

HOUSE BILL NO. 378

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JOHNSON, Ramras

Introduced: 2/23/10

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the powers and duties of the Alaska Railroad Corporation and the**
2 **Alaska Housing Finance Corporation related to the exercise of authority to purchase,**
3 **transport, and sell natural gas produced on the North Slope for in-state use, and**
4 **transferring exclusive and primary responsibility for the initiation and development of**
5 **that project from the Office of the Governor and the Department of Natural Resources**
6 **to those corporations; and providing for an effective date."**

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

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

10 **LEGISLATIVE FINDINGS AND PURPOSE.** (a) The legislature finds that

11 (1) by 2018, declining oil flow through the Trans Alaska Pipeline System will
12 seriously diminish state revenue;

13 (2) Cook Inlet natural gas reserves are depleting at a rate that could cause

1 significant shortages for residential and commercial gas users in Southcentral Alaska by 2013;

2 (3) a proposed natural gas pipeline to deliver North Slope gas reserves to the
3 North American domestic gas pipeline grid at a connection in central Alberta will not produce
4 revenue for the benefit of the state before 2020;

5 (4) the state's significant reserves of natural gas should be made available on a
6 priority basis in the state to enhance employment opportunities, expand the state's economy,
7 and supply a significant portion of community energy needs; and

8 (5) in light of competing demands for future uses of the state's North Slope
9 natural gas reserves, only an aggressive effort involving planning, permitting, and
10 coordination of information sharing, of necessary agreements and commitments, and
11 commercial negotiations among interested parties will result in completion of construction of
12 an in-state natural gas pipeline that will provide significant direct benefit to the people of the
13 state at the earliest possible date.

14 (b) It is the purpose of this Act

15 (1) to give general direction to the Alaska Railroad Corporation, an agency
16 that enjoys express authority to acquire, construct, improve, maintain, equip, and operate a
17 natural gas pipeline and related facilities for the transportation of natural gas recovered from
18 the North Slope without regard to whether the facilities are or will be owned in whole or in
19 part by the corporation or located on land owned by the corporation, and the Alaska Housing
20 Finance Corporation, a public corporation with extensive experience in financing major
21 development projects, jointly and cooperatively to initiate planning and development of
22 construction of a high pressure in-state natural gas pipeline of appropriate diameter between
23 Alaska's North Slope and Cook Inlet sufficient to provide for the distribution of natural gas
24 for residential and commercial purposes at locations along the pipeline route; and

25 (2) to transfer the exclusive and primary responsibility for the development of
26 the project described in (1) of this subsection from the Office of the Governor and the
27 Department of Natural Resources to the parties identified in this Act.

28 * **Sec. 2.** AS 18.56.086 is amended to read:

29 **Sec. 18.56.086. Creation of subsidiaries.** The corporation may create
30 subsidiary corporations for the purpose of financing or facilitating the financing of
31 school construction, facilities for the University of Alaska, facilities for ports and

1 harbors, **facilities developed cooperatively with the Alaska Railroad Corporation**
 2 **to fulfill the obligations set out in AS 42.40.560**, prepayment of all or a portion of a
 3 governmental employer's share of unfunded accrued actuarial liability of retirement
 4 systems, or other capital projects. A subsidiary corporation created under this section
 5 may be incorporated under AS 10.20.146 - 10.20.166. The corporation may transfer
 6 assets of the corporation to a subsidiary created under this section. A subsidiary
 7 created under this section may borrow money and issue bonds as evidence of that
 8 borrowing, and has all the powers of the corporation that the corporation grants to it.
 9 However, a subsidiary created for the purpose of financing or facilitating the financing
 10 of prepayment of a governmental employer's share of unfunded accrued actuarial
 11 liability of retirement systems may borrow money and issue bonds only if the state
 12 bond rating is the equivalent of AA- or better and subject to AS 37.15.903. Unless
 13 otherwise provided by the corporation, the debts, liabilities, and obligations of a
 14 subsidiary corporation created under this section are not the debts, liabilities, or
 15 obligations of the corporation.

16 * **Sec. 3.** AS 18.56 is amended by adding a new section to article 7 to read:

17 **Sec. 18.56.888. Exercise of powers in furtherance of financing North Slope**
 18 **natural gas pipeline project.** In addition to other powers granted in this chapter, the
 19 corporation or a subsidiary of the corporation, working jointly and cooperatively with
 20 the Alaska Railroad Corporation, may exercise powers granted under this chapter to
 21 finance or facilitate the financing of the project described in AS 42.40.560.

22 * **Sec. 4.** AS 42.40.460 is amended by adding a new subsection to read:

23 (l) The provisions of AS 42.40.560(d) prevail over the provisions of this
 24 section for the purpose of development of the North Slope natural gas pipeline project
 25 described in that section.

26 * **Sec. 5.** AS 42.40.560 is amended by adding new subsections to read:

27 (b) In the exercise of its authority under (a) of this section for a North Slope
 28 natural gas pipeline project, the corporation shall

29 (1) aggressively pursue the acquisition of all necessary federal permits
 30 and acquisitions essential for the development and operation of the project;

31 (2) provide monthly reports to the presiding officers of each house of

1 the legislature and to the governor on the corporation's activities relating to the
2 project;

3 (3) initiate a cost study for construction of a gas-to-liquids facility; in
4 the exercise of its authority under this paragraph, the corporation may arrange for
5 essential engineering and design work;

6 (4) initiate efforts to identify and develop in-state markets for the
7 natural gas to be delivered by the project and, to the extent necessary to ensure the
8 long-term feasibility of the project, work to identify and develop overseas markets for
9 the gas; and

10 (5) work cooperatively with the Alaska Housing Finance Corporation
11 on a plan of financing for the project.

12 (c) Subject to AS 36.30.015(e), the board may provide that all or any portion
13 of the project described in this section shall be subject to competitive sealed bid or
14 competitive sealed proposal procedures.

15 (d) To fulfill its obligations under this section, the corporation shall identify
16 all or a portion of a proposed natural gas pipeline transportation corridor. To the
17 maximum extent possible consistent with ensuring the long-term feasibility of the
18 project, the corporation shall make reasonable efforts to locate the proposed corridor
19 between Fairbanks and the Kenai Peninsula, on its land. For land identified by the
20 corporation under this subsection that is not then subject to the corporation's
21 ownership,

22 (1) the Department of Natural Resources shall promptly reserve the
23 entirety of the corridor across state land identified by the corporation, subject to valid
24 existing rights and provisions of this section;

25 (2) on an interim basis, the Department of Natural Resources shall
26 condition authorizations for activities on the reserved land to protect the right of the
27 corporation to initiate and undertake construction of the project or other uses identified
28 for the land; and

29 (3) the Department of Natural Resources shall convey to the
30 corporation the state's entire interest in the land within the pipeline corridor, subject to
31 valid existing rights; in making the conveyance under this paragraph, the department

1 may reserve to the state (A) the interests required by AS 38.05.125; (B) the right of the
2 department to identify and reserve rights-of-way for potential future crossings under
3 AS 42.40.460(g); and (C) the authority of the department to identify, reserve,
4 authorize, and manage land within the pipeline corridor for future right-of-way leases
5 and uses under AS 38.35; the conveyance of land under this paragraph shall be
6 without cost to the corporation except for the direct administrative costs of the
7 department; the best interest findings requirements of AS 38.05 do not apply to
8 reservations and conveyances made under this subsection.

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

11 ALASKA RAILROAD CORPORATION: TRANSITIONAL PROVISIONS
12 AFFECTING OBLIGATIONS UNDER AS 42.40.560. (a) In discharging its obligations
13 under AS 42.40.560(b)(1), enacted by sec. 5 of this Act, the Alaska Railroad Corporation
14 shall initiate permit and acquisition applications in accordance with the federal permit
15 schedule that was provided to the legislature by the Office of the Governor on or about
16 December 15, 2009.

17 (b) The parties having responsibility for contracts, permit and acquisition
18 applications, and studies in progress on the effective date of this Act entered into by the
19 Office of the Governor or a state agency shall transfer those obligations and initiatives to the
20 Alaska Railroad Corporation. Transfer of those obligations and initiatives may not be
21 unreasonably delayed.

22 (c) Unless provision is made in legislation enacted in 2010 making and transferring
23 appropriations to reappropriate unexpended appropriations made in 2009 to the Office of the
24 Governor and executive branch agencies to support an in-state North Slope natural gas
25 pipeline project, the Alaska Railroad Corporation and the Alaska House Finance Corporation
26 may apply to the governor to transfer those unexpended balances of appropriations for uses
27 described in AS 18.56.888 and AS 42.40.560(b), as enacted by secs. 3 and 5 of this Act. The
28 governor may not unreasonably withhold approval of the request. AS 37.07.080(g) does not
29 apply to an application made under this subsection. This subsection constitutes legislative
30 approval to implement the transfer of responsibilities between the named entities as
31 contemplated by AS 37.07.080(h).

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