

Original sponsor: Rules/Governor

Offered: 5/19/81  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 434 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to pipelines and merging the Alaska  
7 Pipeline Commission with the Alaska Public Utilities  
8 Commission; and providing for an effective date."

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

10 \* Section 1. AS 31.15.050(1) is amended to read:

11 (1) "commission" means the Alaska Public Utilities [PIPELINE]  
12 Commission;

13 \* Sec. 2. AS 38.35.120(a)(5) is amended to read:

14 (5) it will provide connections, as determined by the Alaska  
15 Public Utilities [PIPELINE] Commission under AS 42.06.340, to facili-  
16 ties on the pipeline subject to the lease, both on state land and other  
17 land in the state, for the purpose of delivering crude oil or natural  
18 gas, depending on the kind of pipeline involved, to persons (including  
19 the state and its political subdivisions) contracting for the purchase  
20 at wholesale of crude oil or natural gas transported by the pipeline  
21 when required by the public interest;

22 \* Sec. 3. AS 38.35.120(a)(7) is amended to read:

23 (7) it will construct and operate the pipeline in accordance  
24 with applicable state laws and lawful regulations and orders of the  
25 Alaska Public Utilities [PIPELINE] Commission;

26 \* Sec. 4. AS 39.25.120(10) is amended to read:

27 (10) the executive director, [AND] deputy director, hearing  
28 officers, and administrative law judges of the Alaska Public Utilities  
29 Commission;

1 \* Sec. 5. AS 42.05.121(a) is amended to read:

2 (a) The commission may employ an executive director who shall  
3 have had at least five years of experience in public utility management  
4 or regulation, law, accounting, engineering, or an allied field. The  
5 executive director is responsible for directing the administrative  
6 functions of the commission and carrying out the policies as set by the  
7 commission. The commission may employ engineers, hearing officers,  
8 administrative law judges to the extent provided by AS 42.05.121(c),  
9 experts, clerks, accountants, and other agents and assistants it  
10 considers necessary. Employees [THE EXECUTIVE DIRECTOR AND HIS DEPUTY  
11 ARE IN THE PARTIALLY EXEMPT SERVICE UNDER AS 39.25.120. ALL OTHER  
12 EMPLOYEES] and agents of the commission who are not partially exempt  
13 under AS 39.25.120, other than legal counsel, are in the classified  
14 service under AS 39.25.100.

15 \* Sec. 6. AS 42.05.121 is amended by adding a new subsection to read:

16 (c) The commission may assign a qualified, unbiased, and impartial  
17 administrative law judge, with experience in the general practice of  
18 law, to conduct hearings under AS 42.05 and AS 42.06. The administra-  
19 tive law judge may perform other duties in connection with the adminis-  
20 tration of AS 42.05 and AS 42.06 and other laws. An administrative law  
21 judge hired to conduct hearings under AS 42.05 shall have been admitted  
22 to practice law for at least five years immediately before his appoint-  
23 ment.

24 \* Sec. 7. AS 42.05.171 is amended to read:

25 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the  
26 commission has power to hold may be held by or before three or more  
27 commissioners, a hearing officer, or an administrative law judge desig-  
28 nated for the purpose by the commission. The testimony and evidence in  
29 a formal hearing may be taken by the commissioners, by the hearing

1 officer, or by the administrative law judge to whom the hearing has  
2 been assigned. A commissioner who has not heard or read the testimony,  
3 including the argument, may not participate in making a decision of the  
4 commission. In determining the place of a hearing the commission shall  
5 give preference to holding the hearing at a place most convenient for  
6 those interested in the subject of the hearing.

7 \* Sec. 8. AS 42.06.150 is amended to read:

8 CHAPTER 06. [ALASKA] PIPELINE [COMMISSION] ACT.

9 Sec. 42.06.150. POWERS AND DUTIES WITH RESPECT TO FEDERALLY REGU-  
10 LATED CARRIERS. AS 42.06.140 applies to oil and gas pipeline carriers  
11 regulated under federal law [THE INTERSTATE COMMERCE ACT OF 1906, OR  
12 THE NATURAL GAS ACT OF 1938,] only to the extent not preempted by  
13 [UNDER THOSE] federal law [ACTS].

14 \* Sec. 9. AS 42.06.230 is amended to read:

15 Sec. 42.06.230. JURISDICTION OF COMMISSION. Except [AS OTHERWISE  
16 PROVIDED IN THIS CHAPTER OR HEREAFTER OTHERWISE EXPRESSLY PROVIDED BY  
17 LAW, EXCEPT AS TO ANY CONCURRENT JURISDICTION WITH THE ALASKA PUBLIC  
18 UTILITIES COMMISSION UNDER AS 42.05 AS TO A PUBLIC UTILITY DESCRIBED IN  
19 AS 42.05.701(2)(D) AND (E), AND EXCEPT] as to jurisdiction of the  
20 Department of Law as provided by AS 42.06.140(10), the jurisdiction and  
21 authority over the subject matter of this chapter is exclusively in the  
22 commission. To the extent that the performance of any duties of the  
23 commission affects [AFFECT] a pipeline carrier or a pipeline subject to  
24 regulation under federal law [THE INTERSTATE COMMERCE ACT OR THE  
25 NATURAL GAS ACT], the performance of its duties shall not, as to that  
26 pipeline carrier or pipeline, conflict with applicable federal laws,  
27 regulations, rules, orders, or other requirements.

28 \* Sec. 10. AS 42.06.240(e) is amended to read:

29 (e) The requirement for a certificate does [SHALL] not operate to

1 impose state regulation which has been preempted under federal law [THE  
2 INTERSTATE COMMERCE ACT OF 1906 OR THE NATURAL GAS ACT OF 1938]. When  
3 federal law has preempted state regulation the commission shall accept  
4 the findings made under the federal scheme of regulation.

5 \* Sec. 11. AS 42.06.245 is amended to read:

6 Sec. 42.06.245. FEDERALLY REGULATED CARRIERS. The requirements  
7 of this chapter pertaining to permits and certificates of public con-  
8 venience and necessity do not apply to the construction of a pipeline  
9 facility exclusively subject to federal [THE] jurisdiction [OF THE  
10 INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT] or to the interstate  
11 portion of the business of a pipeline or pipeline carrier exclusively  
12 subject to federal [THE] jurisdiction [OF THE INTERSTATE COMMERCE ACT  
13 OR THE NATURAL GAS ACT]; however, the requirements of this chapter for  
14 permits and certificates of public convenience and necessity do apply  
15 to all the intrastate portion of the business of a pipeline or pipeline  
16 carrier subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT  
17 AND THE NATURAL GAS ACT] whenever they engage in intrastate commerce;  
18 [PROVIDED,] however, nothing limits the powers of the commission set  
19 out in this chapter except to the extent they are preempted by federal  
20 law [THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT].

21 \* Sec. 12. AS 42.06.510 is amended to read:

22 Sec. 42.06.510. PUBLIC RECORDS. The records, including the facts  
23 and information in them, of and in the possession of the commission,  
24 except records which by law or by regulation of the commission are  
25 designated to be a nonpublic or privileged nature, are public records  
26 open to public inspection at reasonable times; however, a document  
27 filed with the commission and relating to the finances or operations of  
28 a pipeline subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT  
29 OR THE NATURAL GAS ACT] and which is [BEING] in addition to or other

1 than copies of documents required to be filed with the appropriate  
2 federal agency, shall be open to inspection only by appropriate  
3 officers and officials of the state for relevant purposes of the state.  
4 A person may make written objections to the public disclosure of any  
5 information filed with or obtained by the commission under the provi-  
6 sions of this chapter, stating the grounds for the objection; when an  
7 objection is made, the commission shall order the information withheld  
8 from public disclosure if in the judgment of the commission the infor-  
9 mation could adversely affect the interest of that person and is not  
10 required in the interest of the public. Any commissioner, and the  
11 executive director, may certify as to all official acts and records of  
12 the commission.

13 \* Sec. 13. AS 42.06.630(1) is amended to read:

14 (1) "commission" means the Alaska Public Utilities [PIPE-  
15 LINE] Commission;

16 \* Sec. 14. AS 42.06.630(6) is amended to read:

17 (6) "municipality" means a home rule or general law borough  
18 or city, including a municipality unified under AS 29.68 [AN ORGANIZED  
19 BOROUGH OR INCORPORATED CITY];

20 \* Sec. 15. AS 42.06.640 is amended to read:

21 Sec. 42.06.640. SHORT TITLE. This chapter may be cited as the  
22 [ALASKA] Pipeline [COMMISSION] Act.

23 \* Sec. 16. AS 43.56.210(6)(B)(iii) is amended to read:

24 (iii) oil and gas pipeline systems owned and operated  
25 by a [CERTIFICATED] public utility which is certificated un-  
26 der AS 42.05.221 and is regulated by the Alaska Public Utili-  
27 ties Commission; and

28 \* Sec. 17. TRANSITION. (a) All orders, determinations, regulations,  
29 contracts, certificates, decisions, and privileges which have been issued,

1 made, adopted, granted, or allowed to become effective by the Alaska Pipe-  
2 line Commission or by a court of competent jurisdiction, in the performance  
3 of functions or in the conduct of proceedings which are transferred by this  
4 Act, continue in effect according to their terms until modified, terminated,  
5 superseded, set aside, or revoked in accordance with law by the Alaska  
6 Public Utilities Commission or other authorized officials, a court of com-  
7 petent jurisdiction, or by operation of law.

8 (b) The provisions of this Act do not affect a tariff proceeding or an  
9 application for a certificate which is pending before the Alaska Pipeline  
10 Commission on the effective date of this Act, but these proceedings and the  
11 processing of applications continue under the Alaska Public Utilities  
12 Commission. Orders shall be issued in these proceedings, and appeals may be  
13 taken from them, as if this Act had not been enacted; and orders issued in  
14 these proceedings continue in effect until modified, terminated, superseded,  
15 or revoked by an authorized official, or by a court of competent jurisdic-  
16 tion or by operation of law. Nothing in this subsection prohibits the  
17 discontinuance or modification of these proceedings under the same terms and  
18 conditions and to the same extent that these proceedings could have been  
19 discontinued or modified if this Act had not been enacted.

20 (c) The Alaska Public Utilities Commission, with the advice of the  
21 Alaska Pipeline Commission, shall provide for the orderly transfer of pro-  
22 ceedings from the Alaska Pipeline Commission to the Alaska Public Utilities  
23 Commission.

24 (d) Except as provided in this subsection, the personnel employed in  
25 connection with, and the personnel positions, assets, liabilities, contracts,  
26 property, records, and unexpended balances of appropriations, authorizations,  
27 allocations, and other funds employed, held, used, arising from, available  
28 to or to be made available with, the functions and programs transferred by  
29 this Act are transferred from the Alaska Pipeline Commission to the Alaska

1 Public Utilities Commission for appropriate allocation in accordance with  
2 law. The positions of commissioner and of executive director of the Alaska  
3 Pipeline Commission are abolished.

4 \* Sec. 18. REFERENCES TO PIPELINE COMMISSION. All other references in  
5 the Alaska Statutes to the Alaska Pipeline Commission, or to the commis-  
6 sioners of the Alaska Pipeline Commission, not expressly amended by or  
7 referred to in this Act shall be read as the Alaska Public Utilities Commis-  
8 sion, or the commissioners of the Alaska Public Utilities Commission, re-  
9 spectively, in order to implement this Act.

10 \* Sec. 19. AS 39.50.200(b)(22); AS 42.06.010 - 42.06.120, 42.06.160 -  
11 42.06.200, 42.06.490 - 42.06.500, 42.06.630(5) and (7); AS 44.62.330(a)(37);  
12 and AS 44.66.010(a)(5) are repealed.

13 \* Sec. 20. Sections 1 - 16, 17(a), (b), and (d), 18 and 19 of this Act  
14 take effect July 1, 1981.

15 \* Sec. 21. Section 17(c) of this Act takes effect immediately in accord-  
16 ance with AS 01.10.070(c).

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