

SENATE BILL NO. 250

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR GARY STEVENS

Introduced: 1/12/04

Referred: Community and Regional Affairs, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a moratorium on the issuance of state shallow natural gas leases in**
2 **the vicinity of Kachemak Bay, and directing the commissioner of natural resources to**
3 **reacquire shallow natural gas leases on the Kenai Peninsula within the moratorium**
4 **area; and providing for an effective date."**

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 PURPOSE. (a) Under AS 38.05.184, since 1976, the state-owned tide and submerged
9 land and water seaward of the mean higher high water line of Kachemak Bay between Anchor
10 Point and Point Pogibshi has been placed off-limits to conventional oil and gas leases. In
11 legislative findings accompanying the Act that set out the closure, the statute declares that
12 "Kachemak Bay is an area of extraordinary abundance and diversity of marine life that has
13 provided, and will continue to provide in the future, a basis for one of the state's most
14 important commercial fisheries; that recent information discloses that even minute quantities

1 of oil released into the marine environment may be harmful to the larval forms of crabs and
 2 other marine life and that the existence of gyral currents within the bay may increase the
 3 likelihood of oil coming into contact with these valuable commercial fish and shellfish
 4 species; and that therefore oil and gas development in the bay, at this time, presents an undue
 5 hazard to this valuable state renewable resource." In addition, the legislature, under
 6 AS 38.05.177(m), has placed Kachemak Bay off-limits to the issuance of leases for shallow
 7 natural gas exploration and development.

8 (b) The legislative findings that support the 1976 closure of Kachemak Bay apply
 9 with equal force to justify prohibition of issuance of upland leases for shallow natural gas
 10 exploration and development in the area adjacent to Kachemak Bay, to prevent the release of
 11 the ground water produced as an unwanted byproduct of shallow natural gas extraction that
 12 may find its way into the state's navigable water. Therefore, to provide additional protection
 13 to the marine life of Kachemak Bay consistent with the findings set out in AS 38.05.184(a), it
 14 is the purpose of this Act to extend the moratorium on the issuance of state shallow natural
 15 gas leases in the vicinity of Kachemak Bay to adjacent upland areas, and to direct the
 16 reacquisition of the shallow natural gas leases that were entered into in the moratorium area
 17 before the effective date of this Act.

18 * **Sec. 2.** AS 38.05.177(a) is amended to read:

19 (a) The provisions of this section

20 (1) apply to gas, whether methane associated with and derived from
 21 coal deposits or otherwise, from a field if a part of the field is within 3,000 feet of the
 22 surface; and

23 (2) do not apply to authorize lease of

24 (A) land

25 (i) that is subject to an oil and gas exploration license or
 26 lease issued under AS 38.05.131 - 38.05.134; or

27 (ii) that is leased under AS 38.05.180;

28 (B) the land (i) that is proposed to be subject to an oil and gas
 29 exploration license or lease issued under AS 38.05.131 - 38.05.134; or (ii) that
 30 is described in and part of a proposed oil and gas leasing program prepared
 31 under AS 38.05.180(b); however, the commissioner may waive the limitations

1 of this subparagraph;

2 (C) the land that is held under a coal lease entered into under
3 AS 38.05.150, unless the applicant for a shallow natural gas lease is also the
4 lessee under AS 38.05.150 of that land; [OR]

5 (D) the valid existing selections of the Alaska Mental Health
6 Trust Authority made for the purpose of reconstituting the mental health trust
7 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70
8 Stat. 709 (1956), that become subject to management under AS 38.05.801, or
9 of land that has been designated by law for or is subject to designation for
10 conveyance to the Alaska Mental Health Trust Authority; however, after
11 consultation with the Alaska Mental Health Trust Authority, the commissioner
12 may waive the limitations of this subparagraph; or

13 **(E) land and water within the Kenai Peninsula Borough**
14 **east of Cook Inlet and south of the north boundary of Township 5 South,**
15 **Seward Meridian.**

16 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REACQUISITION OF CERTAIN SHALLOW NATURAL GAS LEASES. (a) The
19 commissioner of natural resources shall enter into negotiations to reacquire, by purchase in
20 the name of the state, the title to or accountable interests in shallow natural gas leases entered
21 into under AS 38.05.177 before the effective date of this Act within the boundaries described
22 in (d) of this section.

23 (b) In lieu of cash payment for a negotiated repurchase of a leasehold interest
24 described in (a) of this section, the commissioner of natural resources may authorize a credit
25 of the purchase price plus interest at the rate prescribed in AS 09.30.070 to be granted to the
26 seller, to be applied against future lease bonus or rental payments, permit fees, royalties, or oil
27 and gas taxes that may become owing on new production from other leases or property held
28 by the seller for oil and gas development, including shallow natural gas development. The
29 commissioner may also negotiate to reimburse, in like manner by credit provision a
30 reasonable amount to compensate the lessee for expenses and other costs incurred by the
31 lessee.

1 (c) If the commissioner of natural resources is unable to negotiate a satisfactory price
2 for repurchase of a leasehold interest described in (a) of this section, the commissioner may
3 acquire a leasehold interest described in (a) of this section through exercise of the power of
4 eminent domain.

5 (d) The provisions of this section apply to shallow natural gas leases issued under
6 AS 38.05.177 before the effective date of this Act on the land and water described in
7 AS 38.05.177(a)(2)(E), added by sec. 2 of this Act.

8 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICATION OF SECTION 2 TO LAND CURRENTLY LEASED IN THE
11 VICINITY OF KACHEMAK BAY FOR SHALLOW NATURAL GAS EXPLORATION
12 AND DEVELOPMENT. The provisions of AS 38.05.177(a)(2)(E), added by sec. 2 of this
13 Act, apply to prohibit the issuance or reissuance of a lease under AS 38.05.177 entered into
14 before the effective date of this Act if the lease terminates because of the failure to extend the
15 lease under AS 38.05.177(d) or if the lease terminates by the operation of AS 38.05.177(h).

16 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).