

HOUSE BILL NO. 330

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/5/18

Referred: Judiciary, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the commissioner of natural resources to disclose confidential**
2 **information in an investigation or proceeding, including a lease royalty audit, appeal, or**
3 **request for reconsideration and issue a protective order limiting the persons who have**
4 **access to the confidential information."**

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

6 * **Section 1.** AS 38.05.020(b) is amended to read:

7 (b) The commissioner may

8 (1) establish reasonable procedures and adopt reasonable regulations
9 necessary to carry out this chapter and, whenever necessary, issue directives or orders
10 to the director to carry out specific functions and duties; regulations adopted by the
11 commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);
12 orders by the commissioner classifying land, issued after January 3, 1959, are not
13 required to be adopted under AS 44.62 (Administrative Procedure Act);

14 (2) enter into agreements considered necessary to carry out the

1 purposes of this chapter, including agreements with federal and state agencies;

2 (3) review any order or action of the director;

3 (4) exercise the powers and do the acts necessary to carry out the
4 provisions and objectives of this chapter;

5 (5) notwithstanding the provisions of any other section of this chapter,
6 grant an extension of the time within which payments due on any exploration license,
7 lease, or sale of state land, minerals, or materials may be made, including payment of
8 rental and royalties, on a finding that compliance with the requirements is or was
9 prevented by reason of war, riots, or acts of God;

10 (6) classify tracts for agricultural uses;

11 (7) after consulting with the Board of Agriculture and Conservation
12 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
13 of a contract for the sale of agricultural land if

14 (A) the land is inaccessible by road; or

15 (B) transportation, marketing, and development costs render
16 the required development uneconomic;

17 (8) reconvey or relinquish land or an interest in land to the federal
18 government if

19 (A) the land is described in an amended application for an
20 allotment under 43 U.S.C. 1617; and

21 (B) the reconveyance or relinquishment is

22 (i) for the purposes provided in 43 U.S.C. 1617; and

23 (ii) in the best interests of the state;

24 (9) lead and coordinate all matters relating to the state's review and
25 authorization of resource development projects;

26 (10) enter into commercial agreements with a duration of not more
27 than two years for project services related to a North Slope natural gas project;

28 (11) in consultation with the commissioner of revenue, participate in
29 the negotiation of agreements that include balancing, marketing, disposition of natural
30 gas, and offtake and contracts and development of terms for inclusion in those
31 proposed agreements and contracts associated with a North Slope natural gas project;

1 an agreement or contract negotiated under this paragraph to which the state is a party
 2 is not effective unless the legislature authorizes the governor to execute the agreement
 3 or contract;

4 (12) enter into confidentiality agreements to maintain the
 5 confidentiality of information related to contract negotiations and contract
 6 implementation associated with a North Slope natural gas project; information under
 7 those confidentiality agreements is not subject to AS 40.25.100 - 40.25.295 (Alaska
 8 Public Records Act), except that

9 (A) the terms of a proposed contract that the commissioner
 10 presents to the legislature for the purpose of obtaining authorization for the
 11 governor to execute are not confidential and must be made available to the
 12 public at least 90 days before the proposed effective date for the terms; and

13 (B) the commissioner may share confidential information
 14 obtained under this paragraph with members of the legislature, their agents,
 15 and contractors on request under confidentiality agreements, either in
 16 committees held in executive session or individually;

17 (13) consult with the Alaska Gasline Development Corporation in the
 18 development of agreements or contracts under (10) or (11) of this subsection for
 19 project services related to a gas treatment plant, pipeline, liquefaction facility, marine
 20 terminal, or marine transportation services necessary to transport natural gas to
 21 market;

22 (14) in consultation with the commissioner of revenue, take custody of
 23 gas delivered to the state under AS 43.55.014(b) and manage the project services and
 24 disposition and sale of that gas;

25 (15) **in an investigation or proceeding of the department, including**
 26 **a lease audit, appeal, or request for reconsideration, disclose confidential**
 27 **information, including information under AS 38.05.035(a)(8) and 38.05.036, to**
 28 **the parties if the lease requires disclosure or, in the commissioner's discretion,**
 29 **the commissioner determines that the disclosure is necessary; before disclosing**
 30 **confidential information, the commissioner shall**

31 **(A) provide notice and an opportunity to be heard to all**

1 **parties to the investigation or proceeding and any third party whose**
 2 **information will be disclosed under a protective order; and**

3 **(B) issue a protective order limiting the persons who may**
 4 **have access to the information and purposes for which it may be used;**

5 **(16)** exercise the powers and do the acts necessary to carry out the
 6 provisions and objectives of AS 43.90 that relate to this chapter.

7 * **Sec. 2.** AS 38.05.035(a) is amended to read:

8 (a) The director shall

9 (1) have general charge and supervision of the division and may
 10 exercise the powers specifically delegated to the director; the director may employ and
 11 fix the compensation of assistants and employees necessary for the operations of the
 12 division; the director is the certifying officer of the division, with the consent of the
 13 commissioner, and may approve vouchers for disbursements of money appropriated to
 14 the division;

15 (2) manage, inspect, and control state land and improvements on it
 16 belonging to the state and under the jurisdiction of the division;

17 (3) execute laws, rules, regulations, and orders adopted by the
 18 commissioner;

19 (4) prescribe application procedures and practices for the sale, lease, or
 20 other disposition of available land, resources, property, or interest in them;

21 (5) prescribe fees or service charges, with the consent of the
 22 commissioner, for any public service rendered;

23 (6) under the conditions and limitations imposed by law and the
 24 commissioner, issue deeds, leases, or other conveyances disposing of available land,
 25 resources, property, or any interests in them;

26 (7) have jurisdiction over state land, except that land acquired by the
 27 Alaska World War II Veterans Board and the Agricultural Loan Board or the
 28 departments or agencies succeeding to their respective functions through foreclosure
 29 or default; to this end, the director possesses the powers and, with the approval of the
 30 commissioner, shall perform the duties necessary to protect the state's rights and
 31 interest in state land, including the taking of all necessary action to protect and enforce

1 the state's contractual or other property rights;

2 (8) maintain the records the commissioner considers necessary,
3 administer oaths, and do all things incidental to the authority imposed; the following
4 records and files shall be kept confidential upon request of the person supplying the
5 information:

6 (A) the name of the person nominating or applying for the sale,
7 lease, or other disposal of land by competitive bidding;

8 (B) before the announced time of opening, the names of the
9 bidders and the amounts of the bids;

10 (C) all geological, geophysical, and engineering data supplied,
11 whether or not concerned with the extraction or development of natural
12 resources;

13 (D) except as provided in AS 38.05.020 and 38.05.036
14 [AS 38.05.036], cost data and financial information submitted in support of
15 applications, bonds, leases, and similar items;

16 (E) applications for rights-of-way or easements;

17 (F) requests for information or applications by public agencies
18 for land that is being considered for use for a public purpose;

19 (9) account for the fees, licenses, taxes, or other money received in the
20 administration of this chapter including the sale or leasing of land, identify their
21 source, and promptly transmit them to the proper fiscal department after crediting
22 them to the proper fund; receipts from land application filing fees and charges for
23 copies of maps and records shall be deposited immediately in the general fund of the
24 state by the director;

25 (10) select and employ or obtain at reasonable compensation cadastral,
26 appraisal, or other professional personnel the director considers necessary for the
27 proper operation of the division;

28 (11) be the certifying agent of the state to select, accept, and secure by
29 whatever action is necessary in the name of the state, by deed, sale, gift, devise,
30 judgment, operation of law, or other means any land, of whatever nature or interest,
31 available to the state; and be the certifying agent of the state, to select, accept, or

1 secure by whatever action is necessary in the name of the state any land, or title or
 2 interest to land available, granted, or subject to being transferred to the state for any
 3 purpose;

4 (12) on request, furnish records, files, and other information related to
 5 the administration of AS 38.05.180 to the Department of Revenue for use in
 6 forecasting state revenue under or administering AS 43.55, whether or not those
 7 records, files, and other information are required to be kept confidential under (8) of
 8 this subsection; in the case of records, files, or other information required to be kept
 9 confidential under (8) of this subsection, the Department of Revenue shall maintain
 10 the confidentiality that the Department of Natural Resources is required to extend to
 11 records, files, and other information under (8) of this subsection;

12 (13) when reasonably possible, give priority to and expedite the
 13 processing of an application for a lease or assignment of a lease of state land for
 14 development and operation of a gas storage facility, for a right-of-way to a gas storage
 15 facility, for a change to the allocation of production within a unit, and for a permit
 16 necessary for the operation of a gas storage facility; in this paragraph, "gas storage
 17 facility" has the meaning given in AS 31.05.032.

18 * **Sec. 3.** AS 38.05.036(f) is amended to read:

19 (f) Except as otherwise provided in this section, **as authorized under**
 20 **AS 38.05.020**, or in connection with official investigations, **including lease royalty**
 21 **audits, appeals**, or proceedings of the department, it is unlawful for a current or
 22 former officer, employee, or agent of the state to divulge information obtained by the
 23 department as a result of an audit under this section that is required by an agreement
 24 with the department or by AS 38.05.035(a)(8) to be kept confidential.