

SCOMM

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LEGAL SERVICES

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MEMORANDUM

January 22, 2001

SUBJECT: House Bill 83, relating to natural gas pipelines, defining by statute a statement of policy for development and transportation of state natural gas reserves, and making a series of specific additions and amendments intended to implement a strategy for development, use, and control of one or more projects to develop and transport the state's natural gas resources -- sectional analysis. (Work Order No. 22-LS0322J)

TO: Representative Scott Ogan, Chair
House Special Committee on Oil and Gas

FROM: Jack Chenoweth
Assistant Revisor of Statutes

Article VIII, section 1, Constitution of the State of Alaska, sets out a statement of policy applicable to state resources:

Statement of Policy. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

while a companion provision, article VIII, section 2, establishes general authority for the disposition and conservation of those resources with the legislature to the end that the legislature act "for the maximum benefit of [the State's] people."

Bill section 1 amends a companion statutory statement of policy, AS 38.05.910, a part of the Alaska Land Act (AS 38.05), by extending an interpretation of these two constitutional provisions as they apply to "a project or projects to develop and transport the state's substantial natural gas resources." The interpretation, after acknowledging that "out-of-state market driven commercial demand" will drive extraction of the natural gas resource, speaks to the development and transportation of the gas in these reserves, or a portion of it, in a way that fulfills the constitutional statements of policy, by

-- identifying in-state industrial and domestic uses, expanded employment opportunities, and an enhanced tax base;

-- declaring that the development and transportation for the domestic North American market should not foreclose other uses of a portion of the gas reserves in interstate and international commerce; and

-- stating that the development and transportation project should safeguard the state's natural environment to the maximum extent possible.

The specific application of the statutory policy statement is set out in the following bill sections.

Bill section 2: This bill section makes amendments to the statute under which the commissioner of natural resources makes determinations under the Alaska Right-of-Way Leasing Act (AS 38.35) to require that, as part of an evaluation of whether or not use of the right-of-way for which a natural gas pipeline applicant has made application,

-- the submission must comply with the general principles and strategies prescribed in bill section 1;

-- the applicant will contract with contractors and firms in the state in the work to be performed; and

-- in addition to the standard "local hire" requirements already generally applicable, the applicant voluntarily agrees to use best efforts to employ state residents.

Bill section 3: This section makes a conforming amendment to another subsection of AS 38.35.100(b), part of the Alaska Right-of-Way Leasing Act, to incorporate material added to AS 38.35.100(a) as matter that the commissioner of natural resources shall consider in making a determination on an application submitted under the Act.

Bill sections 4 and 6: AS 42.06, the state's "Pipeline Act," prescribes the regulatory authority of the Regulatory Commission of Alaska (formerly the Alaska Public Utilities Commission) over pipelines relating to intrastate transportation activities. Last year, in ch. 56, SLA 2000, the Legislature modified the authority of the Commission as to its regulation of a North Slope natural gas pipeline carrier, with particular attention to development of standards and procedures applicable to determine the capacity of a North Slope natural gas pipeline at construction. The bill now proposes, in its **section 4** to revise the standard to require the Commission to have a North Slope natural gas pipeline to be designed and constructed with additional capacity to meet reasonably foreseeable in-state demands for gas and, in **section 6**, repealing a subsection by which the Commission was to determine for the carrier's certificate of public convenience and necessity the pipeline's capacity based principally on contracted commitments for the purchase of the North Slope natural gas.

Bill section 5: AS 43.82, the state's "Stranded Gas Development Act," added by sec. 3, ch. 104, SLA 1998, was intended to provide the commissioner of revenue authority to

Representative Scott Ogan, Chair

January 22, 2001

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negotiate on a range of topics in order to secure the early development of projects to commercialize the state's stranded natural gas resources. The amendment made by this bill section amends the definition of a "qualified project" as to which the commissioner may enter into negotiations to delete a requirement that the project be one for the "export of liquefied natural gas" and revises one of the two remaining standards to require compliance with the strategies identified in AS 38.05.910(b) (bill section 1).

Bill section 7 gives the measure an immediate effective date.

JBC:glc

01-042.glc



REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

*****For Immediate Release*****

January 19, 2001

Gas Bill Maximizes Benefits

A bill supporting a natural gas line that maximizes benefits to Alaskans was introduced today by the House Special Committee on Oil and Gas. Chairman Representative Scott Ogan said the first priority is to make sure that Alaskans get the most out of any project and route put forth. "Our constitution is very clear. Our natural resources must be developed for maximum use consistent with the public interest. As elected officials we are stewards entrusted to oversee the allocation and development of those resources. The Constitution specifically requires that the legislature develop our resources for the maximum benefit of its people.

Various routes have been discussed for the proposed gas pipeline. Ogan wants to see a full range of options considered. " We should not assume that one line, one route, is the only option at this point. The corporations have a responsibility to maximize benefits to shareholders and I think they understand that we have a Constitutional responsibility to do the same for our stakeholders, the residents of Alaska. I am confident that we can find synergies that meet the mutual interests of both the public and private sector," said Ogan.

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REPRESENTATIVE SCOTT OGAN

Alaska State Legislature

House District 27 • Palmer • Greater Palmer • Sutton • Chickaloon • Sheep Mountain

FOR IMMEDIATE RELEASE: Jan. 19, 2001

Highway Pipeline Best Use of Slope Gas

HB 83 Fulfills Constitutional Mandate with Southern Route

(JUNEAU) – Saying a pipeline along the Alaska Highway will bring Alaskans the maximum benefit from North Slope natural gas development, Rep. Scott Ogan (R-Palmer), chair of the Oil and Gas Committee, today introduced a committee bill to require such gas to be delivered to market along this route.

"The Alaska Constitution's statement of policy on natural resources clearly says the Legislature has the obligation to develop resources consistent with the public interest, and to the maximum benefit of the people," Ogan said. "It's clear that Alaska's interests are best served by a southern route, and this bill puts that into law."

House Bill 83 also requires that a gas pipeline constructed along the highway must have the built-in capacity to allow easy construction of a future spur line that could provide North Slope gas to consumers and industry in Southcentral Alaska, and supply facilities in Valdez to produce liquefied natural gas (LNG) for export to other markets, Ogan said. It includes additional provisions encouraging pipeline developers, as much as legally possible, to give Alaskans the jobs and contracts associated with pipeline construction and operation.

"We must keep an open mind, and make sure that we can take advantage of whatever technologies ultimately can bring the maximum benefit of this gas for Alaskans," he said.

The bill reflects the Republican-led Majority's desire to take advantage of the soaring prices and diminishing supplies of natural gas to start bringing Alaska's 35 trillion cubic feet of efficient, clean-burning gas to market. While it places into statute the state's insistence that a pipeline go through Alaska instead of Canada's Mackenzie River Delta, the bill is also intended as a vehicle to spur discussion of a full range of development options, Ogan said.

"The corporations have a responsibility to their shareholders to maximize the benefits of their oil and gas leases" Ogan said. "I think they understand that we in the Legislature have an obligation to do the same on behalf of our stakeholders, the people of Alaska. I think we can find synergies that meet the mutual interests of both the public and private sectors."

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Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540

ARTICLE VII. HEALTH, EDUCATION AND WELFARE.

SECTION 1. PUBLIC EDUCATION. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

SECTION 2. STATE UNIVERSITY. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

SECTION 3. BOARD OF REGENTS OF UNIVERSITY. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

SECTION 4. PUBLIC HEALTH. The legislature shall provide for the promotion and protection of public health.

SECTION 5. PUBLIC WELFARE. The legislature shall provide for public welfare.

ARTICLE VIII. NATURAL RESOURCES.

SECTION 1. STATEMENT OF POLICY. It is the policy of the State to encourage the settlement of its land and the development of its re-

sources by making them available for maximum use consistent with the public interest.

SECTION 2. GENERAL AUTHORITY. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

SECTION 3. COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

SECTION 4. SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

SECTION 5. FACILITIES AND IMPROVEMENTS. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

SECTION 6. STATE PUBLIC DOMAIN. Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

SECTION 7. SPECIAL PURPOSE SITES. The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

SECTION 8. LEASES. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

SECTION 9. SALES AND GRANTS. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

SECTION 10. PUBLIC NOTICE. No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

SECTION 11. MINERAL RIGHTS. Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right,

subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

SECTION 12. MINERAL LEASES AND PERMITS. The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

SECTION 13. WATER RIGHTS. All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

SECTION 14. ACCESS TO NAVIGABLE WATERS. Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

SECTION 15. NO EXCLUSIVE RIGHT OF FISHERY. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 83
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Oil & Gas Development
 Component: Oil & Gas Development
 Component Number: #439

Revision Date/Time (Note if correction): _____
 Title: Natural Gas Resources Development
 Sponsor: Special Committee on Oil & Gas
 Requester: (H) O&G

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	48.0					
Travel	12.0					
Contractual	163.0	227.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	223.0	227.0	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	223.0	227.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	223.0	227.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 105.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill could affect the state's royalty share and the administration of the division's programs. First, it sets forth a policy that gas be available to meet in-state demands. The division has requested \$88,000 to study in-state demand for gas and the effect of declining Cook Inlet resources. The division would need at least that amount to ensure that the policy of this bill is met in any pipeline proposal.

Second, the bill sets forth a policy of ensuring the maximum contribution to the development of job opportunities. To do this, it is important that the pipeline be located close to gas resources within Alaska. The division requests \$467,000 to study Alaska gas resources. The division would need at least that amount to ensure that the policy of this bill is met.

Third, it is unclear whether the policy is to maintain the existing industrial energy source base or to allow for increasing that base. Which of these two policies apply could dramatically affect the sizing of the pipe and thereby affect the royalty share if the pipe is dramatically oversized. Either choice run counter to the requirement that a "low-cost" supply be maintained especially when ANS gas supply cost is compared to existing Cook Inlet supplies.

Prepared by: Mark Myers, Director Phone 269-8800
 Division: Oil & Gas Date/Time 30-Jan-01
 Approved by: Pat Pourchot Date 30-Jan-01
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB83
() Publish Date: _____
Dept. Affected: Natural Resources
BRU: Oil & Gas Development
Component: Pipeline Coordinator
Component Number: #1191

Revision Date/Time (Note if correction): _____
Title: Natural Gas Resources Development
Sponsor: Special Committee on Oil & Gas
Requester: (H) O&G

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: none

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would require that additional analyses be performed by the State Pipeline Coordinator's Office before the Commissioner could grant right-of-way leases. While the requirement would create an additional workload, we are presuming that the incremental work, and therefore costs, would be minimal.

Prepared by: Bill Britt, State Pipeline Coordinator Phone 271-3061
Division: State Pipeline Coordinator's Office Date/Time 30-Jan-01
Approved by: Pat Pourchot Date 30-Jan-01
Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 83
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Natural Gas BRU: Administration and Support
Resources Development Component: Commissioner's Office
Sponsor: House Committee on Oil & Gas
Requester: House Committee on Oil & Gas Component Number: 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	89.0	89.0				
Travel	20.0	25.0				
Contractual	150.0	200.0				
Supplies	2.5					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	261.5	314.0	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	111.5	114.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Statutorily Designated Receipts	150.0	200.0				
TOTAL	261.5	314.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

As it pertains to the Department of Revenue, this legislation would amend the Stranded Gas Development Act (HB393 Finance of the 1998 session) to eliminate the provision limiting the Act to only liquefied natural gas projects. This would allow natural gas and gas-to-liquid projects to be included under the Act. It should be noted, however, that AS 43.82.170 sets a June 30, 2001, deadline for applications under the Act, which would not be amended by this legislation.

The Act allows the department under AS 43.82.240 to recover the costs of contracting with an independent consultant to assist the state in evaluating applications submitted under the Act. Those statutorily designated program receipts are shown above. However, the Act does not allow the state to seek reimbursement from an applicant for any other costs. The department would hire a project manager for the estimated two years of negotiations, 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 other aspects of this legislation do not affect the Department of Revenue's role under the Stranded Gas Development Act.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division: Department of Revenue Date/Time 2 p.m., Jan. 27, 2001
Approved by: Wilson Condon, Commissioner Date Jan. 28, 2001
Agency: Department of Revenue

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