

HOUSE BILL NO. 388

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES ROKEBERG, B.Davis

Introduced: 1/5/96

Referred: House Special Committee on Oil and Gas, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act revising laws relating to oil and gas leasing to authorize a program of
2 areawide leasing."

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

4 * **Section 1.** AS 38.05.035(a) is amended to read:

5 (a) The director shall

6 (1) have general charge and supervision of the division and may
7 exercise the powers specifically delegated to the director; may employ and fix the
8 compensation of assistants and employees necessary for the operations of the division;
9 and is the certifying officer of the division, with the consent of the commissioner, and
10 may approve vouchers for disbursements of money appropriated to the division;

11 (2) manage, inspect, and control state land and improvements on it
12 belonging to the state and under the jurisdiction of the division;

13 (3) execute laws, rules, regulations, and orders adopted by the
14 commissioner;

1 (4) prescribe application procedures and practices for the sale, lease,
2 or other disposition of available land, resources, property, or **interests** [INTEREST]
3 in them, **including disposal of interests in land under areawide oil and gas leasing**
4 **authorized under AS 38.05.180(dd) for an area in which areawide leasing has been**
5 **specifically authorized by the legislature;**

6 (5) prescribe fees or service charges, with the consent of the
7 commissioner, for any public service rendered;

8 (6) under the conditions and limitations imposed by law and the
9 commissioner, issue deeds, leases, or other conveyances disposing of available land,
10 resources, property, or [ANY] interests in them;

11 (7) have jurisdiction over state land, except that land acquired by the
12 Alaska World War II Veterans Board and the Agricultural Loan Board or the
13 departments or agencies succeeding to their respective functions through foreclosure
14 or default; to this end, the director possesses the powers and, with the approval of the
15 commissioner, shall perform the duties necessary to protect the state's rights and
16 interest in state land, including the taking of all necessary action to protect and enforce
17 the state's contractual or other property rights;

18 (8) [REPEALED]

19 (9)] maintain such records as the commissioner considers necessary,
20 administer oaths, and do all things incidental to the authority imposed; the following
21 records and files shall be kept confidential upon request of the person supplying the
22 information:

23 (A) the name of the person nominating or applying for the sale,
24 lease, or other disposal of land by competitive bidding;

25 (B) before the announced time of opening, the names of the
26 bidders, and the amounts of the bids;

27 (C) all geological, geophysical, and engineering data supplied,
28 whether or not concerned with the extraction or development of natural
29 resources;

30 (D) except as provided in AS 38.05.036, cost data and financial
31 information submitted in support of applications, bonds, leases, and similar

1 items;

2 (E) applications for rights-of-way or easements;

3 (F) requests for information or applications by public agencies
4 for land **that** [WHICH] is being considered for use for a public purpose;

5 (9) [(10)] account for the fees, licenses, taxes, or other money received
6 in the administration of this chapter, including the sale or leasing of land, identify their
7 source, and promptly transmit them to the proper fiscal department after crediting them
8 to the proper fund; receipts from land application filing fees and charges for copies of
9 maps and records shall be deposited immediately in the general fund of the state by
10 the director;

11 (10) [(11)] select and employ or obtain at reasonable compensation
12 cadastral, appraisal, or other professional personnel the director considers necessary for
13 the proper operation of the division;

14 (11) [(12)] be the certifying agent of the state to select, accept, and
15 secure by whatever action is necessary in the name of the state, by deed, sale, gift,
16 devise, judgment, operation of law, or other means any land, of whatever nature or
17 interest, available to the state; and be the certifying agent of the state, to select, accept,
18 or secure by whatever action is necessary in the name of the state any land, or title or
19 interest to land available, granted, or subject to being transferred to the state for any
20 purpose [;

21 (13) REPEALED

22 (14) REPEALED].

23 * **Sec. 2.** AS 38.05.035(e) is amended to read:

24 (e) Upon a written finding that the interests of the state will be best served,
25 the director may, with the consent of the commissioner, approve contracts for the sale,
26 lease, or other disposal of available land, resources, property, or interests in them. **In**
27 **[, AND, IN]** addition to the conditions and limitations imposed by law, **the director**
28 may impose additional conditions or limitations in the contracts as the director
29 determines, with the consent of the commissioner, will best serve the interests of the
30 state. The preparation and issuance of the written finding by the director is subject to
31 the following:

1 (1) with the consent of the commissioner and subject to the director's
2 discretion, **either** for a specific proposed disposal of available land, resources, or
3 property, or of an interest in them, **or for a disposal under AS 38.05.180(dd) of land,**
4 **resources, or property, or an interest in them,** the director, in the written finding,

5 (A) shall establish the scope of the administrative review on
6 which the director's determination is based, and the scope of the written finding
7 supporting that determination; the scope of the review and finding may address
8 only reasonably foreseeable, significant effects of the uses proposed to be
9 authorized by the disposal;

10 (B) may limit the scope of an administrative review and finding
11 for a proposed disposal to

12 (i) applicable statutes and regulations;

13 (ii) the facts pertaining to the land, resources, or
14 property, or interest in them, that the director finds are material to the
15 determination and that are known to the director or knowledge of which
16 is made available to the director during the administrative review; and

17 (iii) issues that, based on the statutes and regulations
18 referred to in (i) of this subparagraph, on the facts as described in (ii)
19 of this subparagraph, and on the nature of the uses sought to be
20 authorized, the director finds are material to the determination of
21 whether the proposed disposal will best serve the interests of the state;
22 [AND]

23 (C) may, if the project for which the proposed disposal is
24 sought is a multiphased development, limit the scope of an administrative
25 review and finding for the **specific** proposed disposal to the applicable statutes
26 and regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
27 pertain solely to a discrete phase of the project when

28 (i) the only uses to be authorized by the **specific**
29 proposed disposal are part of that discrete phase;

30 (ii) the department's approval is required before the next
31 phase of the project may proceed; and

1 (iii) the department describes its reasons for a decision
2 to phase and conditions its approval to ensure that any additional uses
3 or activities proposed for that or any later phase of the project will
4 serve the best interests of the state; **and**

5 **(D) shall, if the proposed disposal of interests in land occurs**
6 **under an areawide oil and gas lease authorized under AS 38.05.180(dd) for**
7 **an area in which areawide leasing has been specifically authorized by the**
8 **legislature, include within the scope of the administrative review and**
9 **finding the entirety of the area in which areawide leasing has been**
10 **specifically authorized by the legislature;**

11 (2) the director shall discuss in the written finding prepared and issued
12 under this subsection the reasons that each of the following was not material to the
13 director's determination that the interests of the state will be best served:

14 (A) facts pertaining to the land, resources, or property, or an
15 interest in them other than those that the director finds material under (1)(B)(ii)
16 of this subsection; and

17 (B) issues based on the statutes and regulations referred to in
18 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
19 subsection;

20 (3) a written finding for an oil and gas lease sale under AS 38.05.180
21 is subject to (g) of this section;

22 (4) a contract for the sale, lease, or other disposal of available land or
23 an interest in land is not legally binding on the state until the commissioner approves
24 the contract but, if the appraised value is not greater than \$50,000 in the case of the
25 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land
26 or interest in land, the director may execute the contract without the approval of the
27 commissioner;

28 (5) public notice requirements relating to the sale, lease, or other
29 disposal of available land or an interest in land for oil and gas proposed to be
30 scheduled in the five-year oil and gas leasing program under AS 38.05.180(b) **or in**
31 **an areawide oil and gas leasing program under AS 38.05.180(dd)**, are as follows:

1 (A) before a public hearing, if held, or in any case not less than
2 180 days before the sale, lease, or other disposal of available land or an interest
3 in land, the director shall make available to the public a preliminary written
4 finding that states the scope of the review established under (1)(A) of this
5 subsection and includes the applicable statutes and regulations, the material
6 facts and issues in accordance with (1)(B) of this subsection, and information
7 required by (g) of this section, upon which the determination that the sale,
8 lease, or other disposal will serve the best interests of the state will be based;
9 the director shall provide opportunity for public comment on the preliminary
10 written finding for a period of not less than 60 days;

11 (B) after the public comment period for the preliminary written
12 finding and not less than 90 days before the sale, lease, or other disposal of
13 available land or an interest in land for oil and gas, the director shall make
14 available to the public a final written finding that states the scope of the review
15 established under (1)(A) of this subsection and includes the applicable statutes
16 and regulations, the material facts and issues in accordance with (1) of this
17 subsection, and information required by (g) of this section, upon which the
18 determination that the sale, lease, or other disposal will serve the best interests
19 of the state is based;

20 (6) before a public hearing, if held, or in any case not less than 21 days
21 before the sale, lease, or other disposal of available land, property, resources, or
22 interests in them other than a sale, lease, or other disposal of available land or an
23 interest in land for oil and gas under (5) of this subsection, the director shall make
24 available to the public a written finding that, in accordance with (1) of this subsection,
25 sets out the material facts and applicable statutes and regulations and any other
26 information required by statute or regulation to be considered upon which the
27 determination that the sale, lease, or other disposal will best serve the interests of the
28 state was based; however, a written finding is not required before the approval of

29 (A) a contract for a negotiated sale authorized under
30 AS 38.05.115;

31 (B) a lease of land for a shore fishery site under AS 38.05.082;

1 (C) a permit or other authorization revocable by the
2 commissioner;

3 (D) a mineral claim located under AS 38.05.195;

4 (E) a mineral lease issued under AS 38.05.205;

5 (F) a production license issued under AS 38.05.207;

6 (G) an exempt oil and gas sale under AS 38.05.180(d) of
7 acreage offered in a sale that was held within the previous five years if the sale
8 was subject to a written best interest finding, unless the commissioner
9 determines that new information has become available that justifies a revision
10 of the best interest finding; [OR]

11 (H) a lease sale under AS 38.05.180(w) of acreage offered in
12 a sale that was held within the previous five years if the sale was subject to a
13 best interest finding, unless the commissioner determines that new information
14 has become available that justifies a revision of the best interest finding; or

15 **(I) an oil or gas lease sale in an area that is part of an**
16 **areawide lease under AS 38.05.180(dd) within an area in which areawide**
17 **leasing has been authorized by the legislature if the lease sale was subject**
18 **to a best interest finding for the area, unless the commissioner determines**
19 **that new information has become available that justifies a revision of the**
20 **best interest finding;**

21 (7) the director shall include in

22 (A) a preliminary written finding, if required, a summary of
23 agency and public comments, if any, obtained as a result of contacts with other
24 agencies concerning a proposed disposal or as a result of informal efforts
25 undertaken by the department to solicit public response to a proposed disposal,
26 and the department's preliminary responses to those comments; and

27 (B) the final written finding a summary of agency and public
28 comments received and the department's responses to those comments.

29 * **Sec. 3.** AS 38.05.180(b) is amended to read:

30 (b) The commissioner shall biennially prepare and, between the first and the
31 15th day of the first regular session of each legislature, notify the legislature of the

1 availability of,

2 (1) a five-year proposed oil and gas leasing program consisting of a
3 schedule of proposed lease sales and specifying as precisely as practicable the location
4 of tracts proposed to be offered for oil and gas leasing during the calendar year in
5 which the proposed program is made available to the legislature and the following four
6 calendar years; **and**

7 (2) a proposed areawide oil and gas leasing program.

8 * **Sec. 4.** AS 38.05.180 is amended by adding a new subsection to read:

9 (dd) The director, with the approval of the commissioner, shall establish a
10 program of areawide oil and gas leasing to operate within each area as to which the
11 legislature has, by law, authorized areawide oil and gas leasing. Under the authority
12 granted in this subsection,

13 (1) when the commissioner identifies tracts for inclusion in the
14 proposed lease sale, the commissioner shall include at a minimum all of the tracts
15 reasonably believed by the commissioner to cover the entirety of an oil or gas reservoir
16 sought to be developed;

17 (2) the issuance and continuance in effect of a lease, or of any
18 assignment or other transfer of a lease, under this subsection must be conditioned upon
19 compliance with regulations adopted to implement this subsection.

20 * **Sec. 5.** REVISOR OF STATUTES TO REVISE REFERENCES. Due to the deletion
21 of repealed paragraphs in AS 38.05.035(a) by sec. 1 of this Act, the revisor of statutes shall
22 amend cross-references to the affected paragraphs in AS 38.05.035(a) that appear in the
23 following statutes: AS 38.05.133(e), 38.05.180(j)(6)(B), 38.05.275(c), and AS 41.09.010(d).