



# LAWS OF ALASKA

1980

**Source**

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**Chapter No.**

112

## AN ACT

Relating to the royalty on natural resources of the state, the membership and duties of the Alaska Royalty Oil and Gas Development Advisory Board, and the qualifications of members of the Alaska Pipeline Commission; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 12

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 20, 1980  
Actual Effective Date: June 21, 1980

AN ACT

Relating to the royalty on natural resources of the state, the membership and duties of the Alaska Royalty Oil and Gas Development Advisory Board, and the qualifications of members of the Alaska Pipeline Commission; and providing for an effective date.

\* Section 1. AS 38.06.020 is amended to read:

Sec. 38.06.020. ESTABLISHMENT. There is established in the Department of Commerce and Economic Development [NATURAL RESOURCES] the Alaska Royalty Oil and Gas Development Advisory Board.

\* Sec. 2. AS 38.06.025 is amended to read:

Sec. 38.06.025. MEMBERSHIP. (a) The board consists of the commissioner of commerce and economic development; [NATURAL RESOURCES, WHO IS CHAIRMAN,] the commissioner of revenue; [,] the commissioner of natural resources, who is a nonvoting member; and three public members.

(b) Each of the public members shall possess experience in petroleum-related fields in such areas as exploration, development, production and economics, and shall be appointed by the governor to serve at his pleasure for three-year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session. The public members may not be state officers or employees.

(c) A chairman shall be elected by the board from among the public members.

(d) A public member, upon the expiration of his term, shall

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1 continue to hold office until [UNDER] his successor is appointed and  
2 qualifies.

3 (e) Vacancies in public membership shall be filled in the  
4 same manner as original appointment. An appointee to fill a vacancy  
5 shall hold office for the balance of the term for which his predecessor  
6 on the board was appointed. A vacancy in board membership does not  
7 impair the authority of a quorum of the board members to exercise all  
8 the powers and duties of the board.

9 \* Sec. 3. AS 38.06.035(a) is amended to read:

10 (a) The board shall prescribe its own rules of procedure. It  
11 shall meet at a time and place determined by the chairman, and at other  
12 times and places as the chairman, or a majority of the board members,  
13 considers necessary. A quorum is a majority of the voting members of  
14 the board. The votes of the board members shall be recorded. Effective  
15 action to carry out the powers granted under this chapter requires the  
16 affirmative vote of a majority of the board members. No board member  
17 may, with respect to a matter before the board, vote for or on behalf of  
18 another member of the board.

19 \* Sec. 4. AS 38.06.040 is repealed and re-enacted to read:

20 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. (a) The board  
21 shall

22 (1) in accordance with the criteria set out in AS 38.06.070,  
23 develop a plan for the wise development of the state's oil and gas  
24 royalty interests; the plan of development shall be consistent with

- 25 (A) growth of the private sector of the economy;  
26 (B) environmental standards required by law; and  
27 (C) public fiscal stability;

28 (2) hold public hearings on proposed sales, exchanges, or  
29 other disposals of royalty oil or gas to determine whether the proposals

1 comply with AS 38.06.070;

2 (3) examine proposed sales, exchanges or other disposal of,  
3 and recommend to the legislature that it approve or disapprove a pro-  
4 posed sale, exchange or other disposal of

5 (A) the oil or gas that is obtained by the state as  
6 royalty under AS 38.05.182; or

7 (B) the rights to receive future oil or gas production  
8 under state leases; and

9 (4) recommend to the commissioner of natural resources the  
10 conditions relating to the sale, delivery, transportation, refining or  
11 processing of oil or gas which he may include in the offer and sale of  
12 oil or gas obtained by the state as royalty under AS 38.05.182.

13 (b) The board may

14 (1) direct the commissioner of natural resources to solicit  
15 development plans or bids consistent with the criteria set out in AS 38.-  
16 06.070 for

17 (A) the sale, exchange or other disposal of oil or gas  
18 obtained by the state as royalty under AS 38.05.182; or

19 (B) the sale, exchange or other disposal of all or a  
20 portion of the rights to receive future oil or gas production under  
21 a state lease;

22 (2) employ an executive director, and contract for the ser-  
23 vices of professionals, persons with knowledge of economics and other  
24 disciplines, and persons with technical skills who may be necessary to  
25 assist the board in the exercise of its powers and duties; and

26 (3) adopt regulations under the Administrative Procedure Act  
27 (AS 44.62) that are necessary for the exercise of its powers and duties.

28 \* Sec. 5. AS 38.06.050 is amended to read:

29 Sec. 38.06.050. BOARD REVIEW AND RECOMMENDATION [APPROVAL] RE-

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1 QUIRED. (a) If legislative approval is required by AS 38.06.055, a  
2 [NO] sale, exchange, encumbrance, or other disposition of oil or gas or  
3 of the rights or waiver of the rights to receive future production of  
4 royalty oil or gas may not be made by the commissioner of natural re-  
5 sources under AS 38.05.183 without [THE] prior review of the proposed  
6 sale, exchange, encumbrance or other disposition by [WRITTEN APPROVAL  
7 OF] the board. A written recommendation of the board on the proposed  
8 sale, exchange, encumbrance or other disposition of oil or gas or of  
9 the rights or waiver of the rights to receive future production of  
10 royalty oil or gas shall be submitted to the legislature at the time a  
11 resolution approving the proposed sale, exchange, encumbrance or other  
12 disposition is introduced in the legislature.

13 (b) Bids or applications for the purchase of royalty oil or gas  
14 may [NOT] be rejected by the commissioner of natural resources if [WITH-  
15 OUT THE] prior written notice of the proposed disapproval is given to  
16 [APPROVAL OF] the board.

17 (c) Competitive bidding in a sale, exchange or other disposition  
18 described in (a) of this section may not be waived by the commissioner  
19 of natural resources under AS 38.05.183 unless [WITHOUT THE] prior  
20 written notice of proposed waiver is given to [APPROVAL OF] the board.

21 [(d) THE BOARD MAY REQUIRE CONDITIONS RELATING TO THE SALE, DE-  
22 LIVERY, TRANSPORTATION, OR REFINING OR PROCESSING WITHIN THE STATE TO BE  
23 INCLUDED BY THE COMMISSIONER OF NATURAL RESOURCES IN THE OFFER OF AND  
24 SALE BY COMPETITIVE BIDDING OF OIL OR GAS OBTAINED BY THE STATE AS  
25 ROYALTY UNDER AS 38.05.182.]

26 \* Sec. 6. AS 38.06.055 is repealed and re-enacted to read:

27 Sec. 38.06.055. LEGISLATIVE APPROVAL. (a) In addition to the  
28 recommendation by the board required under AS 38.06.050, the commissioner  
29 of natural resources may not enter into a sale, exchange, or other

1 disposition of oil or gas or of the rights or waiver of the rights to  
2 receive future production of royalty oil or gas under AS 38.05.183  
3 without the prior approval of the legislature. The legislature may  
4 approve a sale, exchange, or other disposition of oil or gas or of the  
5 rights or of a waiver of the rights to receive future production of  
6 royalty oil or gas only by enacting legislation.

7 (b) The provisions of (a) of this section do not apply to

8 (1) the sale, exchange, or other disposition of oil or gas  
9 for one year or less if the sale, exchange, or other disposition is  
10 entered into to relieve storage or market conditions;

11 (2) contracts for the sale of state-owned royalty gas or oil  
12 that specify the sale and delivery of not more than

13 (A) 400 barrels of crude oil per day;

14 (B) 460 barrels of natural gas liquids per day; and

15 (C) 2,400 Mcf of natural gas per day.

16 (c) A sale, exchange, or other disposition of oil or gas made  
17 under (b)(1) of this section may not be continued after the end of one  
18 year or renewed with the same party to provide relief for market or  
19 storage conditions without the prior approval of the legislature under  
20 (a) of this section.

21 \* Sec. 7. AS 38.06.070(b) is repealed and re-enacted to read:

22 (b) When it is economically feasible and in the public interest,  
23 the board may recommend to the commissioner of natural resources, as a  
24 condition of the sale of oil or gas obtained by the state as royalty,  
25 that

26 (1) the oil or gas be refined or processed in the state;

27 (2) the purchaser be a refiner who supplies products to the  
28 Alaska market with price or supply benefits to state citizens; or

29 (3) the purchaser construct a processing or refining facility

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1 in the state.

2 \* Sec. 8. AS 38.05.182 is amended to read:

3 Sec. 38.05.182. ROYALTY ON NATURAL RESOURCES. (a) Any royalty  
4 provided for in AS 38.05.135 - 38.05.181 may be taken in kind rather  
5 than in money if the commissioner determines that the taking in kind  
6 would be in the best interest of the state. However, royalties on oil  
7 and gas shall be taken in kind unless

8 [(1)] the commissioner determines that the taking in money  
9 would be in the best interest of the state [; AND

10 (2) THE ALASKA ROYALTY OIL AND GAS DEVELOPMENT ADVISORY BOARD  
11 APPROVES THE TAKING IN MONEY].

12 (b) The commissioner shall submit a determination to take royalty  
13 in money [APPROVED UNDER (a) OF THIS SECTION] to the legislature at the  
14 first opportunity during a current session or, if the legislature is not  
15 in session, at the next regular session. The legislature, within 60  
16 days or by the adjournment of the session, whichever comes sooner, may  
17 revoke the determination by concurrent resolution.

18 \* Sec. 9. AS 38.05.183 is amended to read:

19 Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or other  
20 disposal of a mineral obtained by the state as a royalty under AS 38.-  
21 05.182, or the sale, exchange or other disposal in whole or in part of a  
22 right to receive future mineral production under a state lease under  
23 this chapter, shall be by competitive bid and the sale, exchange or  
24 other disposal made to the highest responsible bidder, except that  
25 competitive bidding is not required when the commissioner, after prior  
26 written notice to [WITH THE PRIOR WRITTEN APPROVAL OF] the Alaska Royalty  
27 Oil and Gas Development Advisory Board under AS 38.06.050 [WHERE APPLI-  
28 CABLE], determines that the best interest of the state does not require  
29 it or that no competition exists.

1 (b) When competitive bids are required, the commissioner, after  
2 prior written notice to [WITH THE PRIOR WRITTEN APPROVAL OF] the Alaska  
3 Royalty Oil and Gas Development Advisory Board, may reject all bids if  
4 he determines that because of the amount of the bids, the lack of re-  
5 sponsibility on the part of the bidders, or for reasons consistent with  
6 the criteria set out in AS 38.06.070, the acceptance of the bids would  
7 not be in the best interest of the state.

8 (c) If the commissioner determines that a sale, exchange or other  
9 disposal of a mineral obtained by the state as a royalty under AS 38.-  
10 05.182 or of a right to receive future mineral production under a state  
11 lease under this chapter shall be made otherwise than by competitive  
12 bid, and the Alaska Royalty Oil and Gas Development Advisory Board  
13 has been notified in writing of [WHERE APPLICABLE HAS APPROVED] that  
14 determination, the commissioner shall make public in writing the speci-  
15 fic findings and conclusions upon which that determination is based.

16 (d) Oil or gas taken in kind by the state as its royalty share may  
17 not be sold or otherwise disposed of for export from the state until the  
18 commissioner [WITH THE APPROVAL OF THE ALASKA ROYALTY OIL AND GAS DE-  
19 VELOPMENT ADVISORY BOARD] determines that the royalty-in-kind oil or gas  
20 is surplus to the present and projected intrastate domestic and in-  
21 dustrial needs. The commissioner shall make public, in writing, the  
22 specific findings and reasons on which his determination is based and  
23 shall, within 10 days of the convening of a regular session of the  
24 legislature, submit a report showing the immediate and long-range domes-  
25 tic and industrial needs of the state for oil and gas and an analysis of  
26 how these needs are to be met.

27 \* Sec. 10. AS 38.05.183 is amended by adding a new subsection to read:

28 (e) When a sale, exchange or other disposal of oil or gas taken in  
29 kind by the state as its royalty share, or a sale, exchange or other

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disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

(1) the cash value offered;

(2) the projected effects of the sale, exchange or other disposal on the economy of the state;

(3) the projected benefits of refining or processing the oil or gas in the state;

(4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and

(5) the criteria listed in AS 38.06.070(a).

\* Sec. 11. AS 42.06.060 is amended to read:

Sec. 42.06.060. QUALIFICATIONS OF COMMISSIONERS. (a) Members of the commission shall be qualified as follows:

(1) one member shall be an attorney admitted to practice law in the state, and preferably having experience in administrative or regulatory law;

(2) one member shall be a graduate of an accredited university with a major or degree in land management, civil engineering or transportation economics, preferably with experience in oil and gas transportation;

(3) one member shall be a graduate of an accredited university with a major or a minor [DEGREE] in finance, accounting, or [, IF NOT OTHERWISE REPRESENTED ON THE COMMISSION, TRANSPORTATION] economics.

(b) A [NO] member of the commission may not hold any other state

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1 or federal office, position or employment, either elective or appointive,  
2 except as a member of the armed forces of the United States or of this  
3 state.

4 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-  
5 070(c).