

LEGAL SERVICES

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MEMORANDUM

February 7, 2011

SUBJECT: Sectional Summary of HB 58 (Work Order No. 27-LS0316\A)

TO: Representative Paul Seaton

Attn: Katie Koester

FROM: Donald M. Bullock Jr.
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends AS 38.05.150(d) by shortening to 10 years the period during which a coal royalty shall be effective; changing the amount of royalty to 5 percent of the adjusted gross value of coal sold, disposed, transferred, or consumed by a lessee in a noncompetitive lease or a competitive lease in which royalty is a bid variable; and increasing the minimum amount of annual rental.

Section 2. Adds new subsections to AS 28.05.150 to allow the commissioner of natural resources to require the lessee to pay royalty-in-kind as necessary to fuel a coal-fired power plant owned by the state or an agency of the state, and requires the commissioner to calculate changes in the rental amount for a coal lease based on the Consumer Price Index.

Section 3. Amends AS 38.05.211(a) by increasing the minimum rent for a mining claim, leasehold location, or mining lease.

Section 4. Amends AS 38.05.211(d) to apply only to a claim, leasehold location, prospecting site, and mining lease first located before January 1, 2012.

Section 5. Adds a new subsection to AS 38.05.211 that is applicable to a claim, leasehold location, prospecting site, and mining lease first located after December 31, 2011; requires the commissioner of natural resources to revise the rental amount based on changes in the Consumer Price Index; requires the commissioner to increase or decrease the rental amount rounded to the nearest whole \$5 unit; requires the commissioner to

calculate a change in the rental amount each 10 years and to establish revised rental amounts by regulation; provides that a revised rental amount applies to a rental payment if the regulation establishing the revised rental amount took effect at least 90 days before the date the rental payment is due.

Section 6. Repeals and reenacts AS 38.05.212(b) to change the basis for the calculation of the production royalty to three percent of the net smelter return or the gross value at the point of production, depending on whether the mining production is processed by a smelter or refinery.

Section 7. Adds a new section to AS 38.05.212 to define "net smelter return."

Section 8. Adds a new section, AS 38.05.213, that defines the gross value at the point of production; describes when the value of a resource immediately after extraction is the price received by the person engaged in mining the resource (adjusted for value added) and when the department may reject that basis for determining value; directs the substitution of fair market value for the price reported by the person if the department rejects the reported price; uses the reasonable cost of transportation to determine the gross value at the point of production and provides for an alternate determination of the reasonable cost when the actual cost is rejected; defines "affiliated" and "destination value" as those terms are used in the section.

Section 9. Adds a new section to AS 43.65 that requires a person engaged in mining after December 31, 2011 to apply for a mining license and directs the Department of Revenue to adopt regulations prescribing the information to be provided by the applicant and the fee for the license.

Section 10. Amends AS 43.65.010(a) to change the exemption of the mining tax during the first three and one-half years to a deferral; requires the deferred tax to be paid during the ten-year period following the end of the period in which the tax is deferred.

Section 11. Amends AS 43.65.010(b) by simplifying the language and conforming the text to the amendment to AS 43.65.010(a) in sec. 10 of the bill.

Section 12. Repeals and reenacts AS 43.65.010(c) to increase the tax rates and add an additional bracket applicable to net income over \$500,000.

Section 13. Amends AS 43.65.010(d) to conform the language to the current drafting style.

Section 14. Repeals and reenacts AS 43.65.010(e) to use cost depletion.

Section 15. Corrects the term defined in AS 43.65.060(1) to match the term as used in AS 43.65.020(a).

Section 16. Amends the definition of "mining" in AS 43.65.060(2).

Section 17. Defines "net income of the taxpayer" and includes the term "taxpayer's net income" in the definition in AS 43.65.060(3).

Section 18. Amends the definition of "new mining operation" in AS 43.65.060(4).

Section 19. Makes nonsubstantive editorial corrections to the definition of "ordinary treatment processes" in AS 43.65.060(5).

Section 20. Adds the definition of "date production begins" to AS 43.65.060.

Section 21. Repeals AS 38.05.211(b) and 38.05.211(e) that relate to annual rental for a mining claim, leasehold location, prospecting site, and mining lease. Repeals AS 43.65.010(f) that related to the allowance for depletion determined as a percentage of gross income from the property. Repeals AS 43.65.030 that related to the renewal of a mining license and AS 43.65.060(6) that defined "production."

Section 22. Adds a new section to the uncodified law of the State of Alaska that makes the mining royalty and lease amendments applicable to leases entered into or renegotiated after December 31, 2011.

Section 23. Makes the Act take effect January 1, 2012.

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