



## Sectional Analysis

### House Bill 74 – Geothermal Resources (33-GH1618\A)

**Section 1:** amends AS 31.05.030(h), authorizing the Alaska Oil & Gas Conservation Commission (AOGCC) to pursue primacy for permitting Class V injection wells associated with geothermal developments.

**Section 2:** amends AS 31.05.030(m), relating to duties of the Alaska Oil & Gas Conservation Commission (AOGCC), to remove reference to AS 41.06, to account for provisions repealed by Section 15 of this bill.

**Section 3:** amends AS 38.05.181(a) to allow the commissioner of the Department of Natural Resources (DNR) to issue licenses, rather than permits. It adds explicit language that a prospecting license or lease is *not* required for domestic, non-commercial, or small-scale industrial use. It also removes language granting preferential rights to geothermal prospecting authorizations to surface interest owners other than the state.

**Section 4:** 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 5:** makes a conforming amendment to AS 38.181(d) by changing “permit” to “license,” to prohibit the commissioner from issuing a geothermal lease on an area with an existing license.

**Section 6:** amends AS 38.05.181(e) by changing “permits” to “licenses,” changing the maximum geothermal acreage a person may hold from 51,200 to 100,000 acres. It also removes the \$3-per-acre annual rental fee on geothermal with placeholder language that the Department of Natural Resources will set the annual fee in regulations.

**Section 7:** amends AS 38.05.181(f) by repealing language allowing the DNR Commissioner to renegotiate rentals and royalties beginning 20 years after production.

**Section 8:** adds three new proposed subsections to AS 38.05.181 setting out details of geothermal development:

Proposed AS 38.05.108(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).

Proposed AS 38.05.108(j): authorizes the commissioner to authorize lessees and their representatives to work together and collectively adopt or operate under a unit agreement, and authorizes the commissioner to change the lease's requirements, including royalty requirements.

Proposed AS 38.05.108(k): requires leases and unit agreements approved under this section to include notice that they must follow 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.

**Section 9:** 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 heat, 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 that may be produced for a commercial use.” The definition expressly excludes “oil, hydrocarbon gases, or other hydrocarbon substances,” and valuable minerals would still be subject to permitting and royalty requirements under statute if extracted.

**Section 10:** amends AS 41.06.020(e) to make clear that the DNR oversees the leasing, licensing, and unitization of geothermal resources under AS 38.05.

**Section 11:** adds a new subsection, proposed AS 41.06.020(f), granting the AOGCC discretion to exempt from State regulation any domestic, non-commercial, or small-scale industrial use of geothermal resources.

**Section 12:** amends AS 41.06.057, establishing penalties for violations of geothermal well provisions under AS 41.06.

**Section 13:** amends AS 41.06.060(4), updating the definition for “geothermal fluid” to include brines, water, and gases produced for commercial use. The definition does not include oil, hydrocarbon gases, or other hydrocarbon substances.

**Section 14:** repeals and reenacts AS 41.06.060(5) with a new definition of “geothermal resources” to be identical to the DNR definition adopted in Section 9 of this bill.

**Section 15:** 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 16:** clarifies the Act applies to licenses and leases entered into on *or* after the bill's effective date of sections 1-11 and 13–15 and provides for existing applications for permits to be considered under the newly revised or adopted statutes in this bill.

**Section 17:** makes existing geothermal prospecting permits eligible for conversion to licenses under this bill once passed. The conversion would allow the license to be set to the date five years out from the original date of the permit issuance. The department is required to give public notice of a request for a conversion. The language of this section makes it clear that the legislature finds that a new best interest finding (BIF), as required under AS 38.05.035, is *not* needed and the prospective license is authorized under the original BIF.

**Section 18:** authorizes DNR and AOGCC to adopt regulations under AS 44.62 (Administrative Procedure Act) to implement the bill that could take effect only after the bill's effective date.

**Section 19:** makes Section 18 effective immediately under AS 01.10.070(c).

**Section 20:** makes the bill, except Section 19, effective July 1, 2023.