

**HB**

**383**

<TARGET><BILL>HB 383</BILL><SUBJECT>HB  
383</SUBJECT><COMM>SSTA28</COMM></TARGET>

# SENATE COMMITTEE REPORT

DATE: 4/11/14

FURTHER:

DATE TURNED  
IN TO OFFICE: 4-12-14

State Affairs Committee considered CS FOR HOUSE BILL NO. 383(RLS)

## HB 383-AK GASLINE DEVELOPMENT CORP. MEMBERSHIP

"An Act relating to the membership of the board of the Alaska Gasline Development Corporation; and providing for an effective date."

and recommends:

- be replaced with SCS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- adopt previous SCS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
CED			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Wielechowski		✓		
	Coghill	✓			
	Biessel	✓			
CHAIR:	Dymov	✓			

# Alaska State Legislature

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## REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

### MEMORANDUM

TO: Senator Fred Dyson  
Chair, Senate State Affairs Committee

FROM: Representative Mike Chenault  
Speaker, Alaska State House 

DATE: April 11, 2014

RE: Request for Hearing, Committee Substitute for House Bill 383 (RLS)

Please consider this memorandum as a request to hear Committee Substitute for House Bill 383 (RLS): "An Act relating to the membership of the board of the Alaska Gasline Development Authority Membership at your convenience.

Back up materials will be forwarded to your committee staff.

Thank you for your consideration of my request. Call either myself or Tom Wright of my staff in the event either of us can provide further information regarding this bill or any of the back up material.

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## REPRESENTATIVE MIKE CHENAULT SPEAKER OF THE ALASKA STATE HOUSE

### SPONSOR STATEMENT

**Committee Substitute for House Bill 383 (RLS): "An Act relating to the membership of the board of the Alaska Gasline Development Corporation; and providing for an effective date."**

Committee Substitute for House Bill 383 (RLS) amends the Alaska Gasline Development Corporation's (AGDC) statutes to allow for out of state appointments. Last session, the legislature passed House Bill 4. This extensive legislation laid out a structure for AGDC as a corporation, defining what the legislature wanted and included language to define board appointments, items generally addressed in AS 39.05, existing statutes related to public officers and employees. AS 39.05.100 requires board appointees to be Alaskans, unless otherwise provided. House Bill 4 articulated board requirements, without specifically stating whether members had to be Alaskans or not, with the understanding that by not specifying, appointments could be U.S. citizens as stated in the Alaska Constitution. Legal guidance at the time, plus testimony, was that House Bill 4 language allowed both out-of-state citizens and Alaskan residents to serve.

What the sponsors neglected to do, and this was an oversight, is specifically exempt AGDC from AS 39.05.100.

CSHB 383 (RLS) corrects this oversight.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 383(RLS)  
Fiscal Note Number: 1  
(H) Publish Date: 4/9/14

Identifier: HB383-DCCED-AGDC-04-08-14  
Title: AK GASLINE DEVELOPMENT CORP.  
MEMBERSHIP  
Sponsor: RLS BY REQUEST  
Requester: HRLS

Department: Department of Commerce, Community and  
Economic Development  
Appropriation: Alaska Gasline Development Corporation  
Allocation: Alaska Gasline Development Corporation  
OMB Component Number: 2986

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
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>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<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>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial Version
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Prepared By:	Miles Baker, Director of Governmental Relations & External Affairs	Phone: (907)330-6360
Division:	Alaska Gasline Development Corporation	Date: 04/08/2014 10:00 AM
Approved By:	Dan Fauske, President	Date: 04/08/14
Agency:	Alaska Gasline Development Corporation	

FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 383(RLS)

**Analysis**

The Corporation doesn't anticipate any material impact to the amount of money the Corporation has budgeted for board travel expenses.

AGDC's governing body statute AS 31.25.020 establishes that the Corporation will be governed by a board consisting of five public members and two principal department heads of the State. Public members are appointed by the Governor and subject to confirmation by the Legislature.

AS 31.25.020, AGDC's governing body statute, makes reference to AS 39.05 but only with regard to how initial terms will be established. This legislation amends AS 31.25.020 to allow the Governor to make appointments to the AGDC board by exempting public members from having to be registered to vote or to be residents of the state.

## **Alaska Gasline Moves Forward with AGDC Board**

### Parnell announces Alaska gasline board appointments

September 13, 2013, Juneau, Alaska – Governor Sean Parnell today made a key move in finalizing the Alaska Gasline Development Corporation, furthering the state’s efforts to bring Alaska’s natural gas to Alaskans. The governor announced his appointments to the Alaska Gasline Development Corporation (AGDC) Board of Directors.

“The people appointed today bring deep and diverse expertise to the AGDC Board,” Governor Parnell said. “They have proven individual track records and success in team settings. I am confident that AGDC will meet the goal of getting Alaska’s gas to Alaskans and markets beyond.”

Governor Parnell appointed Albert “Al” Bolea, John Burns, Dave Cruz, Drue Pearce, and Richard “Dick” Rabinow, as well as Commissioner Susan Bell and Commissioner Dianne Blumer to the board. Bell has served as Commerce commissioner since July 2010 and Blumer was appointed Labor commissioner in May 2012.

Bolea, of Big Lake, has worked on almost every level within the oil and gas industry for nearly 40 years. He is a distinguished adjunct professor of leadership at the University of Alaska College of Business and Public Policy, a member of the college’s advisory board, and a member of the leadership development committee. Bolea has served as the chairman of Alyeska Pipeline Service Company, the chief executive officer of Dubai Petroleum in the United Arab Emirates, and is a retired BP Alaska executive. He has been a leadership expert for the U.S. Department of Energy and an in-resident CEO and lecturer at the University of Houston, Bauer School of Business. Bolea received a bachelor’s degree in management from Robert Morris University and a master’s degree in business administration from the University of Pittsburgh.

Burns, a lifelong Alaskan from Fairbanks, is a former attorney general for the State of Alaska. He has served as an adjunct faculty member at the University of Alaska Fairbanks (UAF), teaching graduate and undergraduate business law courses. Burns currently works for Burns & Associates. He received a bachelor’s degree in history from UAF and his juris doctorate from the University of Puget Sound School of Law.

Cruz, of Palmer, is a lifelong Alaskan who has been involved in construction and resource development since 1976. He is the president of Cruz Construction, Cruz Energy Services, and Cruz Marine – firms specializing in heavy civil construction, remote camp construction, oil field services, and construction support. Cruz has served on the Matanuska-Susitna Borough Port Commission, the boards of the Resource Development Council for Alaska and Associated General Contractors, and is a member of the Alaska Support Industry Alliance.

Pearce, of Anchorage, served in the Alaska Legislature for 17 years, presiding as Senate president for two terms. In 2006, she was nominated by President George W. Bush to serve as the first federal coordinator for Alaska natural gas transportation projects. Pearce is currently the president of Spill Shield of Anchorage and is a senior policy advisor at Crowell & Moring, LLP.

She is board president of Institute of the North and a member of the Marine Exchange of Alaska Board and the board of directors of the Alaska Aerospace Corporation. She also serves on the advisory board of the Kenai River Sportfishing Association. Pearce previously served on the boards for the Anchorage Economic Development Corporation, Alaska Women's Aid in Crisis, and Special Olympics Alaska. She holds an MPA from Harvard University's Kennedy School of Business.

Rabinow has an extensive background and leadership in the petroleum industry. He worked for ExxonMobil for 34 years, serving in numerous posts, including president of ExxonMobil Pipeline Company. Rabinow was the president and CEO of Longhorn Pipeline Partners before becoming president of The Rabinow Consortium, LLC where he currently works as a consultant to the pipeline industry and serves on industry and government panels. He is a prior member of the Committee on Alaska's Oil and Gas Infrastructure of the National Academies' Transportation Research Board (TRB). Rabinow also served on the TRB's Committee for Pipelines and Public Safety and on the steering committee for the Pipelines and Informed Planning Alliance sponsored by the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation. He is a former member of the executive committee and chairman of both the Association of Oil Pipelines and the owners committee of the Trans Alaska Pipeline System. Rabinow holds a bachelor's degree in engineering mechanics from Lehigh University and master's degrees in mechanical engineering and management from the Massachusetts Institute of Technology.

###



1           **Sec. 31.25.020. Governing body.** (a) The corporation shall be governed by a  
2 board of directors consisting of

3                   (1) five public members; and

4                   (2) two individuals designated by the governor that are each the head  
5 of a principal department of the state, except that the commissioner of natural  
6 resources and the commissioner of revenue may not be designated to serve on the  
7 board unless the project for which a license is issued under AS 43.90 has been  
8 abandoned or is no longer receiving the inducements in AS 43.90.110(a) or the  
9 commissioner of natural resources and the commissioner of revenue are no longer  
10 signatories on a valid contract under AS 43.90.

11           (b) Public members of the board shall be appointed by the governor and are  
12 subject to confirmation by the legislature. When appointing a public member to the  
13 board, the governor shall consider an individual's expertise and experience in natural  
14 gas pipeline construction, operation, and marketing; finance; large project  
15 management; and other expertise and experience that is relevant to the purpose,  
16 powers, and duties of the corporation. Public members of the board serve staggered  
17 five-year terms. A public member serves at the pleasure of the governor. A vacancy  
18 shall be filled in the same manner as the original appointment.

19           (c) Notwithstanding AS 39.05.055, the terms of the initially appointed public  
20 members of the board shall be set by the governor to be two years for two members,  
21 three years for two members, and five years for one member.

22           (d) The public members of the board receive \$400 compensation for each day  
23 spent on official business of the corporation and may be reimbursed by the corporation  
24 for actual and necessary expenses at the same rate paid to members of state boards  
25 under AS 39.20.180.

26           **Sec. 31.25.030. Meetings of board.** (a) The board shall elect a chair, secretary,  
27 and treasurer from among its membership at each annual meeting. A majority of the  
28 members constitutes a quorum for organizing the board, conducting its business, and  
29 exercising the powers of the corporation. The board shall meet at the call of the chair.  
30 The board shall meet at least once every three months.

31           (b) The board may meet and transact business by electronic media if

Sec. 39.05.100. Qualifications for appointment.

(a) A person appointed to a board or commission of the state government shall be and have been before the last general election, (1) a registered voter in the state, if the appointment is made at large or (2) a registered voter from the judicial district, if the appointment is made from a specific judicial district. The student member of the Board of Regents of the University of Alaska appointed under AS 14.40.150(b), the student member of the Alaska Commission on Postsecondary Education appointed under AS 14.42.015(d), and a member of the Alaska Human Relations Commission appointed under AS 44.19.600, are exempt from the requirement of this subsection if the member was not old enough to be a registered voter in the last general election.

(b) A member of a board or commission of the state government who ceases to reside in the state during the member's term terminates membership on the board or commission. For the purposes of this section, the acceptance of employment outside the state for a six-month period or longer, or physical absence from the state for one year or longer, or registration as a voter in a municipal, county, district, state, or national election in a voting precinct outside the state is considered as discontinuing residence in the state.

History -

(Sec. 5 ch 64 SLA 1955; am Sec. 1 ch 167 SLA 1957; am Sec. 68 ch 14 SLA 1987; am Sec. 10, 11 ch 16 SLA 1990; am E.O. No. 84 Sec. 6 (1993))

Revisors Notes -

In 2008, in subsection (a), "AS 14.42.015(d)" was substituted for "AS 14.42.015(e)" to reflect the 2008 relettering of AS 14.42.015(e).

AG Opinions -

An individual is eligible for appointment to a state board or commission where his voter registration was administratively cancelled and he has not reregistered to vote. 1987 Alaska AG Lexis 255; 1987-1 Op (Inf.) Atty Gen. Alas 367.

Where the governor has appointed a person to a state board or commission and that appointee has been confirmed by the legislature, that person is in fact a member of the board or commission even though the appointee's voter registration was administratively cancelled. 1987 Alaska AG Lexis 255; 1987-1 Op (Inf.) Atty Gen. Alas 367.

Collateral Refs -

63C Am. Jur. 2d, Public Officers and Employees, Sec. 48 to 84.

### Section 3.26 - Boards and Commissions.

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

#### Editors Notes -

The amendments proposed by 1980 Legislative Resolve 43 (CSHJR 20 am) (appointment and confirmation of board members) and 2000 Legislative Resolve 54 (CCS SJR 34) (public corporations) were rejected by voters.

#### Decisions -

Clear nature of provisions. - The provisions of this section and Sec. 25 of this article are clear and unambiguous. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Vesting of powers of appointment and confirmation. - This section vests the power of appointment in the governor and the power to confirm in the legislature in joint session. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Removal is as provided by law. - Removal of board or commission members appointed under this section is as provided by law and, therefore, not necessarily at the governor's pleasure. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Confirmation is part of executive power of appointment. - Confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in some specific instances by constitution to the legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Limitation on legislative checks on governor's power to appoint. - The lack of ambiguity in this section and Sec. 25 of this article mandate that this court interpret these express provisions as embodying not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

This section and Sec. 25 of this article mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

The quorum for a joint session of the legislature convened under Article III, Sec. 25 and 26 of the Alaska Constitution is a majority of the members of the legislature, or 31 legislators from either house of the legislature. *Abood v. Gorsuch*, 703 P.2d 1158 (Alaska 1985).

Section 1, ch. 82, SLA 1975, is unconstitutional. - Section 1, ch. 82, SLA 1975, which amends AS 39.05.020 and purports to authorize legislative "meddling" in the exercise of an executive power, i.e., the appointment of executive officials, is unconstitutional because it is violative of separation of powers requirements. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

Appointment of members of Alaska State Mortgage Association. - This section does not govern the appointment of members of the Alaska State Mortgage Association. *Walker v. Alaska State Mtg. Ass'n*, 416 P.2d 245 (Alaska 1966).

Applied in *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980); *Kerttula v. Abood*, 686 P.2d 1197 (Alaska 1984).

Cited in *Ault v. Alaska State Mtg. Ass'n*, 387 P.2d 698 (Alaska 1963); *Kohlhaas v. State*, 223 P.3d 105 (Alaska 2010).

Collateral Refs -

63C Am.Jur.2d, Public Officers and Employees, Sec. 88, 89.

67 C.J.S., Officers and Public Employees, Sec. 57; 81A C.J.S., States, Sec. 163.

## [Alaska Gasline Development Corporation] Board of Directors

AGDC is governed by a seven member board of directors - five public members and two principal department heads of the State of Alaska. Public members are appointed by the Governor and subject to confirmation by the Legislature. Individuals are selected for their experience in disciplines critical to the corporation's success, including finance, pipeline construction, operations and marketing, and large project construction management. Governor Parnell appointed the first full slate of directors on September 13, 2013. Commissioners Susan Bell and Dianne Blumer were designated as the two public members. John Burns was elected Chairman at the board's inaugural meeting on October 31, 2013.



**John Burns**

Chairman

Burns, of Fairbanks, is a former Attorney General for Alaska. He has served as an adjunct faculty member at the University of Alaska Fairbanks, teaching graduate and undergraduate business law courses. He is a currently a partner with Burns & Associates and previously practiced with Borgeson & Burns and Birch Horton Bittner & Cherot.



**Susan Bell**

Director

Bell, of Juneau, was appointed Commissioner of Commerce, Community and Economic Development in July 2010. She serves on the board of the Alaska Railroad, the Alaska Industrial Development and Export Authority (AIDEA) and the Alaska Energy Authority (AEA), and as co-chair of the Denali Commission. She is a shareholder of Bering Straits Native Corporation and Sitnasuak Native Corporation, and former Vice President of Goldbelt Incorporated.



**Dianne Blumer**

Director

Blumer, of Anchorage, was appointed Commissioner of Labor and Workforce Development in May 2012. She is co-chair of the Alaska Prisoner Re-entry Task Force and has held senior state leadership positions including Director of Personnel and Labor Relations, and Deputy Director of Child Support Services. She served on the Municipality of Anchorage Public Transportation Advisory Board and the Juneau Chamber of Commerce Board of Directors.



**Al Bolea**

Director

Bolea, of Big Lake, is a visiting distinguished professor of leadership at the University of Alaska College of Business and Public Policy, a member of the college's advisory board and its leadership development committee. A former BP Alaska executive, he has served as Chairman of the Alyeska Pipeline Service Company and Chief Executive Officer of Dubai Petroleum in the United Arab Emirates.



**Dave Cruz**

Director

Cruz, of Palmer, is President of Cruz Companies, — specializing in oil field services , heavy civil construction, remote camp construction, Tug and Barge Operations and a variety of

other construction support activities. He has served on the Matanuska-Susitna Borough Port Commission, currently on the board of the Resource Development Council of Alaska and a past president of Associated General Contractors of Alaska, and is a member of the Alaska Support Industry Alliance.



**Drue Pearce**

Director

Pearce, of Anchorage, served in the Alaska Legislature for 17 years, including two terms as Senate President. She was the Department of the Interior’s Senior Advisor for Alaska Affairs prior to President George W. Bush appointing her to be the first Federal Coordinator for Alaska Natural Gas Transportation Projects. She is the President of Spill Shield Environmental Products and a Senior Policy Adviser at Crowell & Moring, LLP. She is board president of the Institute of the North, and a director of the Alaska Aerospace Corporation and the Marine Exchange of Alaska.



**Richard Rabinow**

Director

Rabinow is President of The Rabinow Consortium, LLC which provides consulting services to the pipeline industry. Previously, he was President and Chief Executive Officer of Longhorn Pipeline Partners and spent 34 years with ExxonMobil including service as President of ExxonMobil Pipeline Company. He is a former chairman of the Association of Oil Pipe Lines and the Trans Alaska Pipeline System (TAPS) Owners Committee.

## Links

- **Origin of AGDC**
  - **Legislation**
- **Executive Leadership**
- **Board of Directors**

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AGDC Site Map | State of Alaska © 2013

OATH OF OFFICE

I do solemnly swear [or affirm] that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a member of the Board of Directors of the Alaska Gasline Development Corporation to the best of my ability.

Signed this 30<sup>th</sup> day of October, 2013

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By: