

HB

163

<target><bill>HB 163</bill><subject>HB
163</subject><comm>HENE26</comm></target>

State of Alaska
Department of Revenue
Administrative Services Division



SARAH PALIN, GOVERNOR
333 Willoughby Avenue, 11th Floor
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March 3, 2009

The Honorable Charisse Millett
Co-Chair, House Energy Committee
Alaska State Legislature
State Capitol, Room 412
Juneau, AK 99801-1182

The Honorable Bryce Edgmon
Co-Chair, House Energy Committee
Alaska State Legislature
State Capitol, Room 416
Juneau, AK 99801-1182

Dear Representatives Millett and Edgmon:

House Bill 163 was read across the floor on March 2, 2009 and transmitted to the House Energy Committee for consideration.

The HB 163 Alaska Natural Gas Development Authority (ANGDA) legislation would extend the purpose of the authority to consider natural gas development in areas of the State outside of the North Slope to the Southcentral Alaska natural gas distribution grid. By extending the purpose of the ANGDA, Alaska would be able to explore opportunities with recent finds in the Brooks Range and other areas of the State. This legislation carries with it a zero fiscal note.

I respectfully request that HB 163 be scheduled for hearing in the House Energy Committee as early as possible.

If the Committee requires any additional information, please contact me.

Sincerely,

Ginger Blaisdell
Director

CS FOR HOUSE BILL NO. 163(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act clarifying the purpose of the Alaska Natural Gas Development Authority; and**
2 **relating to the definitions of certain terms that relate to a project that may be developed**
3 **by the Alaska Natural Gas Development Authority."**

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

5 *** Section 1. AS 41.41.010(a) is amended to read:**

6 (a) There is established the Alaska Natural Gas Development Authority, the
7 purpose of which is to provide one or more of the following services and functions in
8 order to bring natural gas from the North Slope or other regions of the state to
9 market, including

- 10 (1) the acquisition and conditioning of [NORTH SLOPE] natural gas;
- 11 (2) the design and construction of the pipeline system;
- 12 (3) the operation and maintenance of the pipeline system;
- 13 (4) the design, construction, and operation [,] of other facilities
- 14 necessary for delivering the gas to market, including markets in the state [AND TO

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SOUTHCENTRAL ALASKA]; and

(5) the acquisition of natural gas market share sufficient to ensure the long-term feasibility of the pipeline system project.

* Sec. 2. AS 41.41.010(d) is amended to read:

(d) The acquisition of natural gas from the North Slope and other regions of the state, including the Alaska outer continental shelf, and its delivery to markets in the state for use by markets in the state or to tidewater for shipment to market by the authority are [IS AN] essential government functions [FUNCTION] of the state.

* Sec. 3. AS 41.41.990(3) is amended to read:

(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 or other regions of the state to markets in the state, or [EITHER] to tidewater at a point on Prince William Sound [AND THE SPUR LINE FROM GLENNALLEN TO THE SOUTHCENTRAL GAS DISTRIBUTION GRID] or [TO TIDEWATER AT A POINT ON] Cook Inlet, and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

* Sec. 4. AS 41.41.990 is amended by adding a new paragraph to read:

(4) "North Slope" means that part of the state that lies north of 68 degrees North latitude and includes the Brooks Range foothills.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 163
 (H) Publish Date: 3/2/09

Identifier (file name): 0057-DNR-OGD-02-25-09 Dept. Affected: Natural Resources
 Title Clarifying Purpose of Alaska Natural Gas Dev. Auth. RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rules Committee
 Requester Governor Component Number 439

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact to DNR anticipated from this bill.

Prepared by: Kevin Banks, Director Phone 269-8802
 Division Oil and Gas Date/Time February 25, 2009
 Approved by: Tom Irwin, Commissioner Date February 25, 2009
Natural Resources

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 163
 (H) Publish Date: 3/2/09

Identifier (file name): 0057-DOR-GAO-02-27-09 Dept. Affected: Revenue
 Title Alaska Natural Gas Development Authority RDU ANGDA 495
 Component Gas Authority Operations
 Sponsor Rules Committee
 Requester Governor Palin Component Number 2708

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	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								
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1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to the Department.

Prepared by: Ginger Blaisdell, Director
 Division: Administrative Services
 Approved by: Patrick Galvin, Commissioner
Revenue

Phone 907-465-2300
 Date/Time February 27, 2009
 Date February 27, 2009

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 163

BY REPRESENTATIVE RAMRAS

1 Page 1, line 1, following "Authority;":

2 Insert "relating to prior approval by the governor or the commissioner of revenue
3 before the exercise of certain powers of the Alaska Natural Gas Development
4 Authority;"

5

6 Page 2, following line 7:

7 Insert new bill sections to read:

8 ** Sec. 3. AS 41.41.200 is amended to read:

9 **Sec. 41.41.200. Powers of the authority.** In furtherance of its corporate
10 purposes, in addition to its other powers, and subject to the approval by the
11 governor under AS 41.41.210, the authority may

12 (1) sue and be sued;

13 (2) adopt a seal;

14 (3) adopt, amend, and repeal bylaws and regulations;

15 (4) make and execute contracts and other instruments;

16 (5) in its own name acquire property, lease, rent, convey, or acquire
17 real and personal property; a project site or part of a project site may be acquired by
18 eminent domain;

19 (6) acquire natural gas supplies;

20 (7) issue bonds and otherwise incur indebtedness in accordance with
21 AS 41.41.300 - 41.41.410 in order to pay the cost of a project;

22 (8) accept gifts, grants, or loans from and enter into contracts or other
23 transactions regarding gifts, grants, or loans with a federal agency or an agency or

1 instrumentality of the state, a municipality, private organization, or other source;

2 (9) enter into contracts or agreements with a federal agency, agency or
3 instrumentality of the state, municipality, or public or private individual or entity, with
4 respect to the exercise of its powers;

5 (10) charge fees or other forms of remuneration for the use of authority
6 properties and facilities;

7 (11) defend and indemnify a current or former member of the board or
8 an employee or agent of the authority against the costs, expenses, judgments, and
9 liabilities as a result of actions taken in good faith on behalf of the authority; and

10 (12) purchase insurance to protect its assets, services, and employees
11 against liabilities that may arise from authority operations and activities.

12 * **Sec. 4.** AS 41.41 is amended by adding a new section to article 2 to read:

13 **Sec. 41.41.210. Required approval.** (a) The authority may not exercise the
14 power in AS 41.41.200(5), (6), (7), (8), or (9) without the prior written approval of the
15 governor after the governor finds that the project proposed or being developed by the
16 authority is in the best interest of the state. The governor shall give written notice to
17 the authority of the approval or denial of approval.

18 (b) The authority may not exercise the power in AS 41.41.200(4) without the
19 prior written approval of the commissioner of revenue after the commissioner of
20 revenue finds that the execution of the contract or other instrument is in the best
21 interest of the state. The commissioner of revenue shall give written notice to the
22 authority of the approval or denial of approval.

23 (c) The written approval or denial of approval in (a) or (b) of this section is a
24 final administrative action for purposes of appeal to the superior court."
25

26 Renumber the following bill sections accordingly.

MEMORANDUM

State of Alaska

Department of Law

TO: Pat Galvin
Commissioner
Dept. of Natural Resources

DATE: April 7, 2009

FILE NO.: 661-09-0121

TEL. NO.: 269-5211

FROM: Lisa Weissler
Larry Ostrovsky
Assistant Attorneys General
Oil, Gas & Mining

SUBJECT: Review of Authority to Seek
Professional Services forms
submitted by ANGDA

You asked us to review several proposed contracts that ANGDA submitted to the Department of Revenue for approval. In particular, you asked whether those contracts are consistent with ANGDA's statutory framework.

Short answer

Our review of the "Authority to Seek Professional Services" forms supplied by your administrative director, as well as a cost recovery agreement between ANGDA and the BLM concludes that these agreements are within the scope of ANGDA's authority.

Background

ANGDA was created in 2002 by voter initiative and codified in Title 41.

Title 41 sets out a broad list of purposes for the Authority, but appears to contain some internal inconsistencies, or at least ambiguities.

AS 41.41.010 sets out the overarching purpose of ANGDA - to bring natural gas from the North Slope to market. Subsumed within that broader purpose are the specific services and functions provided by ANGDA, such as acquiring North Slope natural gas; designing and constructing a pipeline system; designing, constructing and operating other facilities necessary for delivering "the gas" - presumably this article refers to North Slope gas -- to market and to Southcentral Alaska; and acquiring a natural gas share sufficient to ensure the long-term feasibility of the pipeline system.

By comparison, AS 41.41.200 (7) gives the Authority the power to issue bonds or incur indebtedness to pay for the costs of a "project." "Project," in turn, is defined somewhat more narrowly than the purpose described above:

"[P]roject" 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 either to tidewater at a point on Prince William Sound and the spur line from Glennallen to the Southcentral gas distribution grid or to tidewater at a point on Cook Inlet, and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010 (a)(1) - (5). AS 41.41.990 (3).

AS 41.41.070(d) provides broad authority to ANGDA to "contract for and engage the services of bond counsel, consultants, experts, and financial advisors the authority considered necessary for the purpose of developing information, furnishing advice, or conducting studies, investigations, hearings, or other proceedings."

Finally, ANGDA is given the power "in furtherance of its corporate purpose" to "make and execute contracts and other instruments" without any limiting language as to the project. AS 41.41.200(4).

"It is a basic rule of statutory construction that courts must attempt to harmonize the specific provisions of an act with the legislature's expression of its intent." *Commercial Fisheries Entry Com'n v. Apokedak*, 680 P.2d 486, 490 (Alaska 1984). Because ANGDA's authority to make and execute contracts is broad and not specifically limited to the defined "project," in our view the Authority's power to make and execute such contracts applies to the broader purposes expressed in AS 41.41.010.

With that in mind, we have reviewed the "Authority to Seek Professional Services" forms provided by your director of Administrative Services to determine whether they are consistent with the broad purposes of ANGDA, as expressed in AS 41.41.010.

Analysis

1. **Authority to Seek Professional Services for Pipeline Alignment and Construction Engineer. Agency reference number: Asps 09-0030 RFP 2009-0400-8336.**

This contract involves hiring a contractor to refine alignment of a high pressure gas spur line connecting Delta Junction to Beluga. The form states that this contract is sought "[i]n conjunction with ANGDA's "on-going work to bring natural gas to market."

Entering into a contract related to delivering natural gas to the Alaska market clearly fits within the broad authority of ANGDA if the gas is North Slope natural gas, as

specified in AS 41.41.010. If the gas is not North Slope gas, the connection is more problematic and the Department of Revenue may want to request additional information from ANGDA to determine whether work under this contract will ultimately relate to delivering North Slope natural gas.

**2. Authority to Seek Professional Services for Enterprise Coordinator.
Agency reference number: Asps 09-0031 RFP 2009-0400-8363.**

This contract involves hiring a contractor to develop a business and financial management framework to deliver natural gas to the Alaskan market. This includes management of a financial plan to include a combination of utility rates, bonding and legislative funding to finance the project.

We understand ANGDA's general plan is to tap into a main line to Canada with a spur line that would bring some of the North Slope gas to markets in Southcentral Alaska. The contract's purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(4).

**3. Authority to Seek Professional Services for Permitting Coordinator.
Agency reference number: Asps 09-0029 RFP 2009-0400-8335.**

This contract involves hiring a permitting coordinator to execute a pipeline permitting plan to "bring North Slope natural gas to market in Alaska." This purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(3).

**4. Standard Agreement Form for Professional Services. Agency
Encumbrance Number 491017**

This is an agreement with EJJ Enterprises, awaiting signature of the DOR director of administrative services.

This contract for EJJ Enterprises is to revise and update a business plan for ANGDA programs. This contract, under which EJJ is to assist ANGDA in, among other things, work with a financial advisor in pursuit of project financing, is within the scope of ANGDA's authority to acquire gas, and design and build a pipeline.

5. Cost Recovery Agreement between ANGDA and the BLM.

Your administrative director also provided us with a copy of a cost recovery agreement between ANGDA and BLM for payment of costs for processing an ANGDA

right-of-way application for a natural gas pipeline between Palmer, Glennallen and Delta Junction and Fairbanks.

We understand that ANGDA's plan is to tap into a main line to Canada with a spur line that would bring some of the North Slope gas to markets in Southcentral Alaska, and, in this case, Fairbanks. This purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(4), though not necessarily consistent with the definition of "project" in AS 41.41.990(3). Accordingly, if ANGDA gets to a point where it may issue bonds "in order to pay for costs of the project" we recommend that the definition of project in AS 41.41.990(3) be amended to remove any ambiguity as to whether bonds can be issued for purposes of a line to interior Alaska.

We hope this answers your questions. If you have any questions, or if there are additional authorizations that you would like us to review, please let us know.

cc Harold Heinze

LZO:kp

