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Bullard
4/25/24

CS FOR SENATE BILL NO. 69(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to geothermal resources; and providing for an effective date."

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

* **Section 1.** AS 38.05.181(a) is amended to read:

(a) The commissioner may, under regulations adopted by the commissioner, grant prospecting **licenses** [PERMITS] and leases to a qualified person to explore for, develop, or use geothermal resources. When title to the surface parcel is held by a person other than the state, that person shall have a preferential right to a geothermal prospecting **license** [PERMIT] or lease for the area underlying the surface parcel. The surface owner must exercise the preference right within 30 days after receiving notice of the application for a **license** [PERMIT], or by agreeing to meet the terms of a bid within 60 days after receiving notice of the acceptance of the bid for a lease.

* **Sec. 2.** AS 38.05.181(c) is amended to read:

(c) On state land that has not been declared a competitive geothermal area or withdrawn from geothermal prospecting, the commissioner may issue a prospecting

1 license [PERMIT] to the first qualified applicant. The license [PERMIT] conveys an
2 exclusive right, for a period of five [TWO] years, to prospect for geothermal resources
3 on state land included under the license [PERMIT]. The commissioner has discretion
4 to renew the license [PERMIT] for an additional one-year term. A holder of a
5 prospecting license [PERMIT] has the right, after completion of an agreed-on work
6 commitment [UPON THE SHOWING OF A DISCOVERY OF GEOTHERMAL
7 RESOURCES IN COMMERCIAL QUANTITIES] and the submission of an
8 exploration [A DEVELOPMENT] plan acceptable to the commissioner, to convert
9 the license [PERMIT] to a noncompetitive lease at a royalty rate under (g) of this
10 section. The conversion privilege must be exercised not later than 30 days after the
11 expiration of the license [PERMIT]. If the land included within the license [PERMIT]
12 is designated a competitive geothermal area during the license [PERMIT] term, the
13 licensee [PERMITTEE] must apply for a noncompetitive lease within 30 days after
14 notification of the designation or forfeit the conversion privileges and the exclusive
15 right to prospect.

16 * **Sec. 3.** AS 38.05.181(d) is amended to read:

17 (d) On state land that is designated a competitive geothermal area and is not
18 subject to an existing prospecting license [PERMIT], the commissioner may issue
19 geothermal leases to the highest bidder by competitive bidding procedures established
20 by regulations adopted by the commissioner. At the discretion of the commissioner,
21 competitive lease sales may be by oral or sealed bid, on the basis of a cash bonus,
22 profit share, or royalty share.

23 * **Sec. 4.** AS 38.05.181(e) is amended to read:

24 (e) Prospecting licenses [PERMITS] and geothermal leases granted under this
25 section must [, EXCEPT IN THE CASE OF PARCELS SUBJECT TO A
26 PREFERENCE RIGHT UNDER (b) OF THIS SECTION,] be issued for at least 40
27 acres but not more than 2,560 acres. A person may not own, or hold an interest in,
28 geothermal leases covering more than 100,000 [51,200] acres. However, geothermal
29 leases in commercial production, individually or under a unit operation or well spacing
30 or pooling arrangement, do not count against the acreage limitation. All prospecting
31 licenses [PERMITS] and geothermal leases are subject to an annual rental fee

1 **established by the department in regulation and** [,] payable in advance [, OF \$3
2 PER ACRE]. The rental for a year shall be credited against royalties accruing for that
3 year.

4 * **Sec. 5.** AS 38.05.181(f) is amended to read:

5 (f) A geothermal lease shall be issued for a primary term of 10 years and may
6 be renewed for an additional term of five years if the lessee is actively engaged in
7 drilling operations. A geothermal lease is valid for the duration of commercial
8 production. [BEGINNING 20 YEARS AFTER THE INITIATION OF
9 COMMERCIAL PRODUCTION AND AT 10-YEAR INTERVALS THEREAFTER,
10 THE COMMISSIONER MAY RENEGOTIATE THE RENTALS AND
11 ROYALTIES DUE ON A GEOTHERMAL LEASE.]

12 * **Sec. 6.** AS 38.05.965(6) is amended to read:

13 (6) "geothermal resources" means the natural heat of the earth at
14 temperatures greater than **80** [120] degrees Celsius, measured at the point where the
15 highest-temperature resources encountered enter or contact a well or other resource
16 extraction device, and includes

17 (A) the energy, including pressure, in whatever form present in,
18 resulting from, created by, or that may be extracted from that natural heat;

19 (B) the material medium, including the geothermal fluid
20 naturally present, as well as substances artificially introduced to serve as a heat
21 transfer medium; and

22 (C) all dissolved or entrained minerals and gases that may be
23 obtained from the material medium, but excluding hydrocarbon substances and
24 helium;

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

27 TRANSITION: CONVERSION OF EXISTING PROSPECTING PERMIT
28 APPLICATIONS AND PROSPECTING PERMITS. (a) The commissioner of natural
29 resources shall convert an application for a prospecting permit made under AS 38.05.181(c),
30 as that subsection read on the day before the effective date of sec. 2 of this Act, that is
31 pending with the Department of Natural Resources on the effective date of sec. 2 of this Act,

1 to an application for a prospecting license under AS 38.05.181(c), as amended by sec. 2 of
2 this Act.

3 (b) A person with a valid permit issued under AS 38.05.181(c), as that subsection
4 read on the day before the effective date of sec. 2 of this Act, may request in writing that the
5 commissioner of natural resources convert the prospecting permit into a prospecting license
6 under AS 38.05.181, as amended by secs. 1 - 5 of this Act. The Department of Natural
7 Resources shall provide public notice of a request for the conversion of a prospecting permit
8 into a prospecting license under this section.

9 (c) Upon request of a person qualified under (b) of this section, the commissioner of
10 natural resources shall convert a prospecting permit issued under AS 38.05.181(c), as that
11 section read on the day before the effective date of sec. 2 of this Act, into a prospecting
12 license under AS 38.05.181, as amended by secs. 1 - 5 of this Act. Notwithstanding
13 AS 38.05.035(e), the director of the division of lands is not required to make a written finding
14 and the commissioner of natural resources is not required to expressly approve the conversion
15 of a prospecting permit into a prospecting license under this section. Notwithstanding
16 AS 38.05.181(c), as amended by sec. 2 of this Act, a prospecting permit converted into a
17 prospecting license under this section may not expire later than five years from the date the
18 permit was issued under AS 38.05.181(c), as that subsection read on the day before the
19 effective date of sec. 2 of this Act.

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

22 TRANSITION: REGULATIONS. The Department of Natural Resources may adopt
23 regulations to implement the changes made by this Act. The regulations take effect under
24 AS 44.62 (Administrative Procedure Act) but not before the effective date of the law
25 implemented by the regulation.

26 * **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

27 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect July 1, 2024.