

CS FOR HOUSE BILL NO. 280(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/5/05
Referred: Rules

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of minerals and mining property; relating to contracts**
2 **approved by municipalities for payments in lieu of taxes; and providing for an effective**
3 **date."**

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

5 *** Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

6 (64) AS 29.45.820 (severance taxes on minerals).

7 *** Sec. 2.** AS 29.45 is amended by adding a new section to read:

8 **Sec. 29.45.085. Tax on mining property.** (a) Real and tangible personal
9 property used or committed by contract or other agreement for use within the state
10 primarily in the production or transportation of minerals, or in the operation or
11 maintenance of facilities used in the production or transportation of minerals, and
12 located in a municipality incorporated on or after January 1, 2005, or located within an
13 area annexed by a municipality on or after January 1, 2005, may be taxed only in
14 accordance with AS 43.67.

1 (b) The following are exempt from taxation by municipalities incorporated on
 2 or after January 1, 2005, or extended by annexation on or after January 1, 2005, if the
 3 property is located within the newly annexed area:

- 4 (1) mineral leases, whether producing or not;
 5 (2) minerals in place;
 6 (3) minerals produced or extracted in the state;
 7 (4) the value of intangible exploration expenses;
 8 (5) roads, storage facilities, terminals, docks and other port facilities,
 9 and airstrips, publicly owned or privately owned and open to public use.

10 (c) A municipality may negotiate a contract for payments in lieu of taxes with
 11 an owner of real or tangible personal property used or committed by contract or other
 12 agreement for use within the state primarily in the production or transportation of
 13 minerals, or in the operation or maintenance of facilities used in the production or
 14 transportation of minerals, unless the property is subject to a state contract for
 15 payments in lieu of taxes under AS 43.67.010.

16 * **Sec. 3.** AS 29.45 is amended by adding a new section to read:

17 **Sec. 29.45.820. Taxes on minerals.** A municipality may not impose a
 18 severance tax on minerals produced or extracted in the municipality other than a tax
 19 imposed before January 1, 2006. This section applies to home rule and general law
 20 municipalities.

21 * **Sec. 4.** AS 43 is amended by adding a new chapter to read:

22 **Chapter 67. Mining Property Tax.**

23 **Sec. 43.67.010. Levy of tax; payments in lieu of tax.** (a) An annual tax is
 24 levied each tax year beginning January 1, 2006, on the full and true value of real and
 25 tangible personal property used or committed by contract or other agreement for use
 26 within this state primarily in the production or transportation of minerals, or in the
 27 operation or maintenance of facilities used in the production or transportation of
 28 minerals, located on land in the unorganized borough as of January 1, 2005.

29 (b) The tax rate in the unorganized borough is the mill rate specified in
 30 AS 14.17.410(b)(2).

31 (c) The tax rate in a municipality is the tax rate the municipality applies to

1 other real and tangible personal property.

2 (d) The department may negotiate a contract for payments in lieu of the tax
3 levied under this section. The department shall follow the procedures specified in
4 AS 43.82.400(a) and (b), 43.82.410 - 43.82.430, except that the department need not
5 consult with a municipal advisory group, and AS 43.82.435. If the legislature passes a
6 bill that becomes law authorizing the contract, the parties may execute the contract.
7 Nothing in this subsection or the sections cited shall be construed to preclude the
8 legislature from changing the terms of the contract for payments in lieu of taxes.

9 **Sec. 43.67.020. In place of municipal taxes.** For a period of 15 years after
10 the production commencement date, the taxes levied or authorized under
11 AS 43.67.010 are in place of the following taxes that might otherwise be imposed by a
12 municipality incorporated on or after January 1, 2005, on the property, or imposed by
13 a municipality incorporated before January 1, 2005, on property located within an area
14 annexed by the municipality on or after January 1, 2005:

15 (1) taxes on the sale or use of minerals;

16 (2) taxes on or measured by gross or net income from the taxable
17 property, including income from the exploration for, production of, or transportation
18 of minerals or taxable property; and

19 (3) any license, excise, fee, charge, severance, throughput, or other tax
20 on or pertaining to the taxable property or services used in or associated with the
21 taxable property or in its maintenance or operation unless the tax is also levied on
22 property not subject to tax under AS 43.67.010(a).

23 **Sec. 43.67.030. Assessment.** (a) The state assessor shall assess property for
24 the tax levied under AS 43.67.010 at its full and true value as of January 1 of the
25 assessment year except that the first assessment date shall be the production
26 commencement date. If the production commencement date is used as the assessment
27 date, the tax payable shall be prorated on the basis of the assessment year remaining.

28 (b) The full and true value of taxable property is

29 (1) on the production commencement date, the actual capital cost
30 incurred or accrued with respect to the property as of the date of assessment;

31 (2) determined on each January 1 after the commencement date on the

1 basis of replacement cost less depreciation.

2 (c) A property tax imposed by a municipality under AS 29.45 is in place of the
3 tax levied under AS 43.67.010. In the case of a municipality incorporated after
4 January 1, 2005, the transition provisions of AS 29.05.140 govern the transition from
5 assessment by the department to assessment by the municipality.

6 (d) For purposes of this section, "actual capital cost" and "replacement cost"
7 do not include interest capitalized before or during the period of construction or the
8 value of intangible expenses.

9 **Sec. 43.67.040. Returns.** (a) The state assessor by notice may require every
10 person having ownership or control of an interest in taxable property to submit a
11 return within 30 days after the production commencement date and by January 31 of
12 each year following the production commencement date in the form prescribed by the
13 state assessor, based on property values existing on January 1 of each year, except as
14 otherwise provided in this chapter.

15 (b) The state assessor by written notice may require a person to provide
16 additional information within 30 days after the notice.

17 **Sec. 43.67.050. Investigation.** (a) The state assessor may investigate property
18 that is taxable under this chapter. The assessor may make a valuation of the taxable
19 property, which is prima facie evidence of full and true value.

20 (b) The state assessor may enter premises necessary for the investigation
21 during reasonable hours and may, subject to reasonable safety regulations generally
22 imposed, examine property and appropriate records. The owner of the taxable
23 property upon request shall furnish to the state assessor reasonable assistance required
24 for the investigation. If refused entry, the state assessor may seek a court order to
25 compel entry.

26 (c) For the purpose of the investigation the owner of the taxable property or a
27 representative of the owner may be required to appear for examination under oath by
28 the department.

29 **Sec. 43.67.060. Assessment roll.** The state assessor shall prepare annually the
30 assessment roll for taxation under this chapter. The roll must contain

31 (1) a description of all taxable property;

1 (2) the assessed value of all taxable property;

2 (3) the names and addresses of persons owning property subject to
3 assessment and taxation.

4 **Sec. 43.67.070. Assessment notice.** (a) On or before March 1 of each year,
5 the state assessor shall send to every owner of taxable property named in the
6 assessment roll a notice of assessment, showing the assessed value of the property.
7 Notice of assessment is effective on the date of mailing.

8 (b) The state assessor shall send to a municipality a copy of the notice of
9 assessment on taxable property that is assessed under the provisions of this chapter
10 and that is located in the municipality.

11 **Sec. 43.67.080. Objection.** (a) An owner of taxable property or a
12 municipality receiving an assessment notice may object to the assessment by advising
13 the state assessor in writing of the objection to the assessment within 20 days after the
14 effective date of the notice.

15 (b) The state assessor shall provide by regulation for notices of objections to
16 the owners of taxable property and municipalities.

17 (c) Following an objection, the state assessor may adjust the assessment and
18 the assessment roll. An adjustment based on an objection from an owner of taxable
19 property or a municipality shall be made within 30 days after the effective date of the
20 notice of assessment.

21 **Sec. 43.67.090. Appeal to the State Assessment Review Board.** The owner
22 of taxable property or a municipality may appeal an assessment to the State
23 Assessment Review Board established under AS 43.56.040. The appeal must be filed
24 in writing within 30 days after an assessment, a determination, or the adjustment, if
25 any, made under AS 43.67.080.

26 **Sec. 43.67.100. Certification.** Not later than June 1 of each year, the
27 department shall certify the final assessment roll and mail to the owner of the taxable
28 property or an authorized agent a statement of the amount of tax due.

29 **Sec. 43.67.110. Supplementary assessment rolls.** The state assessor shall
30 include taxable property omitted from the assessment roll on a supplementary roll
31 using the procedures set out in this chapter for the original roll.

1 **Sec. 43.67.120. Collection and deposit.** (a) The tax levied by AS 43.67.010
2 is payable to the department on or before June 30 of the taxable year.

3 (b) The department shall provide for voluntary prepayment and for payment
4 by installments.

5 (c) The tax levied under AS 43.67.010 and interest and penalties collected
6 with respect to this levy shall be deposited in a special mining tax property tax account
7 in the general fund. The legislature may appropriate the balance of the account into
8 the public school account fund (AS 14.17.300).

9 (d) If jurisdiction over the taxable property is obtained by a municipality, the
10 tax is payable to the municipality.

11 **Sec. 43.67.130. Penalty for delinquent taxes.** When the tax levied by
12 AS 43.67.010 becomes delinquent, a penalty of 10 percent shall be added.

13 **Sec. 43.67.140. Remedy.** The remedy of distraint of property set out in
14 AS 43.20.270 applies to the tax levied by AS 43.67.010. However, only property
15 subject to the tax may be distrained.

16 **Sec. 43.67.150. Regulations.** The board, the state assessor, the Department of
17 Commerce, Community, and Economic Development, and the Department of Revenue
18 may adopt regulations under AS 44.62 (Administrative Procedure Act) as appropriate
19 to carry out their respective duties under this chapter.

20 **Sec. 43.67.160. Exemptions from mining property tax.** (a) Roads, storage
21 facilities, terminals, docks and other port facilities, and air strips, publicly owned or
22 privately owned and open to public use are exempt from the tax levied in
23 AS 43.67.010.

24 (b) Property used in the production or transportation of minerals where the
25 actual capital cost incurred or accrued with respect to the mine and related facilities is
26 less than \$10,000,000 is exempt from taxation under AS 43.67.010.

27 **Sec. 43.67.170. Definitions.** In this chapter,

28 (1) "board" means the State Assessment Review Board under
29 AS 43.56.040;

30 (2) "department" means the Department of Revenue or the
31 Department of Commerce, Community, and Economic Development;

- 1 (3) "minerals" means valuable metals, ores, and coal;
- 2 (4) "production commencement date" means the date on which the
3 initial shipment of products from mining operations is made;
- 4 (5) "real and tangible personal property" and "property" include
- 5 (A) buildings, machinery, appliances, supplies, equipment,
6 transmission lines, power plants, and pipelines; and
- 7 (B) roads, storage facilities, terminals, docks and other port
8 facilities, and air strips;
- 9 (6) "taxable property" means property taxable under AS 43.67.010.

10 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION: REGULATIONS. The Department of Revenue and the Department
13 of Commerce, Community, and Economic Development may proceed to adopt regulations to
14 implement this Act. The regulations take effect under AS 44.62 (Administrative Procedure
15 Act), but not before the effective date of sec. 4 of this Act.

16 * **Sec. 6.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect January 1, 2006.