenue bonds as provided in this chapter.

26 Sec. 44.55.090. GENERAL POWERS. In furtherance of its purpose,
27 the authority has the following powers in addition to its other powers:

- 28 (1) to sue and be sued;
29 (2) to have a seal and alter it at pleasure;

1 (3) to make and alter bylaws for its organization and inter-
2 nal management;

3 (4) to maintain an office at any place in the state;

4 (5) to acquire, hold, use, mortgage, encumber, or otherwise
5 dispose of income, revenue, funds, memberships, contracts, bonds or
6 other property or interests in a corporation or other legal entity, or
7 any other real or personal property;

8 (6) to accept gifts, grants, or loans from, and enter into
9 contracts or other transactions with, any national, state, or municipal
10 government, or agency or instrumentality of a government, or with any
11 private organization, or other source;

12 (7) to deposit or invest its funds subject to agreements with
13 bondholders and other parties; and

14 (8) to enter into contracts or agreements with respect to the
15 exercise of its powers, and to do all things necessary or convenient to
16 carry out its purpose and to exercise the powers granted in this chap-
17 ter.

18 Sec. 44.55.100. BONDS OF THE AUTHORITY. (a) The authority may
19 borrow money and issue revenue bonds, in one or more series, the in-
20 terest on which is exempt from federal income tax except when held by a
21 substantial user or related person as defined in sec. 103 of the Inter-
22 nal Revenue Code of 1954 as amended, up to the principal amount of
23 \$1,000,000,000 inclusive of amounts required for fund reserves, capi-
24 talized interest, and costs of issuance of the bonds or notes and exclu-
25 sive of refunding bonds. Bonds of the authority may be issued for the
26 purpose of purchasing or otherwise acquiring any obligation issued with
27 respect to the project in any form which is fixed and certain as to
28 terms of repayment and for the establishment of reserves to secure or to
29 pay bonds or notes or interest on bonds or notes and all other costs of

1 the authority incident to and necessary for issuance of bonds or notes.
2 The principal and interest on the bonds are payable from the income and
3 receipts or other money derived by the authority with respect to the
4 project, except to the extent payable out of money attributable to the
5 proceeds of the sale of the bonds or out of income from the temporary
6 investment of those proceeds.

7 (b) The bonds issued by the authority do not constitute an indebt-
8 edness or other liability of the state or of a political subdivision of
9 the state, but are payable solely from the income and receipts or other
10 money of the authority. The authority may not pledge the faith or
11 credit of the state or of a political subdivision of the state to the
12 payment of a bond, and the issuance of a bond by the authority may not
13 directly or indirectly or contingently obligate the state or a political
14 subdivision of the state in any manner, except as specifically provided
15 in this chapter.

16 (c) Bonds shall be authorized by resolution of the authority and
17 shall be dated and mature as the resolution provides. Bonds shall bear
18 interest at the rate or rates, be in the denominations, be in the form,
19 either coupon or registered, carry the registration privileges, be
20 executed in the manner, be payable in the medium of payment, at the
21 place or places, and be subject to the terms of redemption which the
22 resolution provides.

23 (d) All bonds, regardless of form or character, are negotiable
24 instruments for all the purposes of the Uniform Commercial Code.

25 (e) All bonds may be sold at public or private sale in the manner,
26 for the price, and at the time or times which the authority determines.

27 (f) The authority may enter into financing agreements necessary or
28 desirable to secure the bonds. Before the issuance of bonds, the au-
29 thority shall make provision by agreement with the owner or user of the

1 project for payment by the owner or user of amounts at least sufficient
2 in the judgment of the authority to pay the principal of and interest on
3 the bonds as they become due, to establish or maintain the reserves for
4 payment, if any, as the authority considers necessary or desirable.

5 (g) Refunding obligations may be sold or exchanged for outstanding
6 obligations issued under this chapter subject to legislative approval.
7 If sold, the proceeds may be applied, in addition to other authorized
8 purposes, to the purchase, redemption or payment of the outstanding
9 obligations. Pending the application of the proceeds of any refunding
10 obligations, with any other available funds, to the payment of the
11 principal (accrued interest and any redemption premium on the obliga-
12 tions being refunded, and if so provided or permitted in the authoriza-
13 tion for issuance of the refunding obligations, to the payment of any
14 interest on the refunding obligations and any expenses in connection
15 with the refunding), the proceeds may be invested in direct obligations
16 of, or obligations the principal of and the interest on which are un-
17 conditionally guaranteed by, the United States of America which mature
18 or which will be subject to redemption, at the option of the holders of
19 them, not later than the respective dates when the proceeds, together
20 with the interest accruing on them, will be required for the purposes
21 intended.

22 Sec. 44.55.110. SUBMISSION OF FINANCIAL AND ALASKA IMPACT PLAN.
23 With respect to the bonds of the authority and the project, the author-
24 ity shall submit to the legislature by the 60th day of the first session
25 of the Eleventh Legislature a financial and Alaska impact plan for the
26 project. The financial and Alaska impact plan shall be a general des-
27 cription of the status of the project with respect to engineering,
28 technical, financial and regulatory matters relating to the project. In
29 addition, the plan shall include the following specific items including

1 findings and recommendations on each item:

2 (1) the proposed methods and procedures by which the project
3 will be financed including the amounts and times of issuance of bonds by
4 the authority;

5 (2) the method of securing the bonds;

6 (3) projected debt service requirements of the bonds; and

7 (4) projected revenues for the period of time during which
8 reasonable projections can be made, which will be available to the
9 authority to meet debt service requirement;

10 (5) the extent to which the state's right to withdraw its
11 royalty share of the natural gas stream as described in section 13(b) of
12 the Alaska Natural Gas Transportation Act (P.L. 94-586) is protected and
13 assured;

14 (6) the amount and type of financial support which the
15 Prudhoe Bay natural gas producers have committed in support of the
16 project;

17 (7) documentation that the project sponsors have entered into
18 binding agreements with the state to guarantee that

19 (A) all workers employed for the construction, operation
20 and maintenance of the project will be drawn from the existing and
21 resident Alaska work force if such workers are available and pos-
22 sessed of the requisite qualifications for project construction,
23 operation or maintenance work;

24 (B) all vendor, material, labor and professional service
25 contracts and subcontracts let for work to be performed within
26 Alaska shall be let to existing resident Alaska contractors or
27 firms if such contractors or firms are reasonably available and
28 qualified in other respects;

29 (C) insure that quarterly audits of performance with

1 respect to the minimum levels of performance contained in (A) and
2 (B) of this paragraph shall be conducted, and the results of these
3 audits transmitted to the legislature and other interested state
4 officials in a timely manner;

5 (8) the estimated number of Alaska workers who will be em-
6 ployed under the provisions of the binding agreement described in (7)(A)
7 of this section, the estimated total number of workers to be employed on
8 the project during construction, the estimated dollar volume of con-
9 tracts which will be let to Alaska contractors or firms under the pro-
10 visions of the binding agreement described in (7)(B) of this section,
11 and the estimated total dollar volume of contracts which will be let for
12 the project during construction;

13 (9) determination of whether a minimum capital pool of debt
14 and equity funds equal to at least 150 per cent of the estimated project
15 cost has been committed to the project, in order to provide sufficient
16 capital to insure timely project completion;

17 (10) documentation that the project sponsors have supported
18 the following objectives or, when appropriate, have filed or supported
19 the necessary documents and exhibits before the appropriate federal or
20 regulatory agencies to achieve those objectives:

21 (A) an intra-state natural gas tariff based on a zone
22 tariff concept, with as many zones as state officials believe to be
23 in the state's best interest;

24 (B) that the minimum average wellhead price for Prudhoe
25 Bay natural gas sales shall be the higher of \$1.48 per mcf (or such
26 escalated price as may be provided for by federal law or regula-
27 tion) or the BTU-equivalent price for Prudhoe Bay oil if the higher
28 BTU-equivalent price is permissible under applicable federal laws
29 and regulations;

1 (C) that treatment and conditioning costs shall be added
2 on to, and not included in, the minimum average wellhead price
3 contained in (B) of this paragraph;

4 (D) that the minimum average wellhead price described in
5 (10)(B) of this section shall apply only to Prudhoe Bay natural
6 gas;

7 (E) that rolled-in pricing shall be used with respect to
8 marketing Alaskan natural gas in contiguous United States or
9 Canadian markets;

10 (F) that payment to or reimbursement of the state for
11 items contained in (13) of this section shall be included in the
12 rate base;

13 (11) documentation that the appropriate state agencies have
14 considered the study described in (13)(B) of this section, and a deter-
15 mination by these agencies with respect to the extent, if any, that
16 production of Prudhoe Bay natural gas in volumes sufficient to meet
17 project requirements would be in the state's best interest;

18 (12) the preliminary financial plan for the entire transmis-
19 sion system, as prepared for submission to the Federal Energy Regulatory
20 Commission;

21 (13) documentation that the partnership has entered into a
22 binding agreement with the State of Alaska, approved by the appropriate
23 federal regulatory agencies, to pay for or reimburse the state for
24 expenses associated with the following state activities: (A) provision
25 of in-state off-take facilities at locations to be determined by the
26 state; (B) design and development of a three-dimensional Prudhoe Bay
27 reservoir production model; (C) study and determination of the state's
28 bond capacity and bond rating, with respect to both the authority bonds
29 and potential state equity-related investment; (D) provision of state

1 personnel and equipment required to carry out the state's supervisory
2 and regulatory functions with respect to construction and operation
3 of the pipeline project; (E) provision of local impact information
4 and planning assistance for communities affected by the pipeline pro-
5 ject.

6 Sec. 44.55.115. LEGISLATIVE APPROVAL. The legislature shall
7 approve or disapprove the financial and Alaska impact plan and the sale
8 of refunding bonds by concurrent resolution. If the plan or the sale of
9 refunding bonds is not disapproved within 30 days after presentation to
10 the legislature, it is approved. The legislature may approve the plan
11 with conditions concerning matters included in the plan, and the condi-
12 tional approval becomes effective upon certification to the legislature
13 by the authority that the authority has accepted the conditions and
14 modified the plan in accordance. No bonds or notes may be issued or
15 sold until the approval required by this section has been obtained, and
16 no bonds or notes may be issued or sold except in accordance with the
17 approved plan. Amendments to the plan may be submitted before the
18 passage by the authority of the resolution authorizing the sale of bonds
19 and become effective upon approval by the legislature by concurrent
20 resolution.

21 Sec. 44.55.117. NOMINATION OF A MEMBER OF THE BOARD. Under sec.
22 10(10) of this chapter the governor shall nominate within 30 days of the
23 effective date of this Act an Alaskan resident who may sit on the Board
24 of Partners of the Alaskan Northwest Natural Gas Transportation Company
25 as an ex officio nonvoting member, subject to approval by the Board of
26 Partners.

27 Sec. 44.55.120. TRUST INDENTURES AND TRUST AGREEMENTS. In the
28 discretion of the authority, an issue of bonds may be secured by a trust
29 indenture or trust agreement between the authority and a corporate

1 trustee (which may be a trust company, bank, or national banking asso-
2 ciation, with corporate trust powers, located inside or outside the
3 state) or by a secured loan agreement or other instrument or under a
4 resolution giving powers to a corporate trustee by means of which the
5 authority may

6 (1) make and enter into all agreements with the trustee or
7 the holders of the bonds which the authority may determine to be neces-
8 sary or desirable;

9 (2) pledge, mortgage, or assign money, agreements, property
10 or other assets of the authority either presently in hand or to be
11 received in the future, or both; and

12 (3) provide for any other matters of like or different charac-
13 ter which may in any way affect the security or protection of the bonds.

14 Sec. 44.55.130. NONLIABILITY ON BONDS. Neither the members of the
15 authority nor a person executing the bonds is liable personally on the
16 bonds or subject to personal liability or accountability by reason of
17 the issuance of the bonds.

18 Sec. 44.55.140. PLEDGE OF THE STATE. The state pledges to agree
19 with the holders of bonds issued under this chapter that the state will
20 not limit or alter the rights and powers vested in the authority by this
21 chapter to fulfill the terms of any contract made by the authority with
22 those holders, or in any way impair the rights and remedies of those
23 holders until the principal amount of the bonds, together with interest
24 on them, with interest on unpaid installments of that interest, and all
25 costs and expenses in connection with any action or proceeding by or on
26 behalf of those holders, are fully met and discharged. The authority is
27 authorized to include this pledge and agreement of the state in a con-
28 tract with those holders.

29 Sec. 44.55.150. EXEMPTION FROM TAXATION. All property of the

1 authority is public property devoted to an essential public and govern-
2 mental function and is exempt from all taxes of the state or a political
3 subdivision of the state, including without limitation all boroughs,
4 cities, and unified municipalities. All bonds of the authority are
5 issued by a body corporate and politic of the state and for an essential
6 public and governmental purpose, and the bonds, the interest on them,
7 and the income and receipts pledged to pay or secure the payment of the
8 bonds or interest on them, are at all times exempt from taxation by or
9 under the authority of the state, except for inheritance and estate
10 taxes on transfers by or in contemplation of death. Nothing in this
11 section affects or limits an exemption from license fees, property
12 taxes, or excise, income or any other taxes, provided under any other
13 law, nor does it create a tax exemption with respect to the interest of
14 any business enterprise or other person, other than the authority, in
15 any property, assets, income, receipts, project, or lease, whether or
16 not financed under this chapter.

17 Sec. 44.55.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
18 bonds of the authority are securities in which all public officers and
19 bodies of the state and all municipalities and municipal subdivisions,
20 all insurance companies and associations and other persons carrying on
21 an insurance business, all banks, bankers, trust companies, savings
22 banks, savings associations, including savings and loan associations and
23 building and loan associations, investment companies, and other persons
24 carrying on a banking business, all administrators, guardians, execu-
25 tors, trustees and other fiduciaries, and all other persons or entities
26 who are, as of the effective date of this Act, or may hereafter be,
27 authorized to invest in bonds or other obligations of the state, may
28 properly and legally invest funds, including capital in their control or
29 belonging to them. Notwithstanding any other provisions of law, the

1 bonds of the authority are also securities which may be deposited with
2 and may be received by all public officers and bodies of this state and
3 all municipalities and municipal subdivisions for any purpose for which
4 the deposit of bonds or other obligations of the state is, as of the
5 effective date of this Act, or may hereafter be, authorized.

6 Sec. 44.55.170. REGULATIONS. The authority may adopt regulations
7 to implement the purposes of this chapter.

8 Sec. 44.55.180. ANNUAL AUDIT. The authority shall have its finan-
9 cial records audited annually by the legislative auditor or by a certi-
10 fied public accountant approved by the legislative auditor. The legis-
11 lative auditor may prescribe the form and content of the financial
12 records of the authority and is entitled to access to these records at
13 any time.

14 Sec. 44.55.190. ANNUAL REPORT. Before January 31 of each year,
15 the authority shall submit to the governor and the legislature a compre-
16 hensive report, in a form prescribed by the governor, describing opera-
17 tions, income, and expenditures for the preceding calendar year.

18 Sec. 44.55.200. DEFINITIONS. In this chapter

19 (1) "authority" means the Alaska Gas Pipeline Financing
20 Authority, established under this chapter;

21 (2) "bonds" means bonds, notes, or other evidences of indebt-
22 edness of the authority;

23 (3) "entire transmission system" means the gas transmission
24 pipeline (together with all related facilities) to extend from the
25 Prudhoe Bay area on the North Slope of Alaska into the contiguous United
26 States, substantially as described in the President's report entitled
27 "Decision and Report to Congress on the Alaska Natural Gas Transporta-
28 tion System", issued by the President on September 22, 1977, under
29 provisions of the Alaska Natural Gas Transportation Act of 1976, and

1 includes planning, design and construction of the pipeline and facili-
2 ties;

3 (4) "project" means the gas transmission pipeline (together
4 with all related property and facilities) to extend from the Prudhoe Bay
5 area on the North Slope of Alaska to a connection with the Trans-Canada
6 Pipeline on the Alaska-Canada border, substantially as described in the
7 President's report entitled "Decision and Report to Congress on the
8 Alaska Natural Gas Transportation System", issued by the President on
9 September 22, 1977, under provisions of the Alaska Natural Gas Trans-
10 portation Act of 1976, and includes planning, design, and construction
11 of the pipeline and facilities.

12 (5) "project sponsor" means any partner of the Alaskan North-
13 west Natural Gas Transportation Company or its successors;

14 (6) "Prudhoe Bay natural gas" means natural gas produced from
15 the Prudhoe Bay reservoir;

16 (7) "Prudhoe Bay oil" means oil produced from the Prudhoe Bay
17 reservoir;

18 (8) "Prudhoe Bay reservoir" means those areas defined in
19 Article 5.1 of the "Prudhoe Bay Unit Agreement" of April 1, 1977.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
21 070(c).