Original sponsor: Rules Committee by request of the Governor

Offered: 6/3/78

IN THE SENATE

BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 603 (Rules) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

Sec. 44.55.010. LEGISLATIVE FINDINGS. The legislature finds that

(1) timely construction of the Alaska Highway Natural Gas Pipeline Project is in the best interest of the state and of the United States;

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

(3) the project is essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

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

(5) construction of the project is a matter of immediate statewide concern; there is no existing general law adequate for the purpose of assisting with financing of the project, as provided in this chapter;

(6) it is a public purpose of the State of Alaska to promote

early completion of the project through the creation of an instrumentality empowered to sell revenue bonds, the interest on which is exempt from federal income tax except when held by a substantial user or related person as these terms are defined in sec. 103 of the Internal Revenue Code of 1954 as amended, and to use the proceeds to purchase or otherwise acquire obligations issued with respect to the project;

(7) an amendment by Act of Congress to sec. 103 of the Internal Revenue Code of 1954 as amended is required if the authority is to be empowered to sell revenue bonds, the interest on which is exempt from federal income tax but the State of Alaska recognizes that enactment of this amendment is a matter of federal policy.

Sec. 44.55.020. CREATION OF AUTHORITY. There is created the Gas Pipeline Financing Authority. The authority is a public corporation of the state. It is an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. Exercise by the authority of the powers conferred by this chapter is an essential governmental function of the state.

Sec. 44.55.030. MEMBERSHIP. The membership of the authority consists of the commissioner of revenue, the commissioner of commerce and economic development, and the commissioner of natural resources. The commissioner of revenue is chairman of the authority. If a member is unable for any reason to attend a meeting of the authority, the member may, by a written instrument filed with the authority, designate a person within his department to act in the member's place at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting.

Sec. 44.55.040. OFFICERS AND QUORUM. The members may elect other officers as they consider desirable. Two members constitute a quorum. Action may be taken and motions and resolutions adopted by the authority

at a meeting by the affirmative vote of at least two members.

Sec. 44.55.050. COMPENSATION. The members of the authority are entitled to reimbursement from the authority for actual expenses incurred in the performance of their duties.

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

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

Sec. 44.55.080. PURPOSE OF AUTHORITY. The purpose of the authority is to assist in the financing of the project through the issuance of revenue bonds as provided in this chapter. No bonds may be sold by the authority until a binding commitment of not less than 50 per cent of all the financing required for construction and cost overrun for all segments of the pipeline has been obtained.

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

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

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

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

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

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

(8) to enter into contracts or agreements with respect to the exercise of its powers, and to do all things necessary or convenient to carry out its purpose and to exercise the powers granted in this chapter.

Sec. 44.55.100. BONDS OF THE AUTHORITY. (a) The authority may borrow money and issue revenue bonds, in one or more series, the interest on which is exempt from federal income tax except when held by a substantial user or related person as defined in sec. 103 of the Internal Revenue Code of 1954 as amended, up to the principal amount of $1,000,000,000 exclusive of refunding bonds and amounts required for fund reserves, capitalized interest, and costs of issuance of the bonds or notes. Bonds of the authority may be issued for the purpose of purchasing or otherwise acquiring any obligation issued with respect to the project in any form which is fixed and certain as to terms of repayment and for the establishment of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs of the authority incident to and necessary for issuance of bonds or notes. The principal and interest on the bonds are payable from the income and receipts or other money derived by the authority with respect to the project, except

to the extent payable out of money attributable to the proceeds of the sale of the bonds or out of income from the temporary investment of those proceeds.

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

(c) Bonds shall be authorized by resolution of the authority and shall be dated and mature as the resolution provides. Bonds shall bear interest at the rate or rates, be in the denominations but at least 50 per cent of the securities must be in denominations of $25,000 or greater be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution provides.

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

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

(f) The authority may enter into financing agreements necessary or desirable to secure the bonds. Before the issuance of bonds, the authority shall make provision by agreement with the owner or user of the project for payment by the owner or user of amounts at least sufficient in the judgment of the authority to pay the principal of and

interest on the bonds as they become due, to establish or maintain the reserves for payment, if any, as the authority considers necessary or desirable.

(g) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter. If sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of any refunding obligations, with any other available funds, to the payment of the principal (accrued interest and any redemption premium on the obligations being refunded, and if so provided or permitted in the authorization for issuance of the refunding obligations, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

Sec. 44.55.110. APPROVAL OF FINANCING PLAN. (a) The authority shall submit to the legislature during the first days of a legislative session a financing plan for the project. The plan must include the proposed methods and procedures by which the project will be financed including the amounts and times of issuance of bonds by the authority, the method of securing the bonds, projected debt service requirements of the bonds, and projected revenues for the period of time during which accurate projections can be made, which will be available to the authority to meet debt service requirements.

(b) The legislature may approve or disapprove the financing plan

by concurrent resolution. If, within 45 days from the date the financing plan is submitted to the legislature, (1) the legislature has not conditionally or unconditionally approved the plan and sent a resolution of approval to the Governor, or (2) neither house has finally disapproved the plan, then a concurrent resolution approving the plan shall be introduced by the House Rules Committee and a joint session shall be convened on the 45th day to consider the resolution. The concurrent resolution shall be the first item of business at the joint session. The vote on amendments to the resolution shall be tabulated separately for each house, and a majority of those voting from each house is necessary for adoption of an amendment to the resolution. A majority vote of the membership of each house is necessary for adoption of the resolution. The legislature may approve the plan with conditions concerning matters included in the financing plan, and the conditional approval becomes effective upon certification to the legislature by the authority that the authority has accepted the conditions and modified the plan in accordance. No bonds or notes may be issued or sold until the approval required by this section has been obtained, and no bonds or notes may be issued or sold except in accordance with the approved financing plan. Amendments to the financing plan may be submitted by the authority to the legislature and become effective upon approval by the legislature by concurrent resolution.

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

authority may

(1) make and enter into all agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable;

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

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

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

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

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

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

Sec. 44.55.160. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The bonds of the authority are securities in which all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons or entities who are, as of the effective date of this Act, or may hereafter be, authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them.

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

Sec. 44.55.180. ANNUAL AUDIT. The authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legis-

lative auditor may prescribe the form and content of the financial records of the authority and is entitled to access to these records at any time.

Sec. 44.55.190. ANNUAL REPORT. Before December 1 of each year, the authority shall submit to the governor and the legislature a comprehensive report, in a form prescribed by the governor, describing operations, income, and expenditures for the preceding 12-month period.

Sec. 44.55.200. DEFINITIONS. In this chapter

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

(2) "bonds" means bonds, notes, or other evidences of indebtedness of the authority;

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

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).