

Original sponsor: Rules Committee by
request of the Governor

Offered: 6/9/78
Referred: Rules

1 IN THE HOUSE

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

2 CS FOR HOUSE BILL NO. 943 (Royalty O&G)

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) if the state makes a 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 if the Congress
14 of the United States and federal regulatory agencies take favorable
15 action with respect to matters of Alaska natural gas policy, then timely
16 construction of the Alaska Highway Natural Gas Pipeline Project will be
17 in the best 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 revenues, 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 sponsors and the state
29 would be served by selecting a person who is knowledgeable with respect

1 to major corporate activities in the State of Alaska to serve on the
2 Board of Partners of the Alaskan Northwest Natural Gas Transportation
3 Company during inception, construction, and operation of the project;

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. Two members constitute a quorum. Action may be taken and
6 motions and resolutions adopted by the authority at a meeting by the
7 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 de-
27 scription 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 as well as

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 contracts with the state to guarantee that

19 (A) to the extent that qualified workers are available,
20 all workers employed for the construction, operation and mainte-
21 nance of the project will be drawn from the existing and resident
22 Alaska work force;

23 (B) to the extent qualified contractors or firms are
24 available, all vendor, material, labor and professional service
25 contracts and subcontracts for work to be performed within Alaska
26 will be awarded to existing resident Alaska contractors or firms;

27 (C) quarterly audits of the performance of the project
28 sponsors under (A) and (B) of this paragraph shall be conducted,
29 and the results of these audits transmitted to the legislature and

1 other interested state officials in a timely manner;

2 (8) the estimated number of Alaska workers who will be em-
3 ployed under the provisions of the contract described in (7)(A) of this
4 section, the estimated total number of workers to be employed on the
5 project during construction, the estimated dollar volume of contracts
6 which will be let to Alaska contractors or firms under the provisions of
7 the contract described in (7)(B) of this section, and the estimated
8 total dollar volume of contracts which will be let for the project
9 during construction;

10 (9) documentation that a minimum capital pool of debt and
11 equity funds equal to at least 150 per cent of the estimated project
12 cost has been committed to the project, in order to provide sufficient
13 capital to insure timely project completion;

14 (10) documentation that the project sponsors have supported
15 and, when appropriate, have filed the necessary documents and exhibits
16 before the appropriate federal or regulatory agencies to provide:

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

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

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

29 (D) that the minimum average wellhead price described in

1 (10)(B) of this section shall apply only to Prudhoe Bay natural
2 gas;

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

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

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

14 (12) the preliminary financial plan for the entire transmis-
15 sion system, as prepared for submission to the Federal Energy Regulatory
16 Commission;

17 (13) documentation that the partnership has entered into a
18 contract with the State of Alaska, approved by the appropriate federal
19 regulatory agencies, to pay for or reimburse the state for expenses
20 associated with the following state activities: (A) provision of in-
21 state off-take facilities at locations to be determined by the state;
22 (B) design and development of a computerized three-dimensional Prudhoe
23 Bay reservoir simulation model; (C) study and determination of the
24 state's bond capacity and bond rating, with respect to both the author-
25 ity bonds and potential state equity-related investment; (D) provision
26 of state personnel and equipment required to carry out the state's
27 supervisory and regulatory functions with respect to construction and
28 operation of the pipeline project; (E) provision of local impact infor-
29 mation and planning assistance for communities affected by the pipeline

1 project.

2 Sec. 44.55.115. LEGISLATIVE APPROVAL. Either house of the legis-
3 lature may disapprove the financial and Alaska impact plan and the sale
4 of refunding bonds by a simple resolution. If the plan or the sale of
5 refunding bonds is not conditionally approved by the legislature or
6 disapproved by either house within 30 days after presentation to the
7 legislature, it is approved. The legislature may by concurrent resolu-
8 tion approve the plan with conditions concerning matters included in the
9 plan, and the conditional approval becomes effective upon certification
10 to the legislature by the authority that the authority has accepted the
11 conditions and modified the plan in accordance. No bonds or notes may
12 be issued or sold until the approval required by this section has been
13 obtained, and no bonds or notes may be issued or sold except in accor-
14 dance with the approved plan. Amendments to the plan may be submitted
15 before the passage by the authority of the resolution authorizing the
16 sale of bonds and become effective upon approval by the legislature by
17 concurrent resolution.

18 Sec. 44.55.117. NOMINATION OF A MEMBER OF THE BOARD. The governor
19 shall nominate within 30 days of the effective date of this Act an
20 Alaskan resident to sit on the Board of Partners of the Alaskan North-
21 west Natural Gas Transportation Company as an ex officio nonvoting
22 member, subject to approval by the Board of Partners.

23 Sec. 44.55.120. TRUST INDENTURES AND TRUST AGREEMENTS. In the
24 discretion of the authority, an issue of bonds may be secured by a trust
25 indenture or trust agreement between the authority and a corporate
26 trustee (which may be a trust company, bank, or national banking asso-
27 ciation, with corporate trust powers, located inside or outside the
28 state) or by a secured loan agreement or other instrument or under a
29 resolution giving powers to a corporate trustee by means of which the

1 authority may

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

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

8 (3) provide for any other matters of like or different
9 character which may in any way affect the security or protection of the
10 bonds.

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

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

26 Sec. 44.55.150. EXEMPTION FROM TAXATION. All property of the
27 authority is public property devoted to an essential public and govern-
28 mental function and is exempt from all taxes of the state or a political
29 subdivision of the state, including without limitation all boroughs,

1 cities, and unified municipalities. All bonds of the authority are
2 issued by a body corporate and politic of the state and for an essential
3 public and governmental purpose, and the bonds, the interest on them,
4 and the income and receipts pledged to pay or secure the payment of the
5 bonds or interest on them, are at all times exempt from taxation by or
6 under the authority of the state, except for inheritance and estate
7 taxes on transfers by or in contemplation of death. Nothing in this
8 section affects or limits an exemption from license fees, property
9 taxes, or excise, income or any other taxes, provided under any other
10 law, nor does it create a tax exemption with respect to the interest of
11 any business enterprise or other person, other than the authority, in
12 any property, assets, income, receipts, project, or lease, whether or
13 not financed under this chapter.

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

1 the deposit of bonds or other obligations of the state is, as of the
2 effective date of this Act, or may hereafter be, authorized.

3 Sec. 44.55.170. REGULATIONS. The authority may adopt regulations
4 to implement the purposes of this chapter.
5 ~~cial records audited~~

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

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

16 Sec. 44.55.200. DEFINITIONS. In this chapter

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

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

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

(4) "project" means the gas transmission pipeline (together

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

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

11 (6) "Prudhoe Bay natural gas" means natural gas produced from
12 the Prudhoe Bay reservoir;

13 (7) "Prudhoe Bay oil" means oil produced from the Prudhoe Bay
14 reservoir;

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

17 * Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:

18 (21) employees of the Alaska Gas Pipeline Financing Authority.

19 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-

20 070(c).

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