

**HB**

**177**

**4/19/07**

# Alaska State Legislature

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## Senate Judiciary Committee

### Changes Made in Senate Judiciary to CSSB104(RES) Natural Gas Pipeline Project

The bill order was changed to comport with the bill order of the House companion bill, at the request of legislative drafters.

#### Article 1.

##### Inducement to Construction of a Natural Gas Pipeline

Section 13.90.010 Purposes: No changes were made to this section.

#### Article 2.

##### Alaska Gasline Inducement Act License

Section 13.90.100 Gas Project: No changes were made to this section.

##### Section 13.90.110 Construction Inducement:

- Language was added to clarify that the \$500,000,000 inducement is subject to appropriation by the legislature.

##### Section 13.90.120 Request for Applications:

- Language requiring the administration to request applications within 90 days was changed to "as soon as practicable" and a conforming amendment was made in uncodified law stating the legislature's intent that it take place within 90 days.
- A provision for an appeals process for solicitation and appeals relating to applications was deleted as the committee added language to the application requirements that applicants waive their rights to appeal.

Section 43.90.130 Application Requirements:

- Language was added to (D) to require that applicants will describe their plans to implement practices for controlling carbon emissions from natural gas systems as established by the US EPA.
- The requirements that an applicant propose and support rolled-in rates were rewritten to require that the 15 percent will apply to negotiated rates rather than just the maximum recourse rate, and that rolled in rates will include fuel costs
- Language was added better defining the provisions for a project labor agreement, and requiring that an applicant utilize the Department of Labor's job centers and internet hiring program to the extent practicable.
- Two new requirements for applicants were added: (16) requires applicants to waive appeal rights, both to the determination that no applicant merits the issuance of a license, and to the determination to license a particular applicant. New requirement (19) requires the applicant provide a more detailed delineation of the parties to an application.

Section 43.90.140 Initial Application Review: No changes were made to this section.

Section 43.90.150 Proprietary Information and Trade Secrets:

- Language was added to clarify that only information submitted by the licensee and retained by the state is subject to disclosure

Section 43.90.160 Notice, Review and Comment:

- Language was deleted that stated that applications received are "not public documents" as this was a misstatement of fact.
- Language was added clarifying that the summary provided by the applicant is a summary of confidential information.
- A new subsection was added to require that the information determined by the commissioners to be confidential would nevertheless be available to legislators, legislative auditors and legislative finance staff and their contractors on request after the person making the request signs a confidentiality agreement.

Section 43.90.170 Application Evaluation and Ranking: No changes were made to this section.

Section 43.90.180 Notice to Legislature:

- One change was made to clarify that the project rather than the application is judged on its proposed benefits.

Section 43.90.190 Legislative Approval:

- This section was redrafted to require that the legislature approve the selection of a licensee through a bill to be introduced in both bodies. The legislature must act within 60 days (this provision is a change to the Uniform Rules and will require a 2/3rds vote). If the legislature fails to approve the issuance of a license, the commissioners may not issue the license the legislature failed to approve but may request new applications.

Section 43.90.200 Certification by Regulatory Authority: No changes were made to this section.

Section 43.90.210 Amendment or Modification of Project Plan:

- Language was added that allows a project to be modified if the modification improves the net present value of the project
- Language was added that allows a project to be modified if necessary of an order issued by the Alaska Oil and Gas Conservation Commission.

Section 43.90.220 Records, Report, Conditions, and Audit Requirements: no changes to this section.

Section 43.90.230 License Violations; Damages: No changes were made to this section

Section 43.90.240 Abandonment of Project:

- The term "uneconomic" was defined in the section, and references to arbitrating abandonment were deleted.
- Language was added to require that arbitration be conducted under the substantive and procedural laws of Alaska, that judgments must be entered in a superior court in this state, that the burden of proof for any appeal of an arbitration rested with the person making the appeal, and that all arbitrators must be selected from the National Roster of the American Arbitration Association.
- The bill was changed to state that is an arbitration panel makes a final determination that the project is uneconomic, the licensee shall assign studies, data etc. to the state regardless of which party requested the arbitration.

Section 43.90.250 Gasline Inducement Act Coordinator:

- Language was added to clarify that the position was in the office of the governor, would be supported by the office of the Governor, and that the coordinator was appointed by the Governor and can be removed at the discretion of the governor.
- Language requiring confirmation of the coordinator was deleted.

Section 43.260 Expedited Review and action by state agencies: No changes in this section.

### Article 3.

#### Resource Inducement

##### Section 43.90.300 Qualification for Resource Inducement:

- Reference to the tax freeze was deleted from the provisions that can be made contractual.

##### Section 43.90.310 Royalty Inducement:

- Language regarding protest actions by shippers if FERC roll-in rate policies change were deleted.

##### Section 43.90.320 Gas Production Tax Exemption:

- Tax freeze provisions were changed so that tax rates are set at the start of the first binding open season rather than at the end of it.
- Conforming language was added to remove contractual provisions for the tax freeze vouchers received by gas producers.
- Language regarding protest actions by shippers if FERC roll-in rate policies change were deleted.

##### Section 43.90.330 Inducement Vouchers:

- A new section was added to provide for vouchers for persons committing to firm transportation for a certain amount of gas as agreed to in a binding sales contract with a gas producer. The vouchers may then be transferred to the gas producer for that volume for the period of the contract or the period of the inducement, whichever expires first.

### Article 4.

#### Miscellaneous Provisions

Section 43.90.400 Gasline Inducement Matching Contribution Fund: No changes were made to this section.

Section 43.90.410 Regulations: No changes were made to this section.

##### Section 43.90.420 Statute of Limitations:

- This section was amended to clarify the provision applies to this chapter.

Section 43.90.430 Interest: No changes were made to this section.

##### Section 43.90.440 Licensed Project Assurances:

- The language was amended to clarify that funds must be appropriated by the legislature; that only qualified expenditures will be reimbursed, and that existing programs to settle royalty disputes, modify royalty rates, or provide the benefits of a large project permit coordinator under existing state law does not constitute preferential treatment.

Section 43.90.450 Assignments:

- A provision was added to require that public notice, legislative notice and a 30 day public comment period precede a license transfer.
- A conforming amendment was made to address the transfer of inducement vouchers.

Article 5.

General Provisions

- A section was added as a conforming amendment to state it was the legislature's intent that a request for applications be issued within 90 days after the effective date of this act.
- A section was added to uncodified law to state the legislature's intent that the Court expedite cases relating to a pipeline under this act by giving the case priority over all other civil cases to the extent permitted under the Alaska Rules of Court.

ALASKA STATE LEGISLATURE  
House Resources Committee

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House Resources Committee  
April 19, 2007

*Larry Ostrovsky from Dept. of Law asked that these two sections of the Alaska Constitution be distributed for today's committee hearing.*

**Section 9.1 - Taxing Power.**

The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article.

**Section 9.4 - Exemptions.**

The real and personal property of the State or its political subdivisions shall be exempt from taxation under conditions and exceptions which may be provided by law. All, or any portion of, property used exclusively for non-profit religious, charitable, cemetery, or educational purposes, as defined by law, shall be exempt from taxation. Other exemptions of like or different kind may be granted by general law. All valid existing exemptions shall be retained until otherwise provided by law.