

LEGAL SERVICES

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MEMORANDUM

February 19, 2021

SUBJECT: Constitutional or Legal Issues with SB 61
(SB 61; Work Order No. 32-GS1706\A)

TO: Senator Josh Revak
Attn: Betty Tangeman

FROM: Emily Nauman
Deputy Director 

You asked whether this office had identified any constitutional or other legal issues with SB 61, a bill introduced by the governor and relating to the modification of royalties or net profit shares in oil and gas leases. The short answer is that our office has not identified any such issues.¹ However, the bill has several drafting errors. I recommend that you allow our office to prepare a committee substitute to correct these errors before it leaves your committee. Please let us know when you are ready to request a draft.

If I may be of further assistance, please advise.

ELN:mjt
21-077.mjt

¹ SB 61 allows the governor to amend royalty and net profit share terms set out in contract between the state and producers. Someone may claim that the bill has the effect of impairing oil and gas leases that have already been entered into. Art. I, sec. 15 of the Constitution of the State of Alaska prohibits ex post facto laws and laws that impair the obligation of contracts. However, the bill does not automatically change rights in an existing lease; both parties must agree to the royalty or profit share modification before it is amended. Therefore, an impairment of contract claim would very likely fail. If this is still a concern for you, you could amend the bill to apply to only leases entered into after the effective date of the act.