

SB

2002

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 5/31/06

FURTHER:

Today's Calendar

Date of 5-Day Notice: ^{5/31} Special session - 24 hr
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 6/2/06

Judiciary Committee considered SENATE BILL NO. 2002

SB 2002 GAS PIPELINE CONTRACT JURISDICTION

"An Act conferring original jurisdiction on the Alaska Supreme Court for the purpose of providing judicial review of a contract executed under the Alaska Stranded Gas Development Act, and setting the time in which a contract developed under that Act, or a statute of limitations regarding that contract, must be legally challenged; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 2002 (JUD)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	5/9/06			✓	
DNR	7/15/06			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
French	<i>[Signature]</i>			X	
Therriault	<i>[Signature]</i>			X	
Huggins	<i>[Signature]</i>			X	
CHAIR:	<i>Ralph Deekin</i>	✓			

French
Therriault
Huggins

Seelkins

**Judiciary
Committee**

Friday
June 2, 2006
8:30 AM

**Putrovich Room
#205**

1

SB 2002

**Gas Pipeline Contract:
Court Jurisdiction**

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 2002
 (S) Publish Date: 5/31/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title SGDA Original Jurisdiction RDU Administration and Support
 Component Commissioner's Office
 Sponsor Rules Committee
 Requester Governor Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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						
1005 GF/Program Receipts						
Bond Proceeds						
Bond Bank Investment Earnings						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill confers original jurisdiction on the Alaska Supreme Court for the purpose of providing judicial review of a contract executed under the Alaska Stranded Gas Development Act and sets the limits for challenges to that contract. Passage of this bill will reduce any period of uncertainty after a contract is finalized, thus allowing the gasline project to proceed in a timely manner.

Prepared by: Jerry Burnett Phone 465-2312
 Division Administrative Services Date/Time 5/9/06 12:00 AM
 Approved Steve Porter Date 5/9/2006
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 2002
 (S) Publish Date: 5/31/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Court Review of Stranded Gas Contract RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rules by Request of the Governor
 Requester Governor Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact for DNR associated with implementation of this bill.

Prepared by: William Van Dyke, Acting Director
 Division: Oil and Gas
 Approved by: Michael Menge, Commissioner
 Agency: Natural Resources

Phone 269-8800
 Date/Time 5/15/2006
 Date 5/15/2006

CS FOR SENATE BILL NO. 316(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/29/06

Referred: Rules

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act amending provisions of the Alaska Stranded Gas Development Act relating to
2 establishing when records and files relevant to development of a contract for payments
3 in lieu of taxes and for the other purposes described in that Act become public records,
4 to the content of the preliminary and final findings and determinations that apply to a
5 proposed contract negotiated under that Act, to legislative review of, and authorization
6 to execute, a proposed contract negotiated under that Act, to vesting of rights under a
7 contract negotiated under that Act, and to judicial review of the final findings and
8 recommendation that support a proposed contract, of its authorization, and of its
9 enforceability; extending to at least 60 days the period during which the public and
10 members of the legislature may comment on a proposed contract under that Act; and
11 providing for an effective date."

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

1 * Section 1. AS 43.82.310(f) is amended to read:

2 (f) If the commissioner of revenue chooses to develop a contract under
3 AS 43.82.020, the portions of the records and files of the Department of Revenue, the
4 Department of Natural Resources, the Department of Law, and a municipal advisory
5 group established under AS 43.82.510 that reflect, incorporate, or analyze information
6 that is relevant to the development of the position or strategy of the commissioner of
7 revenue, the commissioner of natural resources, or the attorney general with respect to
8 a particular provision that may be incorporated into the contract are [NOT] public
9 records after [UNTIL] the commissioner of revenue gives public notice under
10 AS 43.82.410 of the commissioner's preliminary findings and determination under
11 AS 43.82.400. Nothing in this subsection

12 (1) makes a record or file of the Department of Revenue, the
13 Department of Natural Resources, or the Department of Law a public record that
14 otherwise would not be a public record under AS 40.25.100 - 40.25.220;

15 (2) affects the confidentiality provisions of (a) - (e) of this section; or

16 (3) abridges a privilege recognized under the laws of this state,
17 whether at common law or by statute or by court rule.

18 * Sec. 2 AS 43.82.400(a) is amended to read:

19 (a) If the commissioner develops a proposed contract under AS 43.82.200 -
20 43.82.270, the commissioner shall

21 (1) make preliminary findings and a determination that the proposed
22 contract terms are in the long-term fiscal interests of the state and whether the
23 contract meets the requirements and [FURTHER THE] purposes of this chapter;
24 and

25 (2) prepare a proposed contract that includes those terms and shall
26 submit the contract to the governor.

27 * Sec. 3. AS 43.82.410 is amended to read:

28 **Sec. 43.82.410. Notice and comment regarding the contract.** The
29 commissioner shall

30 (1) give reasonable public notice of the preliminary findings and
31 determination made under AS 43.82.400;

1 (2) make copies of the proposed contract, the commissioner's
2 preliminary findings and determination, and, to the extent the information is not
3 required to be kept confidential under AS 43.82.310, the supporting financial,
4 technical, and market data, including the work papers, analyses, and recommendations
5 of any independent contractors used under AS 43.82.240 available to the public and to

6 (A) the presiding officer of each house of the legislature;

7 (B) the chairs of the finance and resources committees of the
8 legislature; and

9 (C) the chairs of the special committees on oil and gas, if any,
10 of the legislature;

11 (3) offer to appear before the Legislative Budget and Audit Committee
12 to provide the committee a review of the commissioner's preliminary findings and
13 determination, the proposed contract, and the supporting financial, technical, and
14 market data; if the Legislative Budget and Audit Committee accepts the
15 commissioner's offer, the committee shall give notice of the committee's meeting to
16 the public and all members of the legislature; if the financial, technical, and market
17 data that is to be provided must be kept confidential under AS 43.82.310, the
18 commissioner may not release the confidential information during a public portion of
19 a committee meeting; and

20 (4) establish a period of at least 60 [30] days for the public and
21 members of the legislature to comment on the proposed contract and the preliminary
22 findings and determination made under AS 43.82.400.

23 * Sec. 4. AS 43.82.430(a) is amended to read:

24 (a) Within 30 days after the close of the public comment period under
25 AS 43.82.410(4), the commissioner of revenue shall

26 (1) prepare a summary of the public comments received in response to
27 the proposed contract and the preliminary findings and determination;

28 (2) after consultation with the commissioner of natural resources, if
29 appropriate, and with the pertinent municipal advisory group established under
30 AS 43.82.510, prepare a list of proposed amendments, if any, to the proposed contract
31 that the commissioner of revenue determines are necessary to respond to public

1 comments;

2 (3) make final findings and a determination as to whether the proposed
3 contract and any proposed amendments prepared under (2) of this subsection meet the
4 requirements and purposes of this chapter and findings and determination that the
5 proposed contract is in the long-term fiscal interests of the state.

6 * Sec. 5. AS 43.82.430(b) is amended to read:

7 (b) After considering the material described in (a) of this section and securing
8 the agreement of the other parties to the proposed contract regarding any proposed
9 amendments prepared under (a) of this section, and after [IF] the commissioner
10 determines that the contract is in the long-term fiscal interests of the state, the
11 commissioner shall submit the contract to the governor.

12 * Sec. 6. AS 43.82.435 is repealed and reenacted to read:

13 **Sec. 43.82.435. Legislative authorization.** (a) The governor may transmit a
14 contract developed under this chapter to the legislature together with a request for
15 authorization to execute the contract.

16 (b) Concurrent with transmittal of the contract and request for authorization
17 under (a) of this section, the governor shall

18 (1) submit to the legislature the commissioner's final findings and
19 determination and the financial, technical, and market data, including the work papers,
20 analyses, and recommendations of any independent contractors used under
21 AS 43.82.240, that were considered by the commissioner to make the findings and
22 determination and

23 (2) make available to the public copies of the proposed contract and, to
24 the extent a record or information is not required to be kept confidential under
25 AS 43.82.310, the material described in (1) of this subsection.

26 (c) After considering the material described in (b)(1) of this section and other
27 information that the legislature considers relevant that it has requested from the
28 governor and state agencies and received, the legislature may, by law, authorize the
29 state to execute the contract transmitted by the governor.

30 (d) A contract developed under this chapter is not binding on or enforceable
31 against the state or other parties to the contract unless the governor is authorized to

1 execute the contract by law.

2 (e) The state and the other parties to the contract may execute the contract
3 within 60 days after the effective date of the law authorizing the contract.

4 * Sec. 7. AS 43.82.440 is amended to read:

5 Sec. 43.82.440. Judicial review; delayed vesting of rights in contracts.
6 Notwithstanding any other provision of law, a [A] person may not bring an action
7 challenging a final agency decision of the commissioner of revenue made under
8 AS 43.82.430(c), the constitutionality of a law authorizing a contract enacted under
9 AS 43.82.435, or the enforceability of a contract executed under a law authorizing a
10 contract enacted under this chapter until that contract has been executed and
11 [AS 43.82.435] unless the action is commenced within 120 days after the date that the
12 contract was executed by the state and the other parties to the contract.

13 * Sec. 8. AS 43.82.440 is amended by adding a new subsection to read:

14 (b) Rights under a contract entered into under this chapter may not vest until
15 the day after the deadline to bring an action under (a) of this section.

16 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Alaska Statutes

Sec. 02.25.110. Definitions.

In this chapter, unless the context otherwise requires,

(1) "airport" means an area of land or water designed for the landing and taking-off of aircraft and used or to be used as a point of arrival or departure by air;

(2) "airport hazard" means anything that may obstruct or interfere with the navigation or operation of aircraft on or in the vicinity of an airport, including man-made structures of all kinds, trees and other natural growths, lights or beacons, and electrical or electronic devices emitting signals capable of disrupting radio communication;

(3) "airport hazard area" means an area in the vicinity of an airport in which a hazard to the operation of aircraft might be situated, and that may be designated as such by the department;

(4) "department" means the Department of Transportation and Public Facilities;

(5) "person" means an individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or similar representative;

(6) "structure" means an object constructed or installed by man, including buildings, towers, smokestacks, and overhead transmission lines;

(7) "tree" means any object of natural growth.

Sec. 02.25.120. Short title.

This chapter may be cited as the Airport Zoning Act.

Chapter 02.30. OPERATION OF AIRCRAFT

Sec. 02.30.010. Two-way radios required. [Repealed, Sec. 14 ch 56 SLA 2001].

Repealed or Renumbered

Sec. 02.30.020. Unauthorized operation. [Repealed, Sec. 21 ch 166 SLA 1978. For current law, see AS 11.46.484].

Repealed or Renumbered

Sec. 02.30.030. Reckless operation.

(a) A person may not operate an aircraft in the air or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In a proceeding charging careless or reckless operation of aircraft in violation of this section, the court, in determining whether the operation was careless or reckless, shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

AMENDMENT

OFFERED IN THE SENATE
TO: SB 2002

BY SENATOR THERRIAULT

1 Page 1, line 3, following "Development Act,":

2 Insert "extending to 90 days the period during which the public and members of
3 the legislature may comment on a proposed contract under that Act,"

4

5 Page 1, following line 6:

6 Insert a new bill section to read:

7 **"* Section 1.** AS 43.82.410 is amended to read:

8 **Sec. 43.82.410. Notice and comment regarding the contract.** The
9 commissioner shall

10 (1) give reasonable public notice of the preliminary findings and
11 determination made under AS 43.82.400:

12 (2) make copies of the proposed contract, the commissioner's
13 preliminary findings and determination, and, to the extent the information is not
14 required to be kept confidential under AS 43.82.310, the supporting financial,
15 technical, and market data, including the work papers, analyses, and recommendations
16 of any independent contractors used under AS 43.82.240 available to the public and to

17 (A) the presiding officer of each house of the legislature;

18 (B) the chairs of the finance and resources committees of the
19 legislature; and

20 (C) the chairs of the special committees on oil and gas, if any,
21 of the legislature;

22 (3) offer to appear before the Legislative Budget and Audit Committee
23 to provide the committee a review of the commissioner's preliminary findings and

1 determination, the proposed contract, and the supporting financial, technical, and
2 market data; if the Legislative Budget and Audit Committee accepts the
3 commissioner's offer, the committee shall give notice of the committee's meeting to
4 the public and all members of the legislature; if the financial, technical, and market
5 data that is to be provided must be kept confidential under AS 43.82.310, the
6 commissioner may not release the confidential information during a public portion of
7 a committee meeting; and

8 (4) establish a period of at least 90 [30] days for the public and
9 members of the legislature to comment on the proposed contract and the preliminary
10 findings and determination made under AS 43.82.400.

11

12 Page 1, line 7:

13 Delete "Section 1"

14 Insert "Sec. 2"

15

16 Renumber the following bill sections accordingly.

