

**HB**

**16**

# ALASKA STATE LEGISLATURE

## House of Representatives

Representative Hugh (Bud) Fate

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Chair Resources  
Member:  
*Military & Veterans Affairs*  
*Oil & Gas*  
*Transportation*

### Sponsor Statement

#### CS for House Bill 16

**“An Act amending the standards applicable to determining whether, for purposes of the Alaska Stranded Gas Development Act, a proposed new investment constitutes a qualified project, and repealing the deadlines for applications relating to the development of contracts for payments in lieu of taxes and for royalty adjustments that may be submitted for consideration under that Act; and providing for an effective date.”**

House Bill 16 is cleanup language for the qualification and application procedures the Commissioners of Natural Resources, Revenue, or Labor and Workforce Development may use when considering a project involving natural gas. The changes update the language in order to allow continued interest in the development of the resource. By expanding the areas of potential gas exploration and development that fall under the Act.

Presently, statute only allows for natural gas projects if the product is to be exported in a liquefied form. HB 16 resolves this limitation, by expanding gas development and transportation in any form. Likewise, it will assure that Alaskan Companies, interested in pipeline projects may participate through equity interest.

When the Alaska Stranded Gas Development Act was passed, the language included an application deadline of June 30, 2001. HB 16 eliminates that deadline so the state and producers can resume contract negotiations with a clear understanding that the goal is the development of Alaska's natural gas for both foreign and domestic markets.



# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 16  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title Stranded Gas BRU Administration and Support  
Development Act Amendments Component Commissioner's Office  
Sponsor Representatives Fate and Whitaker  
Requester House Oil and Gas Committee Component No. 123

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	89.5	89.5				
Travel	25.0	25.0				
Contractual	150.0	200.0				
Supplies	2.0	2.0				
Equipment	5.0	1.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>271.5</b>	<b>317.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	121.5	117.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutorily Designated Receipts	150.0	200.0				
<b>TOTAL</b>	<b>271.5</b>	<b>317.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time	1	1				
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached analysis.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469  
Division: Department of Revenue Date/Time 2/5/03 2:59 PM  
Approved by: Larry Persily, Deputy Commissioner Date 2/5/2003  
Agency: Department of Revenue

## FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. HB 16

### ANALYSIS CONTINUATION

#### BILL DISCUSSION

The intent of the Stranded Gas Development Act, AS 43.82, is to provide a mechanism for achieving the fiscal certainty that potential project sponsors say they need before proceeding with the large investment needed to bring Alaska North Slope natural gas to market. The Act allows the state to negotiate a contract for payments in lieu of taxes with a project sponsor. This contract could cover all state and municipal taxes and royalties on a project, including state corporate income taxes, production taxes, royalties, state and municipal property taxes, and any special municipal assessments.

This bill (House Bill 16) would amend the 1998 Stranded Gas Development Act to:

- Expand the Act to include a natural gas pipeline to serve mid-America as an eligible project under the law. The existing statute limits the application of the Act to only liquefied natural gas projects. This change would allow sponsors of either an LNG project and/or a natural gas pipeline to mid-America to apply to the state under the provisions of the Act to negotiate a contract for payments in lieu of taxes. This amendment also would limit eligible applicants under the Act to only a natural gas pipeline to mid-America that would parallel the Trans-Alaska Pipeline System and the Alaska Highway, thereby eliminating from inclusion in the Act the so-called "over-the-top" route.
- Eliminate the June 30, 2001 deadline in existing statute for project applications. This legislation does not introduce a new deadline, but rather simply eliminates any deadline in statute.
- Add a requirement that only those projects producing gas from north 64 degrees north latitude (roughly Delta Junction) would qualify for the provisions of the Act.

#### OPERATING EXPENSES

The Act allows the Department of Revenue under AS 43.82.240 to recover from a project applicant the costs of contracting with an independent consultant to assist the state in evaluating applications submitted under the Act and in developing contract terms. Those statutorily designated program receipts are shown above.

The Act does not allow the state to seek reimbursement from a project applicant for any other costs. The department would hire a project manager for the estimated two years of contract development, negotiations and approval, and the personnel services, travel and equipment expenses for that position and other commissioner's office expenses are shown in the fiscal note as General Fund money.

The above costs are essentially the same as the Legislature approved for the Department of Revenue in passing the 1998 Stranded Gas Act.

## The Stranded Gas Development Act

The Stranded Gas Development Act, AS 43.82, was passed into law by the Alaska Legislature in 1998. During the session it was House Bill 393. The application deadline for a project application under the Act was June 30, 2001. There were no applications by that date. Legislative action is required to reopen the option for a gas project developer. Such a reopener failed to win legislative approval last session, and has been introduced again this year as HB 16, sponsored by Representatives Fate and Whitaker.

The Act's genesis was in HB 250, which in 1997 established a North Slope Gas Commercialization Team in the administration to research and recommend changes to state law to encourage commercialization of North Slope gas. The team issued a report to the Governor in February 1998. The team's conclusions were that the project faced considerable risk, namely construction cost risk and gas price risk, and the state's fiscal system exacerbated those risks. Three of the risks of particular concern were fiscal uncertainty, the state's regressive tax system, and the front-end aspects of the fiscal system. We will discuss these in turn.

Given the high cost of the project, coupled with the volatility of gas prices, the project is financially risky. Given that the project is marginal under the current fiscal system, there is concern among potential project sponsors that if a project is started, the state could later modify the fiscal terms after the project had been built, changing its overall attractiveness to investors after they had invested. This is the fiscal uncertainty risk.

Second, there are two significant elements of the state's fiscal system that make it regressive. Regressivity means that the state's take in terms of share of the profits is high at low prices and low at high prices. Regressive systems exacerbate the risk of low prices to the project developers. First, the property tax is based on cost of the asset. The higher the cost, the higher the tax. Second, the basis of value for the severance tax and royalty is at the wellhead and does not consider capital and operating costs. Thus when capital and operating costs are high, and prices are low, the state's take is a high percentage of the low profits. (Regressive systems also reduce what the state's take could be at high prices, which means the state loses out on a greater slice of revenues during high prices and high profits.)

Third, the property tax makes for a front-end loaded system. The property tax is payable when construction begins, which could be several years before revenues start accruing. On a time value of money basis, this diminishes the rate of return on the project and exacerbates the risk of not recovering the investment.

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Department of Revenue

After the team issued its report to the Governor, it worked with the major Prudhoe Bay producers to develop legislation to deal with these risks. The producers at the time had been studying commercializing gas through an LNG project to tidewater. The result was HB 393.

The law provided a mechanism for converting the state's fiscal system from a statutory basis to a contractual basis. This would provide for greater fiscal certainty. The fiscal system would be negotiated between the administration and the project sponsors and approved by the Legislature. And per the Act the contract terms could provide for a more progressive (less regressive) system.

The process for developing the contract was as follows: A sponsor would submit a project plan and application to the administration for contract negotiation. The project had to produce 500 billion cubic feet within 20 years and be an LNG export project. (The original bill called for any project. It was changed to only LNG during the legislative process.)

The sponsor group would negotiate fiscal terms with the state. Payments to the state would be made in-lieu of taxes. Fiscal terms would be customized to the specific project structure. The term of the contract could not exceed 35 years.

The commissioner of Revenue would be the primary agent for negotiating and implementing the contract. However, the commissioner of Natural Resources is also responsible for reviewing the project plan for acceptability, and for negotiating changes in royalty terms, if any.

The law allowed the commissioner of Revenue to use independent contractors to assist in the evaluation of any project application, and to condition the contract on an agreement with the project applicant that it would fully reimburse the state for the cost of the contractors retained for the state's analysis. The fiscal note for the legislation authorized the Department of Revenue to collect and expend those application fees to cover its contractor costs. The Legislature also approved General Fund money for the Department of Revenue to hire a full-time project coordinator for two years to help manage the application review and negotiations. That position was never filled because there was no project application.

In addition to replacing state oil and gas production taxes and corporate income taxes with a contract for payments, the Act also allowed the Revenue commissioner to include municipal sales taxes, municipal special assessments, state and municipal property taxes and any other state or municipal taxes in the negotiations. The intent was to wrap up as much as possible into the contract for payments in lieu of taxes.

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Once a contract was developed, preliminary findings would be submitted to the governor. If the governor chose to proceed the preliminary findings would be given to the Legislature and the public. There would be a 30-day public review period.

After the review, the commissioner of Revenue would modify the contractual terms as appropriate and if acceptable to the sponsors. The final contract would be submitted to the governor. The governor would transmit the contract to the legislature with a request for authorization to execute the contract. Finally, the legislature would vote on it.

There was great concern by local municipalities that a contract could compromise the property tax revenues they might receive, especially given the concerns about the property tax discussed above. Accordingly, the Act requires that a portion of the payments due under the contract is paid to affected municipalities. Also, the law created a municipal advisory group to participate in developing contract terms.

The law also has provisions intended to help make gas available to communities, to promote local hire, and to deal with confidential information provided by the sponsors.

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 16  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title Stranded Gas Development Act Amend. BRU Oil and Gas Development  
Component Oil and Gas Development  
Sponsor Fate  
Requester House Oil and Gas Component No. 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel	10.0	10.0				
Contractual	289.0	289.0				
Supplies	1.0	1.0				
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>300.0</b>	<b>300.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	300.0	300.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>300.0</b>	<b>300.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would authorize the executive branch to negotiate a contract with sponsors of proposed projects to develop stranded gas in Alaska. The payments required by the contract would replace some or all of the state royalties and taxes and municipal taxes that would otherwise pertain to major economic activity engendered by the project.

Given the extended time frame to develop and market the large volumes of stranded gas, revenue impacts expected as a result of the bill are outside the time horizon of this fiscal note.

Under AS 43.82.220, the state is responsible for evaluating and negotiating contract terms relating to royalties.

Prepared by: Mark D. Myers Phone 269-8800  
Division Oil and Gas Date/Time 2/5/03 11:12 AM  
Approved by: Tom Irwin Date 2/5/2003  
Agency Natural Resources

FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. HB 16

ANALYSIS CONTINUATION

Pursuant to these responsibilities, DNR is requesting a total of \$600,000 over a two-year period.

The line item breakdown for the two years is as follows:

Contractual:

\$550,000 is to fund contractual services and advice from experts in technical, fiscal, regulatory, contract negotiation, legal, and financial areas. These technical, evaluative, and negotiation services would be required to assist the state in substantive and complex contract development and negotiation, potentially with multiple sponsors. The state does not have all of this expertise in-house. \$75,000 of these costs will be incurred in preparation for the application process regardless of whether there are applicants.

As per the proposed bill, contract applications are not time-limited. Expenditures for contractual services, therefore, may be necessary any time. Furthermore, one North Slope producer has estimated that contract development and negotiations will take two years. Since there is no way of knowing now specifically when expenditures would be required, it may be beneficial to treat this \$550,000 as a continuing appropriation.

The proposed legislation allows reimbursement of the state by the applicant for the expenses of independent contractors used to assist in the evaluation of an application. Consequently, some or all of these expenditures may be recouped.

\$28.0 is for miscellaneous contractual expenditures such as purchase of technical reports and conference participation.

Other:

\$20.0 to fund the travel for negotiations, and \$2.0 for miscellaneous supplies.

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 16  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title Stranded Oil & Gas Development Act BRU Regulatory Commission of Alaska (399)  
Amendments Component Regulatory Commission of Alaska  
Sponsor Representative Fate  
Requester House Oil & Gas Component No. 2417

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill has no fiscal impact on this agency.

Prepared by: G. Nanette Thompson, Chair Phone 907-276-6222  
Division Regulatory Commission of Alaska Date/Time 2/5/03 6:00 PM  
Approved by: Edgar Blatchford, Commissioner Date 2/5/2003  
Agency Department of Community & Economic Development