



House Bill 135
Geothermal Resources
Sectional Analysis, Version A, 3/11/2021

Section 1 – Amends AS 31.05.030(m), relating to duties of the Alaska Oil & Gas Conservation Commission (AOGCC), to remove reference to AS 41.06, relevant parts being repealed by Section 13 of this bill.

Section 2 – Amends AS 38.05.181(a) to allow the commissioner of DNR to issue exploration “licenses,” rather than prospecting “permits.” It adds explicit language that a prospecting license or lease is *not* required for domestic, non-commercial, or small-scale industrial use of geothermal resources. It also removes language granting preferential rights to geothermal prospecting authorizations to surface interest owners other than the state.

Section 3 – Continues conforming amendments to AS 38.05.181(c) to change “permit” to “license;” to change the license period from two years to five years; and to allow a license holder to convert the license to a noncompetitive lease upon completion of an “agreed-upon work commitment” and submission to the commissioner of an “exploration” (instead of “development”) plan.

Section 4 – Makes a conforming amendment to AS 38.181(d) by changing “permit” to “license,” so that the commissioner may issue geothermal leases through competitive bidding on state land that is designated as a competitive geothermal area and that is not subject to an existing “license.”

Section 5 – Makes a conforming amendment to AS 38.05.181(e) by changing “permits” to “licenses.” It also increases from 51,200 to 100,000 acres the maximum geothermal acreage a person may hold and shifts establishment of rental rates out of statute and into department regulation.

Section 6 – Adds three new subsections to AS 38.05.181 (181) setting out details of geothermal development. The first new subsection, 181(i), authorizes the commissioner to require a geothermal lessee to operate under a unit agreement protecting all parties in interest, including the state; it also bars the commissioner from reducing royalties in connection with a unit agreement under this section, but with exceptions laid out in subsections (j) and (k). The second new subsection, 181(j), authorizes the commissioner, should they determine it to be in the public interest, to authorize lessees and their representatives to work together and collectively adopt or operate under a unit agreement, and authorizes the commissioner, with the consent of the

involved lessees, to change some specific lease requirements under the agreement. The third new subsection, 181(k), requires leases and unit agreements approved under this section to include notice that such leases and unit agreements must abide by not only the laws and regulations in force when the lease or unit agreement was entered, but also any subsequent amendments to those statutes or regulations, in keeping with current oil and gas statutes.

Section 7 – Repeals and reenacts the definition of “geothermal resources” in AS 38.05.965(6) to be “the natural heat of the earth and energy, in whatever form, below the surface of the earth present in, resulting from, created by, or that may be extracted from the natural head; and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth.” Notably, this revised language no longer defines “geothermal resources” by reference to temperature measured at specific points.

Section 8 – Amends AS 41.06.020(e) to make clear that DNR oversees leasing, licensing, and unitization of geothermal resources under AS 38.05.181.

Section 9 – Adds a new subsection, AS 41.06.020(f), granting the AOGCC discretion to exempt from state regulation any domestic, noncommercial, or small-scale industrial use of geothermal resources.

Section 10 – Amends AS 41.06.060(4) to update the definition for “geothermal fluid” to more precisely describe its constituent elements to include brine, water, and gasses, whether naturally or artificially added, and to specifically exclude oil, hydrocarbon gasses or other hydrocarbon substances.

Section 11 – Repeals and reenacts AS 41.06.060(5) with a new definition of “geothermal resources” to be identical to the definition adopted in Section 8 of this bill.

Section 12 – Repeals AS 41.06.005(b) and 41.06.030 because they are duplicative. The DNR commissioner already has this explicit jurisdiction over geothermal leases and units under Title 38.

Section 13 – Makes the bill applicable to geothermal licenses and leases entered into on or after the bill’s effective date, but also provides for applications pending on March 1, 2021 (there are currently two).

Section 14 – Authorizes the department and AOGCC to adopt regulations under AS 44.62 (Administrative Procedure Act) to implement the bill; such regulations could take effect only after the bill’s effective date.

Section 15 – Makes Section 14 effective immediately under AS 01.10.070(c).

Section 16 – Makes the bill, except Section 15, effective July 1, 2021.