

SENATE BILL NO. 180

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 5/19/99

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the noncompetitive leasing of state land for oil and gas
2 development."

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

4 * **Section 1.** AS 38.05.180(d) is amended to read:

5 (d) The commissioner

6 (1) may annually offer oil and gas leases of the acreage described in
7 AS 38.05.035(e)(6)(F);

8 (2) may issue oil and gas leases in an area that has not been included
9 in a leasing program prepared, in accordance with (b) of this section, if the land to be
10 leased

11 (A) was previously subject to a valid state or federal oil and gas
12 lease;

13 (B) is contiguous to land already under state, federal, or private
14 lease and the commissioner makes a written finding, after hearing, that leasing

1 of the land would result in a substantial probability of early evaluation and
2 development of the land to be leased;

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

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

12 (E) is the subject of an oil and gas exploration license issued
13 under AS 38.05.131 - 38.05.134;

14 **(3) shall offer noncompetitive oil and gas leases under (y) of this**

15 **section.**

16 * **Sec. 2.** AS 38.05.180(f) is amended to read:

17 (f) Except as provided by AS 38.05.131 - 38.05.134, and 38.05.177, **and (y)**
18 **of this section,** the commissioner may issue oil and gas leases on state land to the
19 highest responsible qualified bidder as follows:

20 (1) the commissioner shall issue an oil and gas lease to the successful
21 bidder determined by competitive bidding under regulations adopted by the
22 commissioner; bidding may be by sealed bid or according to any other bidding
23 procedure the commissioner determines is in the best interests of the state;

24 (2) whenever, under any of the leasing methods listed in this
25 subsection, a royalty share is reserved to the state, it shall be delivered in pipeline
26 quality and free of all lease or unit expenses, including but not limited to separation,
27 cleaning, dehydration, gathering, salt water disposal, and preparation for transportation
28 off the lease or unit area;

29 (3) following a pre-sale analysis, the commissioner may choose at least
30 one of the following leasing methods:

31 (A) a cash bonus bid with a fixed royalty share reserved to the

1 state of not less than 12.5 percent in amount or value of the production
2 removed or sold from the lease;

3 (B) a cash bonus bid with a fixed royalty share reserved to the
4 state of not less than 12.5 percent in amount or value of the production
5 removed or sold from the lease and a fixed share of the net profit derived from
6 the lease of not less than 30 percent reserved to the state;

7 (C) a fixed cash bonus with a royalty share reserved to the state
8 as the bid variable but no less than 12.5 percent in amount or value of the
9 production removed or sold from the lease;

10 (D) a fixed cash bonus with the share of the net profit derived
11 from the lease reserved to the state as the bid variable;

12 (E) a fixed cash bonus with a fixed royalty share reserved to the
13 state of not less than 12.5 percent in amount or value of the production
14 removed or sold from the lease with the share of the net profit derived from
15 the lease reserved to the state as the bid variable;

16 (F) a cash bonus bid with a fixed royalty share reserved to the
17 state based on a sliding scale according to the volume of production or other
18 factor but in no event less than 12.5 percent in amount or value of the
19 production removed or sold from the lease;

20 (G) a fixed cash bonus with a royalty share reserved to the state
21 based on a sliding scale according to the volume of production or other factor
22 as the bid variable but not less than 12.5 percent in amount or value of the
23 production removed or sold from the lease;

24 (4) notwithstanding a requirement in the leasing method chosen of a
25 minimum fixed royalty share, on and after March 3, 1997, the lessee under a lease
26 issued in the Cook Inlet sedimentary basin who is the first to file with the
27 commissioner a nonconfidential sworn statement claiming to be the first to have drilled
28 a well discovering oil or gas in a previously undiscovered oil or gas pool and who is
29 certified by the commissioner within one year of completion of that discovery well to
30 have drilled a well in that pool that is capable of producing in paying quantities shall
31 pay a royalty of five percent on all production of oil or gas from that pool attributable

1 to that lease for a period of 10 years following the date of discovery of that pool, and
2 thereafter the royalty payable on all production of oil or gas from the pool attributable
3 to that lease shall be determined and payable as specified in the lease; for purposes of
4 this paragraph, the reduced royalty authorized by this paragraph is subject to the
5 following:

6 (A) only one reduction of royalty authorized by this paragraph
7 may be allowed on each lease that qualifies for reduction of royalty under this
8 paragraph;

9 (B) if, under this paragraph, application is made for a royalty
10 reduction for a lease that was entered into before March 3, 1997, the
11 commissioner may approve the application only if, on that date, the lease was
12 a nonproducing lease that was not committed to a unit approved by the
13 commissioner under (m) of this section, that is not part of a unit under (p) or
14 (q) of this section, and that has not been made part of a unit under AS 31.05;

15 (C) if application for a royalty reduction is made under this
16 paragraph for a lease on which a discovery royalty was claimed or may be
17 claimed under the discovery royalty provisions of former AS 38.05.180(a) in
18 effect before May 6, 1969, the commissioner shall disallow the application
19 under this paragraph unless the applicant waives the right to claim the right to
20 a reduced royalty under the discovery royalty provisions of former
21 AS 38.05.180(a) in effect before May 6, 1969; and

22 (D) the commissioner shall adopt regulations setting out the
23 standards, criteria, and definitions of terms that apply to implement the filing
24 of applications for, and the review and certification of, discovery oil and gas
25 royalty certifications under this paragraph;

26 (5) notwithstanding and in lieu of a requirement in the leasing method
27 chosen of a minimum fixed royalty share, or the royalty provision of a lease, for leases
28 unitized as described in (p) of this section, leases subject to an agreement described
29 in (s) or (t) of this section, or interests unitized under AS 31.05, the lessee of all or
30 part of an oil or gas field identified in this section that has been granted approval of
31 a written plan submitted to the Alaska Oil and Gas Conservation Commission under

1 AS 31.05.030(i) shall, subject to (dd) of this section, pay a royalty of five percent on
 2 the first 25,000,000 barrels of oil and the first 35,000,000,000 cubic feet of gas
 3 produced for sale from that field that occurs in the 10 years following the date on
 4 which the production for sale commences; the fields eligible for royalty reduction
 5 under this paragraph, all of which are located within the Cook Inlet sedimentary basin,
 6 were discovered before January 1, 1988, and have been undeveloped or shut in from
 7 at least January 1, 1988, through December 31, 1997, are

8 (A) Falls Creek;

9 (B) Nicolai Creek;

10 (C) North Fork;

11 (D) Point Starichkof;

12 (E) Redoubt Shoal; and

13 (F) West Foreland.

14 * **Sec. 3.** AS 38.05.180(w) is amended to read:

15 (w) Notwithstanding any other provisions of this section, land that was subject
 16 to a best interest finding issued within the previous 10 years may be, at the discretion
 17 of the commissioner, immediately offered for lease, under regulations adopted by the
 18 commissioner, upon terms appearing most advantageous to the state [; HOWEVER,
 19 NONCOMPETITIVE LEASING IS PROHIBITED]. The commissioner shall establish
 20 a royalty determined to be in the public interest but not less than 12 1/2 percent. A
 21 lease must provide for payment to the state of rental but need not adhere to the rental
 22 schedule in (n) of this section nor to the 5,760-acres-per-lease limitation in (m) of this
 23 section. The lease term may not exceed 10 years, except as provided in (o) of this
 24 section.

25 * **Sec. 4.** AS 38.05.180(y) is amended to read:

26 (y) **The provisions of this subsection apply to oil and gas leases on state**
 27 **land that are issued on a noncompetitive basis. Under this subsection,**

28 **(1) except as to state land that must be competitively leased for oil**
 29 **and gas development, the commissioner shall lease state land noncompetitively**
 30 **when the commissioner determines that noncompetitive leases for oil and gas**
 31 **development are in the best interests of the state; the commissioner**

1 (A) shall issue noncompetitive leases under general
2 regulations adopted by the commissioner;

3 (B) shall issue noncompetitive leases in units of no more
4 than 2,560 acres in one lease;

5 (C) shall issue a noncompetitive lease conditioned upon the
6 lessee's payment of

7 (i) an annual rent of 50 cents an acre or fraction of
8 an acre in advance, except that, beginning on the date of the
9 discovery of oil or gas in paying quantities on the land that is
10 leased, a minimum royalty of \$1 an acre is payable at the expiration
11 of each lease year instead of rent; and

12 (ii) a royalty of 12 1/2 percent in amount or value of
13 the production removed or sold from the lease;

14 (D) shall, subject to (F) of this paragraph, issue a
15 noncompetitive lease for a primary term of five years; at the end of the
16 five-year term of the lease,

17 (i) the lease shall continue in effect so long thereafter
18 as oil or gas is produced from the lease in paying quantities;

19 (ii) if drilling, including redrilling, sidetracking, or
20 other measures that the lessee believes are necessary to reach the
21 originally proposed bottom hole location, has commenced and is
22 continued with reasonable diligence, the lease shall continue in
23 effect until 90 days after drilling has ceased and for so long
24 thereafter as oil or gas is produced in paying quantities;

25 (E) shall, at the end of the period described in (D) of this
26 paragraph and subject to (F) of this paragraph, if the lease has been
27 maintained in accordance with applicable requirements and regulations,
28 provide to the record titleholder of the lease a single extension of the lease,
29 unless otherwise provided by law; an extension of a lease under this
30 subparagraph is subject to the regulations in effect at the expiration of the
31 initial term of the lease; if the extension is for a lease of land

1 (i) that the commissioner reasonably believes to be
 2 capable of producing oil or gas, the extension is for a period of two
 3 years and for so long thereafter as oil or gas is produced in paying
 4 quantities; or

5 (ii) other than land described in (i) of this
 6 subparagraph, the extension is for a period of five years and for so
 7 long thereafter as oil or gas is produced in paying quantities;

8 (F) may extend a lease under (D) or (E) of this paragraph
 9 only if, within a period of 90 days before the expiration date of the
 10 primary term of the lease, the record titleholder, an assignee whose
 11 assignment has been submitted for approval, or an operator whose
 12 operating agreement has been submitted for approval files an application
 13 for the extension;

14 (G) may, notwithstanding the conditions of (D) - (F) of this
 15 paragraph, provide for extension of the term of a lease entered into
 16 under this paragraph if all or part of the lease is

17 (i) included in an approved unit plan under (p) or (q)
 18 of this section or in a development program under (s) of this
 19 section;

20 (ii) subject to conditions made under (t) of this
 21 section; or

22 (iii) included in a secondary recovery operation to
 23 bring about or restore oil or gas production;

24 (2) notwithstanding (1) of this subsection, a [A] noncompetitive lease
 25 existing at October 10, 1978, shall be extended for a period of two years and so long
 26 thereafter as oil and gas is produced in paying quantities; a [. A] noncompetitive lease
 27 extended under this **paragraph** [SUBSECTION] is subject to the regulations in force
 28 at the expiration of the initial five-year term of the lease; an [. NO] extension may
 29 **not** be granted, however, unless, within a period of 90 days before the expiration date,
 30 an application for extension is filed by the record **titleholder** [TITLE HOLDER] or
 31 an assignee whose assignment has been filed for approval, or an operator whose

1 operating agreement has been filed for approval.