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Source

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Chapter No.

AN ACT

Authorizing the Alaska Railroad Corporation to participate in a project consisting of the acquisition, construction, improvement, maintenance, equipping, or operation of real and personal property, including facilities and equipment, for the Kenai gasification project and Port MacKenzie rail link, authorizing the corporation to issue bonds to finance all or a portion of the project, and identifying these as bonds for an essential public and governmental purpose; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

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2 acquisition, construction, improvement, maintenance, equipping, or operation of real and
3 personal property, including facilities and equipment, for the Kenai gasification project and
4 Port MacKenzie rail link, authorizing the corporation to issue bonds to finance all or a portion
5 of the project, and identifying these as bonds for an essential public and governmental
6 purpose; and providing for an effective date.

7

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 LEGISLATIVE FINDINGS, INTENT, AND STATEMENT OF PURPOSE. (a) The
11 legislature finds that

12 (1) Agrium's urea and ammonia plants in the northern Kenai Peninsula are in
13 danger of being permanently shut down because of a lack of adequate natural gas feedstock in

1 the area;

2 (2) closure of the Agrium plants will result in a loss of a significant number of
3 high paying jobs and tax base for the northern Kenai Peninsula as well as tax revenue to the
4 state;

5 (3) Agrium's Kenai gasification project will bring low-sulfur coal from Healy
6 to North Kenai where a low-emission coal gasification plant and electrical generation plant
7 will be built on land adjacent to Agrium's existing urea and ammonia plants;

8 (4) producing gas from coal will provide Agrium with an alternative feedstock
9 to natural gas, which is in short supply in Southcentral Alaska, and will allow Agrium to
10 continue to operate its urea and ammonia plants for the foreseeable future;

11 (5) the Kenai gasification project will also generate competitively priced
12 electricity for the regional power grid and excess carbon dioxide that could be used to
13 enhance oil recovery from the wells in Cook Inlet;

14 (6) the Alaska Railroad Corporation is uniquely suited to serve essential
15 functions of the state by providing, among other things, rail transportation of coal and other
16 freight and by financing all or a portion of the Kenai gasification project;

17 (7) the Kenai gasification project furthers the purposes of both the state and
18 the Alaska Railroad Corporation by creating a new market for the state's coal reserves at
19 Healy, which will be transported from Healy to the northern Kenai Peninsula, creating
20 revenue for the Alaska Railroad Corporation and for the state and providing employment
21 opportunities for residents of the state;

22 (8) these results are essential purposes of the state, and the achievement of
23 these purposes is critical to the health and welfare of the state.

24 (b) The purpose of this Act is to clarify the statutory functions and powers of the
25 Alaska Railroad Corporation by expressly including the power to participate in the Kenai
26 gasification project and to finance all or a portion of the project with bonds as described in
27 this Act.

28 (c) It is the intent of the legislature that

29 (1) this Act be construed broadly to permit the Alaska Railroad Corporation
30 the greatest flexibility to accomplish the purposes described in (b) of this section within the
31 limitations set out in this Act; and

1 (2) other provisions of AS 42.40 in existence before the enactment of this Act
2 be similarly construed to complement the provisions of this Act.

3 * **Sec. 2.** AS 42.40 is amended by adding a new section to article 7 to read:

4 **Sec. 42.40.570. Kenai gasification project.** (a) The corporation may
5 participate in a project consisting of the acquisition, construction, improvement,
6 maintenance, equipping, and operation of real and personal property, including
7 facilities and equipment for the transportation of coal from Healy to the northern
8 Kenai Peninsula, and facilities and equipment for coal gasification and electrical
9 power generation adjacent to the Agrium fertilizer plants in the northern Kenai
10 Peninsula.

11 (b) The corporation may participate in a project consisting of the acquisition,
12 construction, improvement, maintenance, equipping, and operation of real and
13 personal property, including facilities and equipment, for the transportation of coal by
14 rail from Healy to Port MacKenzie and thereafter by barge to the northern Kenai
15 Peninsula.

16 (c) The corporation may finance all or a portion of the projects described in (a)
17 and (b) of this section through the issuance of its bonds.

18 * **Sec. 3.** AS 42.40.630 is amended by adding a new subsection to read:

19 (c) Before issuing bonds to provide the financing described in AS 42.40.570
20 for real or personal property to be owned in whole or in part by an entity other than the
21 corporation, the corporation shall enter into one or more contracts, leases, or other
22 forms of agreement that will, in the judgment of the corporation, provide sufficient
23 consideration to

24 (1) pay the principal of and interest on the bonds as they become due;

25 (2) create and maintain any reserves for the bond payments that the
26 corporation considers necessary or desirable; and

27 (3) pay all costs necessary to issue, service, or additionally secure the
28 bonds, including trustee's fees and bond insurance premiums, unless these costs are to
29 be paid from bond proceeds or by a party other than the corporation.

30 * **Sec. 4.** AS 42.40.695 is amended to read:

31 **Sec. 42.40.695. Public purpose of bonds.** Bonds of the corporation issued to

1 finance facilities described in AS 42.40.550 and 42.40.560 [AS 42.40.560] and bonds
2 of the corporation issued to finance the acquisition, construction, improvement,
3 maintenance, equipping, and operation of real and personal property, including
4 facilities and equipment, described in AS 42.40.570 [AS 42.40.550] are issued by a
5 public corporation and an instrumentality of the state for an essential public and
6 governmental purpose.

7 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 LEGISLATIVE AUTHORIZATION AND APPROVAL. (a) Subject to the
10 requirements of AS 42.40.630(c), enacted by sec. 3 of this Act, the Alaska Railroad
11 Corporation is authorized to issue bonds under the power granted to it in AS 42.40.250 to
12 participate in and finance all or a portion of the Kenai gasification project, including the
13 acquisition, construction, improvement, maintenance, equipping, and operation of real and
14 personal property, including facilities and equipment, for the transportation of coal by rail
15 from Healy to the northern Kenai Peninsula and facilities and equipment for coal gasification
16 and electrical power generation adjacent to the Agrium fertilizer plants in the northern Kenai
17 Peninsula, and associated costs, including, without limitation, reserves for debt service and
18 capitalized interest, if necessary or appropriate, and costs of issuance. The maximum principal
19 amount of bonds that the Alaska Railroad Corporation may issue under this section is
20 \$2,900,000,000, of which

21 (1) not more than \$2,600,000,000 of bonds may be issued for the project
22 described in AS 42.40.570(a); and

23 (2) not more than \$300,000,000 of bonds may be issued for the project
24 described in AS 42.40.570(b).

25 (b) The Alaska Railroad Corporation may issue the bonds authorized by (a) of this
26 section in a single issuance or in several issuances, without limitation as to number of
27 issuances or timing, and as the Alaska Railroad Corporation determines best furthers the
28 purpose of financing the Kenai gasification project and related real and personal property,
29 including facilities and equipment described in this section. The Alaska Railroad Corporation
30 shall negotiate with Agrium U.S., Inc., or with one or more other entities as the Alaska
31 Railroad Corporation considers appropriate, and shall enter into agreements with those

1 entities or one or more other entities to provide revenue sufficient to accomplish the purposes
2 described in AS 42.40.630(c), enacted by sec. 3 of this Act. In no event shall the general
3 credit of the state be pledged for the repayment of these bonds.

4 (c) This authorization extends to bonds issued to refund the bonds authorized in this
5 Act. The principal amount of the bonds authorized in this Act may be increased in an issue of
6 refunding bonds in an amount equal to the costs of refunding if the refunding is undertaken to
7 achieve debt service savings.

8 (d) This section constitutes the approval required by AS 42.40.285 for the issuance of
9 the bonds described in this section.

10 (e) In this section, "bonds" means bonds, bond anticipation notes, notes, refunding
11 bonds, or other obligations.

12 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 **TERMINATION OF AUTHORITY FOR KENAI GASIFICATION PROJECT**
15 **BONDS; ISSUED BONDS VALID.** (a) The authorization described in sec. 5(a)(2) of this Act
16 to issue bonds of the Alaska Railroad Corporation under AS 42.40.570(b) terminates June 30,
17 2012.

18 (b) The authorization described in sec. 5(a)(1) of this Act to issue bonds of the Alaska
19 Railroad Corporation under AS 42.40.570(a) terminates June 30, 2015.

20 (c) Notwithstanding the termination of the authorizations made by (a) and (b) of this
21 section, bonds of the Alaska Railroad Corporation that are issued not later than the respective
22 termination dates set out in (a) and (b) of this section are valid and binding obligations of the
23 corporation under AS 42.40.670.

24 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).