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## SENATOR CLICK BISHOP

### **EXPLANATION OF CHANGES FOR COMMITTEE SUBSTITUTE FOR SPONSOR SUBSTITUTE FOR SENATE BILL 155 (CSSSSB 155(RES)) – VERSION G**

“Committee Substitute for Sponsor Substitute for Senate Bill 155 (CSSSSB 155(RES)) -  
Version G – “An Act relating to exploration and mining rights; relating to annual labor  
requirements with respect to mining claims and related leases; relating to statements of annual  
labor; defining ‘labor’; and providing for an effective date.”

1. On February 19, 2020 the Senate Resources Committee adopted the following changes (via Committee Substitute for Sponsor Substitute for Senate Bill 155):
  - a. In Section 3 (AS 38.05.190):
    - i. Further language clarified that written notice shall be sent to the owner via certified mail with return receipt requested to the most recent address on file with the Department of Natural Resources. The interest will be void if the unqualified person does not cure the defect within 90 days. The department may send an additional copy of the notice by regular mail.
      1. The changes are found on page 2, lines 22-26.
  - b. In Section 6 (AS 38.05.210(a)):
    - i. Language about “common plan of development” was changed to say “including adjacent federal or private mineral interests held in common.” The intent is to distinguish between terms used in the oil and gas industry versus mining. This language “better fit” commonly understood terms in the mining industry.
      1. The changes are found on page 4, lines 13-14.
    - ii. “or mineral interest” was also added to better encompass what one may encounter when adjacent mining interests are held under common ownership.
      1. The changes are found on page 4, line 15.
  - c. In Section 7 (AS 38.05.210(b)):
    - i. In (7)(C) “equal to” was removed. “Applied toward” replaced “equal to.”

1. So, now a statement of annual labor must include “any cash payment to the state **applied toward** the value of the labor required under (a) of this section.
  - a. Why?
    - i. The existing statute at AS 38.05.210(a) provides that labor may be satisfied by work performed in the current year, excess value of work performed in prior years, and cash paid equal to the value of the labor required. While this language gives the miner the opportunity to use one of the three methods to the exclusion of the others, there is no obligation that such labor satisfaction method must be exclusive to the others. In fact, existing practice by some miners is to use portions of all three. Thus, a miner may use a cash payment toward the labor requirement to top off the work performed or value of work from prior years. Any cash payments must be made before the end of the assessment year on Sept 1 and generally before the labor affidavit is filed, so referring to the payment in the past tense on the affidavit is appropriate.
  2. The changes are found on page 5, line 25.
- d. In Section 8 (AS 38.05.210(c)):
  - i. A statement of annual labor can be corrected or amended before the 90 day period after notice was sent under AS 38.05.210(g).
    1. The intent is to synch the 90 days cure provisions, throughout the statutes.
    2. The changes are found on page 6, lines 10-11.
  - ii. “A corrected statement following notice of deficiency under (g) of this section shall be recorded within 90 days after the notice is sent[.]” was eliminated. The sentence was redundant. The sentence previously existed on Version K, page 6, lines 15-16.
- e. In Section 9 (AS 38.05.210):
  - i. “Shall” was changed to “may.” On Version G, page 6, line 26. The word “may” synchs with Section 3 (which changed AS 38.05.190).
  - ii. Text was added to protect miners against third party litigation during the cure period.
    1. The changes are found on page 7, lines 3-4.
  - iii. Section (j) from version K was deleted as it was duplicative of the new added language in AS 38.05.283 (Section 14 in Version G).
- f. In Section 10 (AS 38.05.240):
  - i. “Prospecting” was replaced with “exploring” to provide more consistency throughout the statutes.
    1. The change is found on Version G, page 7, line 14.

- ii. The words “in support of prospecting for, developing, or producing minerals” were deleted in AS 38.05.240(1) because the text was redundant when read with the rest of the statutory language.
    - 1. The removed language previously existed in Version K, on page 7, lines 18-19.
- g. In Section 12 (AS 38.05.270):
  - i. “Evidence of” was included at the beginning of the statutory language. One can record evidence of a transaction, but not the act itself.
    - 1. The change is found on page 9, line 18.
  - ii. The language involving “heirs and assigns” was eliminated. Given existing property law, the language did not add much value. This request for removal came from the Department of Nature Resources (DNR). There was no objection from the Alaska Miners Association (AMA) working group.
    - 1. The “heirs and assigns” language previously existed under Version K, page 9, lines 25-26.
- h. A new Section 14 has been added (AS 38.05.283):
  - i. The section emphasizes, broadly, that the Department is not required to go back and review for compliance to these mining laws.
  - ii. This language was based on concepts discussed by AMA and DNR. AMA does not expect DNR to actively, unilaterally review notices or affidavits/statements.
    - 1. See Version G, page 10, lines 10-13.
- i. Section 15 – Applicability:
  - i. Language was added for a clear understanding of applicability:
    - 1. It now reads:
      - a. “APPLICABILITY. (a) AS 38.05.210(a), as amended by sec. 8 of this Act, and AS 38.05.210(e)-(i), enacted by sec. 9 of this Act, apply to statements of annual labor filed before, on, or after the effective date of this Act, if, before the effective date of this Act, a final decision or judgment has not been entered invalidating the mineral interest and, after the final decision or judgment, a claim has not been located or a leasehold granted on the affected land.”
      - b. See Version G, page 10, lines 16-21.
  - ii. In (b), the effective date of section 13 is now “effective the date of this Act” instead of “July 1, 2020.”
    - 1. See Version G, page 10, line 23.