

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SRES 12667

1 increments and on commercially reasonable terms that encourage exploration and
2 development of gas resources in this state; in this paragraph,

3 (A) "commercially reasonable terms" means that, subject to the
4 provisions of (7)(A) of this section, revenue from transportation contracts
5 covers the cost of the expansion, including increased fuel costs and a
6 reasonable return on capital as authorized by the Federal Energy Regulatory
7 Commission or the Regulatory Commission of Alaska, as applicable, and there
8 is no impairment of the proposed project's ability to recover the costs of
9 existing facilities;

10 (B) "reasonable engineering increments" means the amount of
11 additional capacity that could be added by compression or a pipe addition
12 using a compressor size or pipe size, as applicable, that is substantially similar
13 to the original compressor size and pipe size;

14 (7) commit that the applicant

15 (A) will propose and support recovery of mainline capacity
16 expansion costs from all mainline system users through rolled-in rates if the
17 recovery of all expansion costs through rolled-in rates would increase existing
18 shippers' rates by not more than 15 percent of the initial maximum recourse
19 rates from the North Slope to the proposed project's downstream terminus; if
20 rolled-in expansion costs would increase existing shippers' rates from the
21 North Slope to the project's downstream terminus by more than 15 percent, the
22 applicant will propose and support the partial roll-in of mainline expansion
23 costs from all mainline system users to the extent that existing shippers' rates
24 would not be increased by more than 15 percent of the initial maximum
25 recourse rates from the North Slope to the proposed project's downstream
26 terminus; in this subparagraph, "initial maximum recourse rates" means the
27 highest cost-based rates for any specific transportation service set by the
28 Federal Energy Regulatory Commission, the Regulatory Commission of
29 Alaska, or the National Energy Board of Canada, as appropriate, at the time of
30 the initial regulatory approval of the proposed project;

31 (B) may propose any combination of incremental or rolled-in

1 rates for recovery of costs of mainline capacity expansion that exceeds the 15
2 percent level described in (A) of this paragraph;

3 (C) agrees not to enter into negotiated rate agreements that
4 would preclude the applicant from collecting from any shipper, including
5 shippers with negotiated rate agreements, the rolled-in rates that are required to
6 be proposed and supported by the applicant under (A) of this paragraph; in this
7 subparagraph, "negotiated rate agreements" means transportation service
8 agreements that are subject to rates that vary from the otherwise applicable
9 cost-based rates, or recourse rates, set out in a gas pipeline's tariff approved by
10 the Federal Energy Regulatory Commission, the Regulatory Commission of
11 Alaska, or the National Energy Board of Canada, as appropriate;

12 (8) state how the applicant proposes to deal with a North Slope gas
13 treatment plant, regardless of whether that plant is part of the applicant's proposal, and,
14 to the extent that that plant will be owned entirely or in part by the applicant, commit
15 to seek certificate authority from the Federal Energy Regulatory Commission if the
16 proposed project is engaged in interstate commerce, or from the Regulatory
17 Commission of Alaska if the project is not engaged in interstate commerce, for a
18 North Slope gas treatment plant that will be owned entirely or in part by the applicant
19 and, for rate-making purposes, commit to value previously used assets that are part of
20 the gas treatment plant at net book value; describe the gas treatment plant, including
21 its design, engineering, construction, ownership, and plan of operation; the identity of
22 any third party that will participate in the ownership or operation of the gas treatment
23 plant; and the means by which the applicant will work to minimize the effect of the
24 costs of the facility on the tariff;

25 (9) propose a percentage and total dollar amount to be specified in the
26 license, that will define the level of the state's matching contribution under
27 AS 43.90.110(1) and (2);

28 (10) commit that the applicant will propose and support rates for the
29 proposed project and for any North Slope gas treatment plant that the applicant may
30 own, in whole or in part, that are based on a capital structure for rate-making that
31 consists of not less than 70 percent debt;

1 (11) describe the means by which the applicant plans to manage
2 overruns in costs of the proposed project, if any, and the measures that the applicant
3 proposes to mitigate the effects of any overruns;

4 (12) commit to provide for a minimum of five delivery points of
5 natural gas in this state;

6 (13) commit to offer firm transportation service to delivery points in
7 this state as part of the tariff regardless of whether any shippers bid successfully in a
8 binding open season for firm transportation service to delivery points in this state, and
9 commit to offer distance-sensitive rates to delivery points in this state consistent with
10 18 C.F.R. 157.311(8);

11 (14) commit to establish a local headquarters in this state for the
12 proposed project;

13 (15) commit to hire qualified residents from throughout this state for
14 management, engineering, construction, operations, maintenance, and other positions
15 on the proposed project and to contract with businesses located in this state to the
16 extent permitted by law;

17 (16) commit to negotiate, before construction, a project labor
18 agreement, to ensure expedited construction and labor stability for the project by
19 qualified residents of the state;

20 (17) commit that the state matching contribution received by a licensee
21 may not be included in the applicant's rate base, and shall be used as a credit against
22 licensee's cost of service; and

23 (18) otherwise demonstrate that the applicant is ready and able to
24 perform the activities specified in the application, including the detailed work plan,
25 timeline, and associated budget.

26 **Sec. 43.90.150. Initial application review; additional information requests;**
27 **complete applications.** (a) The commissioners shall review each application
28 submitted under AS 43.90.130 to determine whether it is consistent with the terms of
29 the request for applications and meets the requirements of AS 43.90.140. The
30 commissioners shall reject any application that does not meet those terms and
31 requirements.

1 (b) To evaluate an application not rejected under (a) of this section, the
2 commissioners may request from an applicant additional information relating to the
3 application.

4 (c) If, within the time specified by the commissioners, an applicant fails to
5 provide the additional information requested under (b) of this section, or submits
6 additional information that is not responsive, the application will be rejected.

7 (d) For an application not rejected under (a) or (c) of this section, the
8 commissioners shall make a determination that the application, including any
9 requested additional information, is complete.

10 **Sec. 43.90.160. Proprietary information and trade secrets.** (a) At the
11 request of the applicant, information submitted under this chapter that the applicant
12 identifies and demonstrates is proprietary or is a trade secret is confidential and not
13 subject to public disclosure under AS 40.25, unless the applicant is granted a license
14 under his chapter. After a license is awarded, all information submitted by the licensee
15 shall be made public.

16 (b) If the commissioners determine that the information submitted by the
17 applicant is not proprietary or a trade secret, the commissioners shall notify the
18 applicant and return the information on request of the applicant.

19 (c) An applicant that challenges the award of a license or the process for
20 making the award shall be considered to have consented to the disclosure of all the
21 information submitted under this chapter by the applicant making the challenge,
22 including information held confidential under (a) of this section.

23 (d) In this section, "proprietary" means that the information is treated by the
24 applicant as confidential and the public disclosure of that information would adversely
25 affect the competitive position of the applicant or materially diminish the commercial
26 value of the information to the applicant.

27 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners
28 shall evaluate all applications determined to be complete under AS 43.90.150 and rank
29 each application according to the net present value of the anticipated cash flow to the
30 state from the applicant's project proposal using the factors in (b) of this section and
31 weighted by the project's likelihood of success based on the commissioners'

1 assessment of the factors listed in (c) of this section.

2 (b) When evaluating the net present value of anticipated cash flow to the state
3 from the applicant's project proposal, the commissioners shall consider

4 (1) how quickly the applicant proposes to begin construction of the
5 proposed project and how quickly the project will commence commercial operation;

6 (2) the wellhead value of the gas determined by the destination market
7 value of the gas and estimated transportation costs;

8 (3) the ability of the applicant to prevent or reduce project cost
9 overruns that would increase the tariff;

10 (4) the initial design capacity of the applicant's project and the extent
11 to which the design can accommodate low-cost expansion;

12 (5) the amount of the matching contribution by the state under
13 AS 43.90.110(1)(B) proposed by the applicant under AS 43.90.140(9); and

14 (6) other factors found by the commissioners to be relevant to the
15 evaluation of the net present value of the anticipated cash flow to the state.

16 (c) When evaluating the project's likelihood of success, the commissioners
17 shall consider

18 (1) the reasonableness, specificity, and feasibility of the applicant's
19 work plan, timeline, and budget required to be submitted under AS 43.90.140,
20 including the applicant's plan to manage cost overruns, insulate shippers from the
21 effect of cost overruns, and encourage shippers to participate in the first binding open
22 season;

23 (2) the financial resources of the applicant;

24 (3) the ability of the applicant to comply with the proposed
25 performance schedule;

26 (4) the applicant's organization, experience, accounting and operational
27 controls, technical skills or the ability to obtain them, necessary equipment or the
28 ability to obtain the necessary equipment;

29 (5) the applicant's record of

30 (A) performance on projects not licensed under this chapter;

31 (B) integrity and good business ethics; and

1 (6) other evidence and factors found by the commissioners to be
2 relevant to the evaluation of the project's likelihood of success.

3 (d) In this section, "net present value" means the discounted value of a future
4 stream of cash flow.

5 **Sec. 43.90.180. Notice, review, and comment.** (a) The commissioners shall
6 publish notice and provide a 60-day period for public review and comment on all
7 applications determined complete under AS 43.90.150.

8 (b) Applications received under this chapter are not public records and are not
9 subject to public disclosure under AS 40.25 until the commissioners publish notice
10 under this section. However, information that the commissioners have determined is
11 confidential under AS 43.90.160 may not be made public even after the notice is
12 published under (a) of this section, except as otherwise provided by AS 43.90.160. If
13 information is held confidential under this subsection, the applicant shall provide a
14 summary that is satisfactory to the commissioners, and the commissioners shall make
15 the summary of the information available to the public.

16 **Sec. 43.90.190. Notice to the legislature of intent to issue license; denial of**
17 **license.** (a) If, after evaluation of complete applications under AS 43.90.170 and
18 consideration of public comments received under AS 43.90.180, the commissioners
19 determine that an application would sufficiently maximize the benefits to the people of
20 this state and merits issuance of a license under this chapter, the commissioners shall

21 (1) issue a determination, with written findings addressing the basis for
22 the determination; the determination becomes a final agency action in accordance with
23 AS 43.90.200;

24 (2) publish notice of intent to issue a license under this chapter with
25 written findings addressing the basis for the determination; and

26 (3) forward the notice under (2) of this subsection, along with the
27 findings, supporting documentation, and determination under (1) of this subsection, to
28 the legislature for action as provided in AS 43.90.200.

29 (b) If, after evaluation of complete applications under AS 43.90.170, the
30 commissioners determine that no application sufficiently maximizes the benefits to the
31 people of this state and merits issuance of a license under this chapter, the

1 commissioners shall issue a written finding that addresses the basis for that
2 determination.

3 (c) The commissioners' determination under (b) of this section is a final
4 agency action for purposes of appeal to the court under the Alaska Rules of Appellate
5 Procedure.

6 **Sec. 43.90.200. Legislative approval; issuance of license.** (a) After receiving
7 a determination from the commissioners under AS 43.90.190, the House standing
8 committee and the Senate standing committee having jurisdiction over natural
9 resources shall introduce a joint resolution in their respective chambers that provides
10 for the approval of the license proposed to be issued by the commissioners.

11 (b) If a resolution approving the issuance of the license is approved by both
12 houses of the legislature, the commissioners may issue the license as soon as
13 practicable after the passage of the resolution. The issuance of the license approved by
14 the legislature is a final administrative action on the date the license is issued for
15 purposes of appeal to the superior court.

16 (c) If a resolution approving the issuance of the license does not pass both
17 houses of the legislature, the commissioners may request new applications for a
18 license under AS 43.90.130.

19 **Sec. 43.90.210. Certification by regulatory authority and project sanction.**

20 (a) A licensee that is awarded a certificate of public convenience and necessity for the
21 project by the Federal Energy Regulatory Commission if the project is engaged in
22 interstate commerce, or the Regulatory Commission of Alaska if the project is not
23 engaged in interstate commerce, shall accept the certificate when all rights of appeal
24 relating to the certificate have expired.

25 (b) If the licensee has credit support sufficient to finance construction of the
26 project through ownership of rights to produce and market gas resources, firm
27 transportation commitments, or government financing, the licensee shall sanction the
28 project within one year after the effective date of the certificate of public convenience
29 and necessity issued by the Federal Energy Regulatory Commission or the Regulatory
30 Commission of Alaska, as applicable.

31 (c) If the licensee does not have credit support sufficient to finance

1 construction of the project through ownership of rights to produce and market gas
2 resources, firm transportation commitments, or government financing, the licensee
3 shall sanction the project within five years after the effective date of the certificate of
4 public convenience and necessity issued by the Federal Energy Regulatory
5 Commission or the Regulatory Commission of Alaska, as applicable.

6 (d) If the licensee fails to sanction the project timely as required under this
7 section, the licensee shall, upon request by the state,

8 (1) seek approval from the Federal Energy Regulatory Commission or
9 Regulatory Commission of Alaska, as appropriate, to abandon and transfer the
10 certificate to the state or the state's designee; and

11 (2) assign to the state's designee all project data, engineering designs,
12 contracts, and permits acquired by the licensee as of the date of the abandonment or
13 transfer.

14 (e) The transfer of any certificate or material as a result of failure to comply
15 with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer
16 under (c) of this section is at the licensee's net cost.

17 (f) For purposes of this section, the effective date of the certificate of public
18 convenience and necessity issued by the Federal Energy Regulatory Commission or
19 the Regulatory Commission of Alaska is the date when all rights of appeal relating to
20 the certificate have expired.

21 **Sec. 43.90.220. Amendment of or modification to the project plan.** Subject
22 to the approval of the commissioners, a licensee may amend or modify its project plan
23 if the amendments or modifications are necessary as a result of changed circumstances
24 outside the licensee's control and not reasonably foreseeable before the license was
25 issued. An amendment or modification approved under this section must be consistent
26 with the requirements of AS 43.90.140 and may not diminish the value to the state of
27 the project or the project's likelihood of success.

28 **Sec. 43.90.230. Records, reports, conditions, and audit requirements.** (a) A
29 licensee shall maintain complete and accurate records of all expenditures and
30 commitments of state money received under this chapter, including receipts and
31 records showing the payment or cost of purchased items and services, the names and

1 addresses of the sellers and service providers, and the dates of service or delivery.

2 (b) Upon reasonable notice, the commissioners may audit the records, books,
3 and files of the entity receiving the state money or making the expenditures and
4 commitments of money received from the state under this chapter.

5 (c) The commissioners may do the following with respect to information
6 relating to the project: conduct hearings or other investigative inquiries; compel the
7 attendance of witnesses and production of documents; and require the licensee to
8 furnish information in paper copy or electronic format.

9 (d) After a license has been issued and until commencement of commercial
10 operations of a natural gas pipeline, the licensee shall allow the commissioners to have
11 a representative present at all meetings of the licensee's governing body and equity
12 holders that relate to the project, to receive all relevant notices and information sent to
13 the governing body and equity holders, to receive the same access to information
14 about the licensee as the governing body members and equity owners receive, and to
15 receive additional relevant reports or information from the licensee that the
16 commissioners reasonably request.

17 (e) A licensee shall maintain the records and reports required under this
18 section for seven years from the date the licensee receives state money under this
19 chapter.

20 **Sec. 43.90.240. License violations; damages.** (a) A licensee is in violation of
21 the license if the commissioners determine that the licensee has

22 (1) committed state money received under this chapter for purposes
23 other than those set out in AS 43.90.110(1);

24 (2) substantially departed from the specifications set out in the
25 application without state approval of a project plan amendment or modification under
26 AS 43.90.220;

27 (3) violated any provision of this chapter or any other provision of
28 state or federal law material to the license; or

29 (4) otherwise violated a material term of the license.

30 (b) The commissioners shall provide written notice to the licensee identifying
31 a license violation. The commissioners and the licensee have 90 days after the date the

1 notice is issued to resolve the violation informally.

2 (c) The commissioners may suspend disbursement of state matching
3 contributions to the licensee beginning on the date that the notice of violation issued
4 under (b) of this section is sent to the licensee. The commissioners may resume
5 disbursement on the date that the commissioners determine that the violation is cured.

6 (d) If the commissioners and the licensee are unable to resolve the violation
7 within the time specified in (b) of this section, the commissioners shall, after providing
8 the licensee with notice and opportunity to be heard, make a written determination
9 regarding the violation. The written determination made under this subsection is the
10 final agency action for purposes of appeal to the court under the Alaska Rules of
11 Appellate Procedure.

12 (e) If the determination issued under (d) of this section finds an unresolved
13 violation, the commissioners may impose one or more of the following remedies:

14 (1) discontinuation of state matching contributions under this chapter;

15 (2) recoupment of state money that the licensee has received under this
16 chapter to date, with interest, regardless of whether the licensee has expended or
17 committed that money;

18 (3) license revocation;

19 (4) assignment to the state or the state's designee of all project data,
20 engineering designs, contracts, and permits related to the project that are acquired by
21 the licensee during the term of the license; and

22 (5) any other remedies provided by law or in equity.

23 **Article 3. Resource Inducement; Alaska Gasline Inducement Act Coordinator.**

24 **Sec. 43.90.300. Qualification for resource inducement.** Notwithstanding any
25 contrary provision of law, a lessee or other person that demonstrates to the
26 commissioners' satisfaction that the person has committed to acquire firm
27 transportation capacity in the first binding open season of the project is qualified to
28 receive the resource inducement set out in AS 43.90.310 and 43.90.320 for the gas
29 shipped in firm transportation capacity acquired in the first binding open season of the
30 project. The inducements set out in AS 43.90.310 and 43.90.320 are contractual.

31 **Sec. 43.90.310. Royalty inducement.** (a) Before the beginning of the first

1 binding open season to be conducted by the licensee, the commissioner of natural
2 resources shall adopt regulations to establish a method to determine the monthly value
3 of the state's royalty share of gas production and establish terms under which the state
4 will exercise its right to switch between taking its royalty in value or in kind for gas
5 committed for firm transportation in the first binding open season of the project. The
6 regulations must

7 (1) minimize retroactive adjustments to the monthly value of the state's
8 royalty share of gas production;

9 (2) contain provisions to establish a fair market value for each
10 component of the state's royalty gas that are based on pricing data from reliable and
11 widely available industry trade publications and use appropriate adjustments to reflect

12 (A) deductions for actual and reasonable transportation costs
13 for the state's royalty gas, including a fair share of the costs associated with
14 unused capacity commitments on pipelines from the North Slope of this state
15 to the first destination market with reasonable market liquidity;

16 (B) location differentials between the destination markets
17 where North Slope gas could be sold;

18 (C) reasonable and actual costs for gas processing; and

19 (D) deductions permitted under the 1980 Royalty Settlement
20 Agreement for Prudhoe Bay gas; and

21 (3) establish terms under which the state will exercise its authority to
22 switch between taking its royalty gas in value and in kind to ensure that the state's
23 actions do not unreasonably

24 (A) cause the lessee or other qualified person to bear
25 disproportionate transportation costs with respect to the state's royalty gas;

26 (B) interfere with the lessee's or other qualified person's long-
27 term marketing of its production.

28 (b) If a lessee or other person qualified for resource inducement under
29 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to
30 elect

31 (1) to calculate its gas royalty obligation under the regulations adopted

1 under (a) of this section for natural gas transported on a firm contract negotiated
2 during the project's first binding open season or under the methodology set out in the
3 existing leases from which the gas is produced, and

4 (A) upon the request of the lessee, the commissioner of natural
5 resources shall contractually amend the existing lease to reflect the election
6 under this paragraph and incorporate into the lease, the terms of the relevant
7 regulations as fixed contract terms; and

8 (B) the election under this subsection remains in effect until
9 new regulations are adopted as a result of a review under (d) of this section, at
10 which time, a lessee or other person qualified under AS 43.90.300 may change
11 its election under this paragraph; upon the request of the lessee, the
12 commissioner of natural resources shall contractually amend the lease to
13 incorporate as fixed contract terms the relevant revised regulatory provisions;

14 (2) to enter a contract with the state that amend the existing lease terms
15 by extending the required period of notice that the state must provide before exercising
16 the state's right to switch between taking its royalty in value or in kind for gas
17 committed for firm transportation in the first binding open season of the project.

18 (c) To claim the inducement under (b) of this section, a lessee or other
19 qualified person shall agree, on an application form provided by the Department of
20 Natural Resources, that the lessee or person, and the lessee's or person's affiliates,
21 successors, assigns, and agents, will not protest or appeal a filing by the licensee to
22 roll in expansion costs of the mainline up to a level that is required in
23 AS 43.90.140(7); the agreement not to protest may not preclude the lessee or other
24 qualified person, or the lessee's or other person's affiliates, successors, assigns, and
25 agents from protesting a filing to roll in mainline expansion costs that licensee is not
26 required to propose and support under AS 43.90.140(7).

27 (d) The commissioner of natural resources shall provide for review of the
28 regulations adopted under (a) of this section at least every two years after the
29 commencement of commercial operations of the project to determine whether the
30 regulations continue to meet the requirements of (a)(1) of this section under current
31 conditions, and shall amend the regulations when the requirements are not being met.

1 (e) No provision of this chapter precludes the election set out in (b) of this
2 section, nor may the commissioner of natural resources assert any provision of any
3 existing lease or unit agreement as precluding the elections set out in (b) of this
4 section.

5 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for
6 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is
7 entitled to an annual exemption from the state's gas production tax in an amount equal
8 to the difference between the amount of the person's gas production tax obligation
9 calculated under the gas production tax in effect during that tax year and the amount of
10 the person's gas production tax obligation calculated under the gas production tax in
11 effect at the conclusion of the first binding open season held under this chapter. If the
12 difference is less than zero, the gas production tax exemption is zero.

13 (b) The commissioner of revenue shall issue the exemption under this section
14 in a certificate signed by the person and the commissioner, and the certificate
15 constitutes a contract between the person and the state; the certificated exemption may
16 be applied within 10 years immediately following commencement of commercial
17 operations of the project only to production taxes that are levied on North Slope gas
18 shipped through firm transportation capacity the person acquired during the first
19 binding open season.

20 (c) The exemption certificate issued under (b) of this section shall contain a
21 contractual commitment that the person, and the person's affiliates, successors,
22 assigns, and agents, will not protest or appeal a filing by the licensee to roll in
23 mainline expansion costs up to the level that the licensee is required to propose and
24 support under AS 43.90.140(7); the contractual commitment required under this
25 subsection may not preclude the person, or the person's affiliates, successors, assigns,
26 and agents, from protesting a filing to roll in mainline expansion costs that the licensee
27 is not required to propose and support under AS 43.90.140(7).

28 **Article 4. Alaska Gasline Inducement Act Coordinator; Expedited Agency Review;**

29 **Alaska Job Development Program.**

30 **Sec. 43.90.400. Alaska Gasline Inducement Act coordinator.** (a) The
31 governor shall appoint, subject to legislative confirmation, an Alaska Gasline

1 Inducement Act coordinator. The Alaska Gasline Inducement Act coordinator
2 terminates one year after commencement of commercial operations of the project.

3 (b) The Alaska Gasline Inducement Act coordinator shall

4 (1) coordinate expeditious performance of all activities by state
5 agencies with respect to the project;

6 (2) ensure compliance by state agencies with the provisions of this
7 chapter; and

8 (3) coordinate with the federal coordinator for natural gas
9 transportation projects in this state.

10 **Sec. 43.90.410. Expedited review and action by state agencies.** (a) All
11 reviews conducted and actions taken by a state agency relating to a project shall be
12 expedited in a manner consistent with the completion of the necessary approvals in
13 accordance with this chapter.

14 (b) Notwithstanding any contrary provision of law, a state agency may not
15 include in any project certificate, right-of-way, permit, or other authorization issued to
16 the licensee any term or condition that is not required by law if the Alaska Gasline
17 Inducement Act coordinator determines that the term or condition would prevent or
18 impair in any significant respect the expeditious construction and operation or
19 expansion of the project.

20 (c) Unless required by law, a state agency may not add to, amend, or abrogate
21 any certificate, right-of-way, permit, or other authorization issued to a licensee if the
22 Alaska Gasline Inducement Act coordinator determines that the action would prevent
23 or impair in any significant respect the expeditious construction, operation, or
24 expansion of the project.

25 **Sec. 43.90.420. State pipeline employment development.** The commissioner
26 of labor and workforce development shall develop a job training program that will
27 provide training for Alaskans in gas pipeline project management, construction,
28 operations, maintenance, and other gas pipeline-related positions.

29 **Article 5. Miscellaneous Provisions.**

30 **Sec. 43.90.500. Alaska Gasline Inducement Act matching contribution**
31 **fund; disbursements; audits.** (a) There is established in the general fund an Alaska

1 Gasline Inducement Act matching contribution fund. The fund consists of money
2 appropriated to it by the legislature for disbursement to pay the state's matching
3 contributions under AS 43.90.110. Appropriations to the fund do not lapse under
4 AS 37.25.010, but remain in the fund for future disbursements.

5 (b) The Department of Revenue shall manage the fund, and may invest money
6 in the fund so as to yield competitive market rates as provided in AS 37.10.071.
7 Interest received on money in the fund shall be accounted for separately and may be
8 appropriated to the fund annually.

9 (c) The commissioners shall adopt regulations that provide for application to
10 receive matching contributions for qualified expenditures as provided under
11 AS 43.90.110, and that provide for periodic audits of the use of money disbursed as
12 matching contributions under this chapter.

13 (d) Within 10 days after the convening of each regular session of the
14 legislature, the commissioners shall submit to the legislature a report that lists all the
15 disbursements from the fund in the preceding year with a written justification of each
16 disbursement and the projected amount of money that will be needed for matching
17 contributions in each of the next three fiscal years.

18 **Sec. 43.90.510. Regulations.** The commissioners may jointly adopt
19 regulations for the purpose of implementing the provisions of this chapter. The
20 commissioner of revenue may change regulations adopted under existing authority in
21 this title as necessary to implement the provisions of this chapter. The commissioner
22 of natural resources may change regulations adopted under existing authority in AS 38
23 as necessary to implement the provisions of this chapter.

24 **Sec. 43.90.520. Statute of limitations.** A person may not bring a judicial
25 action challenging the constitutionality of this chapter or a license unless the action is
26 commenced in a court of proper jurisdiction in this state within 90 days after the date
27 that a license was issued.

28 **Sec. 43.90.530. Interest.** When a payment due to the state under this chapter
29 becomes delinquent, the payment bears interest in a calendar quarter at the annual rate
30 of five percentage points above the annual rate charged member banks for advances by
31 the 12th Federal Reserve District as of the first day of that calendar quarter, or at the

1 annual rate of 11 percent, whichever is greater, compounded quarterly as of the last
2 day of that quarter.

3 **Sec. 43.90.540. Licensed project assurances.** Except as otherwise provided in
4 this chapter, the state grants a licensee assurances that the licensee has exclusive
5 enjoyment of the inducement provided under this chapter before the commencement
6 of commercial operation of the project. If, before the commencement of commercial
7 operation of the project, the state extends to another person preferential royalty, tax, or
8 monetary treatment for the purpose of facilitating the construction of a competing
9 natural gas pipeline project in this state, and if the licensee is in compliance with the
10 requirements of the license and with the requirements of state and federal statutes and
11 regulations relevant to the project, the licensee is entitled to payment from the state of
12 an amount equal to three times the total of the reasonable costs that the licensee has
13 incurred in developing the licensee's project as of the date that the state first extended
14 preferential treatment to another person. Upon payment by the state of the amount
15 owed under this section, the licensee shall, at no cost to the state, assign to the state or
16 the state's designee all project data, engineering designs, contracts, and permits related
17 to the project that are acquired by the licensee during the term of the license. In this
18 section, "competing natural gas pipeline project" means a project designed to
19 accommodate throughput of more than 500 Mcf a day of North Slope gas.

20 **Sec. 43.90.550. Assignments.** (a) A licensee may transfer all or part of the
21 license, including the rights and obligations arising under the license, if

22 (1) the transfer is approved in writing in advance by the
23 commissioners; and

24 (2) the transfer does not increase or diminish the obligations created by
25 the license or diminish the likelihood of success of the project or the value of the
26 license to the state.

27 (b) Notwithstanding the commissioners' approval of a transfer of all or part of
28 a license under (a) of this section, the transferor of the license remains subject to the
29 requirements of AS 43.90.230 regarding all state money received by the licensee
30 before the effective date of the transfer.

31 (c) A person may transfer that person's rights to the royalty inducement under

1 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in
2 connection with a sale or merger that results in transfer of all the person's assets in the
3 North Slope of this state, including the firm transportation capacity contracts in the
4 project.

5 **Sec. 43.90.560. Conflicting laws.** Nothing in this chapter shall be construed to
6 repeal or abrogate the administrative, regulatory, or statutory procedures and functions
7 of state and federal law governing the development and oversight of a project.

8 **Sec. 43.90.570. Severability.** Under AS 01.10.030, if any provision of this
9 chapter, or the application of it to any person or circumstance, is held invalid, the
10 remainder of this chapter and the application of it to other persons or circumstances
11 are not affected.

12 **Article 6. General Provisions.**

13 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
14 requires,

15 (1) "affiliate" means another person that controls, is controlled by, or is
16 under common control with a person; "affiliate" includes a division that operates as a
17 functional unit;

18 (2) "Alaska Gasline Inducement Act coordinator" means the person
19 appointed under AS 43.90.400;

20 (3) "commencement of commercial operations" means the first flow of
21 gas in the project that generates revenue to the owners;

22 (4) "commissioners" means the commissioner of revenue and the
23 commissioner of natural resources, acting jointly;

24 (5) "control" means the possession of ownership interest or authority
25 sufficient to, directly or indirectly, and whether acting alone or in conjunction with
26 others, direct or cause the direction of the management or policies of a company, and
27 is rebuttably presumed if the voting interest held is 10 percent or more;

28 (6) "equity holder" means the

29 (A) stockholders of a corporation;

30 (B) members of a limited liability company;

31 (C) partners of a partnership;

- 1 (D) joint venturers of a joint venture;
- 2 (E) members of a governmental authority and similar persons;
- 3 or
- 4 (F) holders of any other entity or person;
- 5 (7) "gas processing" means post-production treatment of gas to extract
- 6 natural gas liquids;
- 7 (8) "governing body" means a corporation's board of directors, a
- 8 limited liability company's managing members, a partnership's general partners, a joint
- 9 venturer's joint venturers, a governmental authority's board or council members, and
- 10 similar entities;
- 11 (9) "lease" means an oil and gas, or gas, lease issued by this state;
- 12 (10) "lessee" means a person that holds a working interest in an oil and
- 13 gas, or gas, lease issued by this state;
- 14 (11) "license" means a license issued under this chapter;
- 15 (12) "licensee" means the holder of a license issued under this chapter
- 16 and all affiliates, successors, assigns, and agents of the holder;
- 17 (13) "North Slope" means the area of Alaska north of 68 degrees North
- 18 latitude;
- 19 (14) "project" means a natural gas pipeline project authorized under a
- 20 license issued under this chapter;
- 21 (15) "recourse rates" means cost-based rates with a minimum and
- 22 maximum range that are approved by the Federal Energy Regulatory Commission, the
- 23 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
- 24 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
- 25 rates that the pipeline must make available to all shippers;
- 26 (16) "sanction" means financial commitments to go forward with the
- 27 project as evidenced by entering into financial commitments of at least
- 28 \$1,000,000,000 with third parties;
- 29 (17) "under common control with" has the meaning given "control" in
- 30 this section;
- 31 (18) "unit agreement" means an agreement executed by the working

1 interest owners and royalty owners creating the unit.

2 **Sec. 43.90.990. Short title.** This chapter may be cited as the Alaska Gasline
3 Inducement Act.

4 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

5 (45) contracts for an arbitration panel to determine abandonment of a
6 project under AS 43.90.120, and contracts for the development of application
7 provisions for licensure and for the evaluation of those applications under AS 43.90.

8 * **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

9 (41) the Alaska Gasline Inducement Act coordinator appointed under
10 AS 43.90.400.

11 * **Sec. 4.** AS 40.25.120(a) is amended to read:

12 (a) Every person has a right to inspect a public record in the state, including
13 public records in recorders' offices, except

14 (1) records of vital statistics and adoption proceedings, which shall be
15 treated in the manner required by AS 18.50;

16 (2) records pertaining to juveniles unless disclosure is authorized by
17 law;

18 (3) medical and related public health records;

19 (4) records required to be kept confidential by a federal law or
20 regulation or by state law;

21 (5) to the extent the records are required to be kept confidential under
22 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
23 or retain federal assistance;

24 (6) records or information compiled for law enforcement purposes, but
25 only to the extent that the production of the law enforcement records or information

26 (A) could reasonably be expected to interfere with enforcement
27 proceedings;

28 (B) would deprive a person of a right to a fair trial or an
29 impartial adjudication;

30 (C) could reasonably be expected to constitute an unwarranted
31 invasion of the personal privacy of a suspect, defendant, victim, or witness;

- 1 (D) could reasonably be expected to disclose the identity of a
2 confidential source;
- 3 (E) would disclose confidential techniques and procedures for
4 law enforcement investigations or prosecutions;
- 5 (F) would disclose guidelines for law enforcement
6 investigations or prosecutions if the disclosure could reasonably be expected to
7 risk circumvention of the law; or
- 8 (G) could reasonably be expected to endanger the life or
9 physical safety of an individual;
- 10 (7) names, addresses, and other information identifying a person as a
11 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
12 advance college tuition savings program under AS 14.40.803 - 14.40.817;
- 13 (8) public records containing information that would disclose or might
14 lead to the disclosure of a component in the process used to execute or adopt an
15 electronic signature if the disclosure would or might cause the electronic signature to
16 cease being under the sole control of the person using it;
- 17 (9) reports submitted under AS 05.25.030 concerning certain
18 collisions, accidents, or other casualties involving boats;
- 19 (10) records or information pertaining to a plan, program, or
20 procedures for establishing, maintaining, or restoring security in the state, or to a
21 detailed description or evaluation of systems, facilities, or infrastructure in the state,
22 but only to the extent that the production of the records or information
- 23 (A) could reasonably be expected to interfere with the
24 implementation or enforcement of the security plan, program, or procedures;
- 25 (B) would disclose confidential guidelines for investigations or
26 enforcement and the disclosure could reasonably be expected to risk
27 circumvention of the law; or
- 28 (C) could reasonably be expected to endanger the life or
29 physical safety of an individual or to present a real and substantial risk to the
30 public health and welfare;
- 31 (11) the written notification regarding a proposed regulation provided

1 under AS 24.20.105 to the Department of Law and the affected state agency and
2 communications between the Legislative Affairs Agency, the Department of Law, and
3 the affected state agency under AS 24.20.105;

4 (12) records that are

5 (A) proprietary or a trade secret in accordance with
6 AS 43.90.160;

7 (B) applications that are received under AS 43.90 until
8 action has been taken under AS 43.90.180.

9 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner



State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

Butrovich Room 205

Saturday, March 31, 2007

AGENDA

12:00 - 6:00

SB 104 Natural Gas Pipeline Project

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

Testimony: Listen Only



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**

Alaska Gasline Inducement Act Project Labor Agreement

March 30, 2007

Jobs are Alaska's Future



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**



What is a PLA?

A comprehensive collective bargaining agreement that sets the terms and conditions of employment on a project, for that project only.

Jobs are Alaska's Future



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**

Project Labor Agreement

Licensee/General Contractor Negotiates Directly with an Appropriate Entity

The PLA is a collective bargaining agreement between the licensee, or its agent, and an appropriate entity setting out the terms and conditions of employment on the project, typically including wages and benefits, and setting out other work conditions including no-strike, no lockout provisions, dispute resolution procedures, and use of hiring facilities in Alaska.

Contractors

All contractors, union or nonunion, interested in bidding on project work, must follow the terms and conditions set out in the PLA.

Jobs are Alaska's Future



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**



PLA History

- First used in the 1930's
- Currently used widely in the private and public sectors.

Jobs are Alaska's Future



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**



Jobs are Alaska's Future

PLA Precedents

- **Legal**
 - U.S. Supreme Court (Boston Harbor) 1993
 - AK Supreme Court (Laborers Local 942 v. Lampkin) 1998 *-precedent*
- **PLA-based Public and Private Projects**
 - Grand Coulee and Hoover Dams
 - TAPS
 - San Francisco BART
 - Puget Sound Transit
 - Sutter and Sunrise Power Plants in California
 - Seattle Airport
 - *Seattle Sound Transit*



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**



Why Have a PLA?

- Stable workforce—no strikes or lockouts
- Meets project scheduling challenges.
- Eliminates need to negotiate numerous separate contracts.
- Assures consistent terms and conditions for all contractors
- Vehicle for:
 - Alaska hire, including rural Alaskans, women, and other groups.
 - Apprenticeship Opportunities.

Jobs are Alaska's Future

Urban Red

Recently/Frequently asked Questions about Project Labor Agreements (PLA)

1. **Why use a PLA?**

The purpose of a PLA is to establish and maintain harmonious relations between all parties performing work on the Project. To that end, PLAs establish and put into practice effective and binding methods for the settlement of all misunderstandings, disputes, or grievances that may arise during the construction phase of the Project. In this way the Project owner, Project manager and contractors on the Project are assured complete efficiency and continuity of operations, without slowdowns or interruptions of any kind.

PLAs promote optimum productivity by ensuring the availability of an adequate supply of competent, skilled, and qualified crafts people. PLAs ensure labor stability by eliminating the possibility of strikes, work stoppages, lockouts, slowdowns, or other delays. Public entities endorse the use of PLAs on projects such as the gas pipeline, because PLAs also promote the continued development and expansion of a trained, competent work force within their communities. Most importantly, PLAs are one of the few, if only, lawful ways the Governor and Legislature can create hiring preferences for Alaskans. In sum, PLAs are utilized wherever Project owners like the State of Alaska recognize the importance of ensuring that construction work for public projects proceeds continuously, without interruption and as efficiently and economically as possible, and that public projects like the gas pipeline are built by contractors employing skilled employees who are residents of our state.

2. **Who would be covered under the PLA?**

In general, PLAs cover only construction work and only work on the Project site, including any *on site* fabrication of tools, materials equipment maintenance and equipment repair. The Project site would most likely include the following: construction of compressor/conditioning plants from the point(s) where the gas comes out of the ground and into the project system, and any such compressor/conditioning plants and associated infrastructure along the project route, all associated pipeline and support structure along the route, camp construction or site work at camp locations, to the terminus of the Project.

3. **Who would negotiate the PLA?**

The parties would be the Project Owner's construction manager on one side and the Alaska Building Trades Council(s) which represent the employees to be employed on the Project, on the other side. Employees to perform work above the 63rd parallel would be represented by the Fairbanks Building Trades Council. If the successful proposal included pipeline construction south of the 63rd parallel, then the employee representatives at the bargaining table would be the

Fairbanks Building Trades Council and the South Central Alaska Building Trades Council. Prospective bidders would not participate in the negotiations because their interests are generally divergent from those of the Project Owner and because the PLA will establish *employment policy* for the entire project consistent with the objectives of the Project owner. For example, the Project Owner may, as a matter of public policy, wish to insure that the Project provides training to qualified young Alaskans first; this is not necessarily an interest a prospective bidder would share.

4. *How does my son or nephew, daughter or niece, get a job thru the union, under the PLA?*

Anyone interested in obtaining work on the Project would be free to register at their local union Hiring Hall, whether they are union members or not. Unions may not lawfully discriminate in the referral of applicants for work based upon union membership. In recent years unions have implemented vigorous recruitment programs which seek out qualified non-member applicants. The referral of applicants by each individual union hall must also comply with the published rules governing its referral system and/or the appropriate craft apprenticeship program. Such referral rules establish referral priorities based upon training, minimum qualifications, experience in the industry and area residence in accordance with Title 29, Chapter 7, Subchapter II, of the National Labor Relations Act (NLRA). The NLRA is unique in that it makes union referral under a bona fide collective bargaining agreement (including a PLA) one of the few if only legally enforceable methods for establishing a resident hire preference.

4a. *What list would they be on and would they ever get a job?*

The referral language is typically a little different for each craft, and has very simple, easy to understand requirements. Applicants are permitted to sign different "Lists" or Books: A, B, or C Lists in some cases or Books 1, 2, 3, or 4 in others. No matter the nomenclature, the A List or Book 1 is usually for residents with clearly defined minimum qualifications. The other Lists or Books are usually for non-residents and/or less qualified applicants. Referral of applicants begins with those registered on Book 1 or A, first and so on.

The referral of apprentices is conducted in accordance with a completely different referral procedure based on the language of federally approved, registered apprenticeship standards. There are several methods for entry into a registered, federally approved apprenticeship program. Most programs require a high school diploma or equivalent, and a passing score on an entrance examination and interview. Federally approved, registered apprenticeship programs (Union affiliated programs in Alaska satisfy these standards) must offer training opportunities without regard to race, age, gender, etc. Most union affiliated programs in Alaska have implemented native and minority outreach programs as well. The short answer to this question is that all motivated Alaskan residents

with the necessary skills, should be able to find work on the Project through the various union hiring halls. This is particularly true here because of the large number of employees that will be needed to construct the Project.

4b. Will all employees on the Project have to join the union?

Without exception to my knowledge, PLA's have what is called a 'Union Security Clause.' What this clause means is that all employees covered by PLA will be required, as a condition of employment on this Project only, to apply for and become members of the appropriate Union or establish a fee payer relationship with the Union, within so many days following the beginning of their employment.

Applicants obtaining employment on the Project thus have two alternatives. They may become union members, in which case they will be obligated to pay union dues. They may also elect to become fee payers or non-members, in which case they will only have to pay a representation or agency fee which covers the Union's costs associated with such things as contract negotiations, contract administration, grievance processing, etc. No portion of the money paid to the Union by an agency fee payer or "non-member" may be used to support or endorse the political beliefs or actions of the union. In fact, before a Union may use funds paid to the Union for purposes unrelated to contract negotiations, administration and related activities, even by its members, the individual must consent in writing.

5. Can non-union contractors bid on the Project? If so, what happens if they win the bid?

Bidding on the Project is free, open and competitive; any qualified contractor may bid on the job, although all successful bidders will be required to comply with the terms of the PLA. The PLA, however, will only apply to work performed on the Project and will have no impact on other work the contractor may have elsewhere. In other words, the contractor may continue to perform other work without being signatory to a union agreement.

6. I am a small sub contractor and I am successful in obtaining work on the gas line. What happens to my current employees?

This component of the PLA, like many others, is resolved through negotiations between the parties. Often there is an exception included in the PLA (to the otherwise exclusive union hiring hall system), that permits a contractor to continue to use his key or core employees on the Project. It is also not uncommon for PLAs to include provisions which permit contractors to request applicants from the Union hiring hall by name, skill, specialty, experience in the industry or past service with the contractor/employer. Terms vary widely on this

subject; and as noted, they are subject to the give and take of good faith bargaining.

6a. Will these "core" or "key" employees be required to join the union?

These employees are no more or less obligated to become union members than any other employees performing craft work on the Project. See Paragraph 4, above.

6b. What would these employees be paid, the Contractor's current rate or the wage rate established under the PLA?

Anyone performing bargaining unit or craft work on the Project, core employees as well as employees hired through a union hiring hall, will be subject to the terms of the PLA, including the wage rates and benefits established by the PLA.

6c. What if a contractor already has fringe benefits set up for his current employees who go to work on the PLA? Does the contractor have to pay twice?

This can become a complicated – but not impossible, issue to address. Most union plans (which, for example, offer a defined pension benefit) are superior to those provided by non-union employers (which generally only offer a defined contribution). Thus, many employees will want their employer to contribute to the union plan because they appreciate the difference and/or they have decided to continue to seek future work through the union after the Project is completed. Given the likely duration of the Project, it is also possible that many employees will vest in the union's defined benefit pension plan (five years) before the Project is completed. Employees will certainly be eligible for the union's medical plans soon after beginning work on the Project, as well as have access to any other benefits offered by the union plans, as described in the fringe benefit schedule of the PLA.

However, this matter is also subject to the parties' negotiations and exceptions to the general rule requiring benefit contributions to the unions' plans have been negotiated. The most common exception is created for non-union employers who offer comparable or better fringe benefits through a bona fide benefit plan that has been in existence for no less than the twelve consecutive months preceding the employees' employment on the Project. In such cases, the PLA may allow an employer to make contributions to the employer's own plans on behalf of the employer's core employees. Thus, any concerns about the possible double payment of benefits can be resolved.

The answers to these questions are my opinion only based upon my research; this paper does not constitute legal advice and is not intended to be relied upon as such. - Vince Beltrami

***PROJECT
LABOR
AGREEMENTS***

PLA

- **What is a Project Labor Agreement and why project owners and employers should consider using one?**

PLA Defined

- A PLA is a contractually binding agreement, negotiated between a construction project owner, developer, and the Building Trades Labor Unions.
- It guarantees uniform wages, benefits, and working conditions across the multiple crafts employed on a project
- It guarantees labor peace and stability on the job through mandatory grievance procedures and no strike/no lockout provisions
- It guarantees local hire and an investment in local communities, and their future work forces

PLA Defined cont'd

- PLAs provides a career path for high school graduates
- They are validated legally as a responsible approach to building publicly funded construction projects
- They facilitate sound project planning by supplying project owners with predictable labor costs
- Promote timely and successful project completion by ensuring an adequate supply of skilled craft personnel for all trades for the full term of the project

PLA Defined cont'd

- But most of all...
- PLAs gives the customer a value added guarantee of a quality constructed project that should be free of defects for years to come due to utilizing the highest skilled craftsman available and...
- PLAs have an overwhelming reputation for getting jobs finished on time and under budget!

History of PLAs

- They have been used in the construction industry since the 1930s in all 50 states
- Examples: Disney World, The Trans Alaska Pipeline, the Cape Kennedy Space Center, O'Hare Airport, Boston Harbor clean-up, LA's Light Rapid Transit System and more.
- Other examples closer to home: the Ground-based Missile Defense System at Fort Greely and Shemya, the Healy Clean Coal Project, the Alaska Seafoods International Plant, King Salmon Vo-tech center, a half-dozen projects in Juneau, and various schools and other projects around the state

Economic Argument for PLAs

- Promotes stream lining and efficiencies by systematizing labor terms for all contractors
- Saves time and money by not having to renegotiate terms for each subcontractor
- Prevents costly jurisdictional or other labor disputes
- Highly skilled available labor pool from the union hiring halls
- Easier compliance with competitive bidding and Title 36 requirements
- Quality apprentices further reduce labor costs
- Safer workers costs less

Objections?

- There are national groups who lobby against PLAs
- They argue “merit shop” philosophy, and “lowest responsible bidder.” These arguments, however, skirt the issue of how to define “responsible” nor do they address records regarding apprenticeship programs or local hire
- Interestingly, they never use Alaska PLA examples in their attacks because they have worked well in our state.
- Claims of non-competitiveness hold no water, as anyone (union or non-union) can bid on projects covered by a PLA
- They regularly cite the rare PLA projects that have gone over budget, but never tell anyone that the overruns had nothing to do with the PLA

Title 36? What does it mean?

- **All state construction projects over \$2000 are subject to paying the Prevailing Wage in accordance with the Davis-Bacon Act**
- **Union and non-union alike must pay this rate**
- **Union Apprenticeship programs ensure lower cost apprentices available. Non-union contractors often have to pay full journeyman rate to non-skilled workers because they have no apprenticeship training program, or ones that neither train or provide the benefits to the level of those represented by the unions.**
- **Union Apprenticeship programs mean easier tracking of legal compliance**

Quality Craftsmanship...

Where does it come from?

**It comes from real apprenticeship...
an investment in our community**

- Union-based apprenticeship programs have set the standard and continually raise the bar
- Our state-registered programs require thousands of hours of closely supervised, on the job training plus an additional 1000 hours or more of related classroom and shop instruction
- The Alaska Building Trades are constantly working to get Alaska grads into their programs

BOTTOM LINE

- **A PLA IS A GOOD BUSINESS DECISION !**
 - **The Alaska Gas Pipeline is the biggest construction project EVER in North America**
 - **A PLA builds predictability and labor stability into a project with many other uncertainties,**
 - **Guaranteed local hire preference, and an association with the best proven training establishment for the type of construction this project requires**
 - **And a proven track record of PLA successes in Alaska from TAPs through Missile Defense**

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

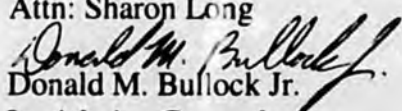
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 31, 2007

SUBJECT: CSSB 104(RES), Draft Version "M"
(Work Order No. 25-GS1060M)

TO: Senator Charlie Huggins
Chair of Senate Resources Committee
Attn: Sharon Long

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed is a new draft version of CSSB 104(RES). Please review this draft carefully to ensure that it is consistent with your intent.

Please check page 4, line 9, page 14, line 10, and page 22, line 19 to see if they should match page 16, line 18.

Please look at Sec. 43.90.140(2)(D)(ii) on page 5 of the draft bill. Your request was to amend the first part of that sub-subparagraph from

if the proposed project involves marine transportation of liquefied natural gas, a description of the pipeline route, system, and capacity to bring North Slope gas to tidewater, including a description of transportation services

to

if the proposed project involves marine transportation of liquefied natural gas, that brings North Slope gas to tidewater, a description of transportation services

I was afraid that your suggested language might imply an anticipation that North Slope gas would be brought to tidewater by marine transportation. So, the change in the draft reads as follows:

if the proposed project involves marine transportation of natural gas, a description of the marine transportation services

If I misunderstood the intent of the change you wanted, please let me know so that I may correct it in the next version.

Senator Charlie Huggins

March 31, 2007

Page 2

Your suggested change deleted the word "qualified" before "person" on page 17, lines 23 and 25 of the "E" version. Note that "qualified person" is also used in the same statutory section, but in a different subsection, on page 18, lines 18 and 24 of the "E" version. I did not delete "qualified" before "person" on page 18 because I did not know whether there was a substantive difference between the use of "qualified person" on page 17 and on page 18. My understanding from earlier discussions was that "qualified person" meant a person "qualified" to receive the resource inducement authorized under AS 43.90.300.

Finally, on page 27, line 12 we inserted new language to make clear that the applications that are received are not public records until the commissioners issue the public notice under AS 43.90.170.

I appreciate the effort you made to bring your changes to me so quickly and the way you used a mark-up of the bill itself to note the changes. Thank you.

DMB:lmb
07-090.lmb

Enclosure

SKES Hearing
4-1-07

25-GS10600M
Bullock
3/31/07

CS FOR SENATE BILL NO. 104(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline**
2 **Inducement Act matching contribution fund; providing for an Alaska Gasline**
3 **Inducement Act coordinator; making conforming amendments; and providing for an**
4 **effective date."**

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

6 *** Section 1. AS 43 is amended by adding a new chapter to read:**

7 **Chapter 90. Alaska Gasline Inducement Act.**

8 **Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.**

9 **Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage
10 expedited construction of a natural gas pipeline that

11 (1) facilitates commercialization of North Slope gas resources in the
12 state;

13 (2) promotes exploration and development of oil and gas resources on
14 the North Slope in the state;

1 (3) maximizes benefits to the people of this state of development of oil
2 and gas resources in this state; and

3 (4) encourages state oil and gas lessees and other persons to commit
4 natural gas from the North Slope of this state to a gas pipeline system for
5 transportation to markets in this state or elsewhere.

6 **Article 2. Alaska Gasline Inducement Act License.**

7 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska
8 Gasline Inducement Act license as provided in this chapter. The person awarded a
9 license under this chapter is entitled to the inducement set out in AS 43.90.110.

10 (b) Nothing in this section precludes a person's pursuing a gas pipeline
11 independently from this chapter.

12 **Sec. 43.90.110. Natural gas pipeline project construction inducement.**

13 Subject to the limitations of this chapter, a license issued under this chapter entitles the
14 licensee or its designated affiliate to receive

15 (1) state matching contributions in an amount not to exceed
16 \$500,000,000, paid in total to the licensee over a five-year period; the payment period
17 may be extended by the commissioners under an amendment or modification of the
18 project plan under AS 43.90.220; the payment period commences on the date of the
19 issuance of the license; payments under this paragraph shall be made according to the
20 following:

21 (A) on or before the close of the first binding open season, the
22 state shall match the licensee's qualified expenditures at the level specified in
23 the license; however, the state's ^{matching} contribution may not be more than 50 percent
24 of the qualified expenditures incurred before the close of the first binding open
25 season;

26 (B) after the close of the first binding open season, the state
27 shall match the licensee's qualified expenditures at a level specified in the
28 license; however, the state's matching contribution may not be greater than 80
29 percent of the qualified expenditures incurred after the close of the first
30 binding open season;

31 (C) qualified expenditures are costs that are incurred after the

1 license is issued under this chapter by the licensee or the licensee's designated
 2 affiliate, and are directly and reasonably related to obtaining a certificate of
 3 public convenience and necessity from the Federal Energy Regulatory
 4 Commission or the Regulatory Commission of Alaska, as appropriate, for
 5 development of the project; in this subparagraph, "qualified expenditures" does
 6 not include overhead costs, litigation costs, assets, or work product predating
 7 the issuance of the license, or civil or criminal penalties or fines; and

8 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
 9 has the authority prescribed in AS 43.90.400.

10 **Sec. 43.90.120. Abandonment of project.** (a) If the commissioners and the
 11 licensee agree that the project is uneconomic and should be abandoned, inducement
 12 provided for in AS 43.90.110 terminates, and, except for requirements imposed on the
 13 licensee under (d) of this section and AS 43.90.230, the state and the licensee no
 14 longer have any obligations under this chapter with respect to the license.

15 (b) If the commissioners or the licensee independently determines that the
 16 project is uneconomic and should be abandoned, but the other party does not agree,
 17 the disagreement shall be settled by arbitration administered by the American
 18 Arbitration Association under its Commercial Arbitration Rules, and judgment on the
 19 award rendered by the arbitrators may be entered in any court having jurisdiction
 20 thereof. In the event of arbitration, each party shall select an arbitrator, and the two
 21 arbitrators shall appoint a third arbitrator from the American Arbitration Association's
 22 National Roster who shall serve as the chair of the three-member arbitration panel. If
 23 the arbitration panel determines that the project is

24 (1) ~~uneconomic and should be abandoned~~, the state and the licensee no
 25 longer have any obligations under this chapter with respect to the license, except for
 26 requirements imposed on the licensee under (d) of this section and AS 43.90.230;

27 (2) ~~not uneconomic and should not be abandoned~~, the project may not
 28 be abandoned, and the obligations of the licensee and the state continue as provided
 29 under this chapter and the license.

30 (c) If the state makes a payment to the licensee under AS 43.90.540, the
 31 license is considered abandoned, and the state and the licensee no longer have any

*state has
an economic
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obligations under this chapter with respect to the license, except that the licensee must comply with the

(1) requirements imposed on the licensee under AS 43.90.230 regarding state money received by the licensee before the license was considered abandoned; and

(2) requirements of AS 43.90.540.

(d) If the licensee and the state agree or if a licensee prevails in an arbitration in establishing that the project is uneconomic and should be abandoned, the licensee shall assign to the state or the state's designee all project data, engineering designs, contracts, and permits related to the project that are acquired by the licensee during the term of the license upon reimbursement by the state to the licensee of the licensee's net costs.

leave as is

Sec. 43.90.130. Request for applications for the license. (a) The commissioners shall commence a public process to request applications for a license under this chapter within three months after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist in developing the provisions for the application for a license and in evaluating applications received under this chapter.

(c) The provisions of AS 36.30 do not apply to requests for applications under this chapter, but the commissioners shall adopt regulations that provide protest and appeal procedures relating to the solicitation of applications and award of a license that are substantially similar to the procedures in AS 36.30.550 - 36.30.699.

Sec. 43.90.140. Application requirements. An application for a license must be consistent with the terms of the request for applications under AS 43.90.130 and must

(1) be filed by the deadline established by the commissioners in the request for applications;

(2) provide a detailed description of a proposed natural gas pipeline project for transporting natural gas from the North Slope of this state to market, including

(A) the route proposed for the natural gas pipeline;

1 (B) receipt and delivery points and the size and design capacity
2 of the proposed natural gas pipeline at the proposed receipt and delivery points,
3 except that this information is not required for in-state delivery points unless
4 the application proposes specific in-state delivery points;

5 (C) an analysis demonstrating the project's economic and
6 technical viability as required in the request for applications;

7 (D) an economically and technically viable work plan, timeline,
8 and associated budget for developing the proposed project, including how the
9 applicant will perform field work, environmental studies, design, and
10 engineering, and how the applicant will comply with all applicable state,
11 federal, and international regulatory requirements that affect the proposed
12 project; the work plan must address the following:

13 (i) if the proposed project involves a pipeline into or
14 through Canada, a description in detail of the applicant's plan to obtain
15 necessary rights-of-way and authorizations in Canada; a description of
16 the transportation services to be provided and a description of rate-
17 making methodologies the applicant will propose to the regulatory
18 agencies; and an estimate of rates and charges for all services;

19 (ii) if the proposed project involves marine
20 transportation of liquefied natural gas, a description of the marine
21 transportation services to be provided and a description of proposed
22 rate-making methodologies; an estimate of rates and charges for all
23 services by third parties; a detailed description of all access and tariff
24 terms the applicant would propose for liquefaction services or, if third
25 parties would perform liquefaction services, identify the third parties
26 and the terms they would offer; a complete description of the proposed
27 ownership, control, and cost of liquefied natural gas tankers, the
28 management of shipping services, liquefied natural gas export,
29 destination, re-gasification facilities, and pipeline facilities needed for
30 transport to market destinations, and the entity or entities that would be
31 required to obtain necessary export permits or a certificate of public