

SENATE CS FOR CS FOR HOUSE BILL NO. 57(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/14/03

Referred: Rules

Sponsor(s): REPRESENTATIVES CHENAULT, Whitaker, Crawford, Heinze, Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the manner of determining the royalty received by the state on gas**
2 **production as it relates to the manufacture of certain value-added products."**

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

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

5 (bb) In (aa) **and (ee)** of this section,

6 (1) "gas or electric utility" includes an electric cooperative organized
7 under AS 10.25, a municipal utility, and a gas or electric utility regulated under
8 AS 42.05; provided that, if the contract gas is transmitted to consumers through a
9 pipeline and the gas utility either owns the pipeline or is related in ownership to the
10 owner of the pipeline, then the gas utility qualifies as a "gas or electric utility" within
11 the meaning of this paragraph only if it is bound or agrees to be bound by the
12 covenants set out in AS 38.35.120;

13 (2) "price for the gas established in the contract" includes tax
14 reimbursement amounts, deliverability and other charges, and other forms of

1 consideration paid by the gas or electric utility **or by the manufacturer of**
 2 **agricultural chemicals, as appropriate,** under the contract;

3 (3) "state's royalty share of gas production"

4 (A) includes payments on federal leases made to the state under
 5 30 U.S.C. 191;

6 (B) does not include the state's royalty share of gas production
 7 from land patented to the state under

8 (i) P.L. 84-830, 70 Stat. 709 (Alaska Mental Health
 9 Enabling Act);

10 (ii) 38 Stat. 1214 (Act of March 4, 1915); or

11 (iii) 43 U.S.C. 1635 in settlement of the claims of the
 12 state under 38 Stat. 1214.

13 * **Sec. 2.** AS 38.05.180(bb) is amended by adding a new paragraph to read:

14 (4) "manufacturer of agricultural chemicals" means a person that is a
 15 business entity primarily engaging in the manufacturing of nitrogenous and phosphatic
 16 based fertilizers, mixed fertilizers, pesticides, and similar chemicals for agricultural
 17 purposes.

18 * **Sec. 3.** AS 38.05.180(cc) is amended to read:

19 (cc) The provisions of (aa) **and (ee)** of this section do not prohibit the
 20 commissioner from accepting any payment on a federal lease tendered by the federal
 21 agency responsible for determination and transmittal of the payment to the state under
 22 30 U.S.C. 191 or otherwise due the state as the state's royalty share of gas production
 23 irrespective of the state's acceptance of **an amount that is different than the amount**
 24 **due under the lease** [THE USE OF THE CONTRACT PRICE] for purposes of
 25 determining royalty share on gas production under that subsection.

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

27 (ee) For a contract that is entered into on or after the effective date of this Act,
 28 within 90 days after the written request of a lessee of a lease issued under this section
 29 or of a lessee of federal land from which the state is entitled under applicable federal
 30 law to receive a share of the royalty on gas production, in order to establish the value
 31 of the state's royalty share of gas production sold by the lessee under the contract, the

1 commissioner may enter into an agreement with the lessee to use or accept as a price
 2 for the gas an amount that is not less than the price established in the contract between
 3 the lessee and a manufacturer of agricultural chemicals, not to exceed the amount that
 4 would otherwise be due under the lease. The commissioner may enter into the
 5 agreement if it is in the best interest of the state

6 (1) only if the primary function of the manufacturer is to engage in the
 7 production of a value-added product, and the manufacturer with which the lessee has
 8 entered into the contract is not affiliated with the lessee or with a subsequent purchaser
 9 of more than 10 percent of the manufacturer's value-added product; for purposes of
 10 this paragraph, the parties to a contract or purchase are affiliated if, in the judgment of
 11 the commissioner, one of the parties to the contract or purchase exercises substantial
 12 influence over the policies and actions of the other as evidenced by relationship based
 13 on common ownership or family interest or by action taken in concert without regard
 14 to whether that influence is based upon stockholdings, stockholders, officers, or
 15 directors;

16 (2) unless the commissioner makes a written finding, based on clear
 17 and convincing evidence, that

18 (A) the contract price is unreasonably low; or

19 (B) the prospective reduction in royalty receipts would not be
 20 balanced by employment opportunities or other tangible benefits to the state.

21 * **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to
 22 read:

23 **APPLICABILITY.** The provisions of this Act apply to determine the price received
 24 by the state on royalty gas production as it relates to the sale of the gas to a manufacturer of
 25 agricultural chemicals based on contracts under AS 38.05.180(ee) that are entered into on or
 26 after the effective date of this Act.