

HOUSE BILL NO. 502

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 4/18/06

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the Alaska Stranded Gas Development Act to eliminate the**
2 **opportunity for judicial review of the findings and determination of the commissioner of**
3 **revenue on which are based legislative review for a proposed contract for payments in**
4 **lieu of taxes and for the other purposes described in that Act; and providing for an**
5 **effective date."**

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

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

9 LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

10 (1) when introduced in 1998 at the request of the governor, the bill to enact the
11 Alaska Stranded Gas Development Act provided that the commissioner of revenue, after
12 making preliminary findings and a determination, providing opportunity for public review of
13 and comment on those preliminary decisions, and making final findings and a determination,

1 had the discretionary authority to execute the contract for payments in lieu of taxes and for the
2 other purposes described in the proposed Alaska Stranded Gas Development Act if the
3 commissioner determined that a contract authorized by that Act would serve the long-term
4 fiscal interests of the state; the proposed Act declared that the commissioner's final findings
5 and determinations and decisions as to whether or not to execute the contract constituted final
6 agency decisions; the declaration was consistent with the notion that the commissioner's
7 conclusion would constitute a final administrative decision that might be subject to judicial
8 review; and

9 (2) legislative action on the bill to enact the Alaska Stranded Gas
10 Development Act incorporated a provision allowing for legislative review of the
11 commissioner's determination and withholding of the authority to execute a contract for
12 payments in lieu of taxes and for the other purposes described in the Act until the legislature,
13 by law, authorizes the governor to execute it; consequently, the commissioner's final
14 determination was substantially changed so that it is no longer to be regarded as a final
15 administrative decision, but rather a recommendation subject to legislative review.

16 (b) It is the purpose of this Act to

17 (1) affirm that, consistent with AS 43.82.435, it is the legislature that must
18 exercise final authority over direction to execute any contract for payment in lieu of taxes and
19 for the other purposes described in the Alaska Stranded Gas Development Act; and

20 (2) assert that the reaffirmation of that legislative authority is made without
21 amendment or compromise of AS 43.82.440 regarding judicial review of a law enacted under
22 AS 43.82.435 or the enforceability of a contract executed under that law.

23 * **Sec. 2.** AS 43.82.430(c) is repealed and reenacted to read:

24 (c) Notwithstanding another provision of law, and except for a claim based on
25 the United States Constitution or the Constitution of the State of Alaska, the
26 commissioner's final findings and determination under (a) of this section are not
27 subject to review, stay, or injunction by any court.

28 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).