

**CS FOR HOUSE BILL NO. 388(O&G)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 3/13/96

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES ROKEBERG, B.Davis

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act revising laws relating to oil and gas leasing as related to land  
2 previously the subject of a written best interest finding; amending provisions  
3 setting out exceptions to sales, leases, or other disposals for which a revised  
4 written best interest finding is not required; authorizing annual offer of land for  
5 oil and gas leases if the land, or adjacent land, was the subject of a best  
6 interest finding and if preparation of a supplement to the best interest finding  
7 for that land is not justified; and modifying the statement of purpose in the  
8 Alaska Land Act as it applies to oil and gas leasing."

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

10 \* **Section 1.** AS 38.05.035(e) is amended to read:

11 (e) Upon a written finding that the interests of the state will be best served, the  
12 director may, with the consent of the commissioner, approve contracts for the sale, lease,  
13 or other disposal of available land, resources, property, or interests in them. In [, AND,

1 IN] addition to the conditions and limitations imposed by law, **the director** may impose  
2 additional conditions or limitations in the contracts as the director determines, with the  
3 consent of the commissioner, will best serve the interests of the state. The preparation  
4 and issuance of the written finding by the director is subject to the following:

5 (1) with the consent of the commissioner and subject to the director's  
6 discretion, for a specific proposed disposal of available land, resources, or property, or  
7 of an interest in them, the director, in the written finding,

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

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

15 (i) applicable statutes and regulations;

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

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

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

30 (i) the only uses to be authorized by the proposed disposal  
31 are part of that discrete phase;

32 (ii) the department's approval is required before the next

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

phase of the project may proceed; and

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

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

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

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

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

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

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

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

1 provide opportunity for public comment on the preliminary written finding for  
2 a period of not less than 60 days;

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

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

21 (A) a contract for a negotiated sale authorized under  
22 AS 38.05.115;

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

24 (C) a permit or other authorization revocable by the  
25 commissioner;

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

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

28 (F) a production license issued under AS 38.05.207; **or**

29 (G) an exempt oil and gas **lease** sale under AS 38.05.180(d) of  
30 acreage **subject to a best interest finding issued** [OFFERED IN A SALE  
31 THAT WAS HELD] within the previous **10** [FIVE] years [IF THE SALE WAS  
32 SUBJECT TO A WRITTEN BEST INTEREST FINDING, UNLESS THE

1 COMMISSIONER DETERMINES THAT NEW INFORMATION HAS  
2 BECOME AVAILABLE THAT JUSTIFIES A REVISION OF THE BEST  
3 INTEREST FINDING;] or

4 [(H)] a reoffer oil and gas lease sale under AS 38.05.180(w) of  
5 acreage subject to a best interest finding issued [OFFERED IN A SALE  
6 THAT WAS HELD] within the previous 10 [FIVE] years, together with any  
7 tract for which a written best interest finding has not been prepared if the  
8 tract is located within and is entirely surrounded by acreage described in  
9 this subparagraph for which a best interest finding was issued [IF THE  
10 SALE WAS SUBJECT TO A BEST INTEREST FINDING], unless the  
11 commissioner determines that substantial new information has become available  
12 that justifies a supplement to [REVISION OF] the most recent best interest  
13 finding for the exempt oil and gas lease sale acreage, for the reoffer oil and  
14 gas lease sale acreage, and for the included tracts; however, for each oil and  
15 gas lease sale described in this subparagraph, the director shall call for  
16 comments from the public; the director's call for public comments must  
17 provide opportunity for public comment for a period of not less than 30  
18 days; if the director determines that a supplement to the most recent best  
19 interest finding for the acreage is required under this subparagraph,

20 (i) the director shall issue the supplement to the best  
21 interest finding not later than 90 days before the sale;

22 (ii) not later than 45 days before the sale, the director  
23 shall issue a notice describing the interests to be offered, the location  
24 and time of the sale, and the terms and conditions of the sale; and

25 (iii) the supplement has the status of a final written  
26 best interest finding for purposes of AS 38.05.035(i) and (l);

27 (7) the director shall include in

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

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

3 \* **Sec. 2.** AS 38.05.180(a) is amended to read:

4 (a) The legislature finds that

5 (1) the people of Alaska have an interest in the development of the  
6 state's oil and gas resources to

7 (A) maximize the economic and physical recovery of the  
8 resources;

9 (B) maximize competition among parties seeking to explore and  
10 develop the resources;

11 (C) maximize use of Alaska's human resources in the  
12 development of the resources;

13 (2) it is in the best interests of the state

14 (A) to encourage an assessment of its oil and gas resources and  
15 to allow the maximum flexibility in the methods of issuing leases to

16 (i) [(A)] recognize the many varied geographical regions  
17 of the state and the different costs of exploring for oil and gas in these  
18 regions;

19 (ii) [(B)] minimize the adverse impact of exploration,  
20 development, production, and transportation activity; **and**

21 **(B) to offer acreage for oil and gas leases on an annual basis,**  
22 **specifically including annual areawide leases of state land that has been the**  
23 **subject of a best interest finding or that is adjacent to and surrounded by**  
24 **state land that has been the subject of a best interest finding.**

25 \* **Sec. 3.** AS 38.05.180(d) is amended to read:

26 (d) The commissioner

27 **(1) may annually offer to issue oil and gas leases of the acreage**  
28 **described in AS 38.05.035(e)(6)(G) unless the commissioner determines that**  
29 **substantial new information has become available that justifies preparation of a**  
30 **supplement to the best interest finding for the area proposed to be leased;**

31 **(2) may issue oil and gas leases in an area that has not been included**  
32 **in a leasing program submitted, in accordance with (b) of this section, to the legislature**

1 if the land to be leased

2 (A) [(1)] was previously subject to a valid state or federal oil  
3 and gas lease;

4 (B) [(2)] is contiguous to land already under state, federal or  
5 private lease and the commissioner makes a written finding, after hearing, that  
6 leasing of the land would result in a substantial probability of early evaluation  
7 and development of the land to be leased;

8 (C) [(3)] is adjacent to land owned or controlled by another  
9 party on which a discovery of commercial quantities of oil or gas has been  
10 made, and the commissioner finds, after hearing, that there is a reasonable  
11 probability that the land to be leased contains oil or gas in communication with  
12 the oil or gas discovered on the land of the other party;

13 (D) [(4)] is adjacent to land included in the federal five-year  
14 Outer Continental Shelf leasing program under 43 U.S.C. 1344, and the  
15 commissioner makes a written finding, after hearing, that coordinated or  
16 simultaneous leasing with the federal government is in the public interest; or

17 (E) [(5)] is the subject of an oil and gas exploration license  
18 issued under AS 38.05.131 - 38.05.134.

19 \* **Sec. 4.** AS 38.05.180(w) is amended to read:

20 (w) Notwithstanding any other provisions of this section, land **that was subject**  
21 **to a best interest finding issued within the previous 10 years** [WHICH HAS BEEN  
22 OFFERED FOR LEASE WITHIN THE PREVIOUS FIVE YEARS AND WHICH  
23 RECEIVED NO BIDS AT COMPETITIVE SALE OR FOR WHICH NO BID WAS  
24 ACCEPTED] may be, at the discretion of the commissioner, immediately offered for  
25 lease, under regulations adopted by the commissioner, upon terms appearing most  
26 advantageous to the state; however, noncompetitive leasing is prohibited. The  
27 commissioner shall establish a royalty determined to be in the public interest but not less  
28 than 12 1/2 percent. A lease must provide for payment to the state of rental but need  
29 not adhere to the rental schedule in (n) of this section nor to the 5,760-acres-per-lease  
30 limitation in (m) of this section. The lease term may not exceed 10 years, except as  
31 provided in (o) of this section.

32 \* **Sec. 5.** AS 38.05.945(a) is amended to read:

1 (a) This section establishes the requirements for notice given by the department  
2 for the following actions:

3 (1) classification or reclassification of state land under AS 38.05.300 and  
4 the closing of land to mineral leasing or entry under AS 38.05.185;

5 (2) zoning of land under applicable law;

6 (3) issuance of a

7 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
8 regarding the sale, lease, or disposal of an interest in state land or resources for  
9 oil and gas subject to AS 38.05.180(b);

10 (B) final written finding under AS 38.05.035(e)(5)(B) regarding  
11 the sale, lease, or disposal of an interest in state land or resources for oil and gas  
12 subject to AS 38.05.180(b);

13 (C) written finding for the sale, lease, or disposal of an interest  
14 in state land or resources under AS 38.05.035(e)(6), **except an oil or gas lease**  
15 **sale described in AS 38.05.035(e)(6)(G) for which the director must provide**  
16 **opportunity for public comment under the provisions of that subparagraph;**

17 (4) a competitive disposal of an interest in state land or resources after  
18 final decision under AS 38.05.035(e);

19 (5) a public hearing under AS 38.05.856(b);

20 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)  
21 concerning sites for aquatic farms and related hatcheries;

22 (7) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease,  
23 or disposal of an interest in state land or resources.