

SENATE BILL NO. 71

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR MCGUIRE

Introduced: 1/26/11

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the duties of the Department of Labor and Workforce Development;**
2 **relating to the tax rates applicable to the production of oil and gas; relating to a rebate**
3 **of the production tax on oil and gas based on the employment of resident workers;**
4 **relating to credits against the oil and gas production tax; relating to the period in which**
5 **oil and gas production taxes may be assessed; and providing for an effective date."**

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

7 *** Section 1.** AS 23.05.080 is amended by adding a new subsection to read:

8 (b) In addition to the records that must be kept under (a) of this section, an
9 employer subject to tax under AS 43.55.011(e) and claiming a rebate under
10 AS 43.55.022 shall keep for each person who provides labor the cost of which is
11 included in an allowable lease expenditure under AS 43.55.165 an accurate record of
12 the name, address, and occupation of the person, of the daily and weekly hours worked
13 by the person, of whether the person is a resident worker, of the total numbers of hours

1 during a calendar year worked by resident workers, of the total number of hours
 2 during a calendar year worked by persons that are not resident workers, and of the
 3 wages paid each pay period to each person. A record required under this subsection
 4 shall be kept on file for at least three years and may be provided to the Department of
 5 Revenue by request. In this subsection, "resident worker" has the meaning given in
 6 AS 43.40.092.

7 * **Sec. 2.** AS 23.05.100 is amended to read:

8 **Sec. 23.05.100. Inspections and examination of records.** The department
 9 may

10 (1) enter a place of employment during regular hours of employment
 11 and, in cooperation with the employer, or someone designated by the employer, collect

12 (A) facts and statistics relating to the employment of workers;

13 and

14 (B) information required to be kept under AS 23.05.080(b)
 15 for the purpose of verifying the eligibility of the employer for a rebate
 16 under AS 43.55.022;

17 (2) make inspections for the proper enforcement of all state labor laws;

18 (3) for the purpose of examination, have access to and copy from any
 19 book, account, record, payroll, paper, or document relating to the employment of
 20 workers.

21 * **Sec. 3.** AS 23.05 is amended by adding a new section to article 1 to read:

22 **Sec. 23.05.135. Definition.** In AS 23.05.010 - 23.05.135, "resident worker"
 23 has the meaning given in AS 43.40.092.

24 * **Sec. 4.** AS 43.55.011(g) is amended to read:

25 (g) For each month of the calendar year for which the producer's average
 26 monthly production tax value under AS 43.55.160(a)(2) **for a** [PER] BTU equivalent
 27 barrel of the taxable oil and gas is more than \$30, the amount of tax for purposes of
 28 (e)(2) of this section is determined by multiplying the monthly production tax value of
 29 the taxable oil and gas produced during the month by the **following** tax **rates, as**
 30 **applicable** [RATE CALCULATED AS FOLLOWS]:

31 (1) if the producer's average monthly production tax value **of a** [PER]

1 BTU equivalent barrel of the taxable oil and gas for the month is not more than **\$155**
 2 [\$92.50], the tax rate is **0.2** [0.4] percent **of** [MULTIPLIED BY THE NUMBER
 3 THAT REPRESENTS] the difference between that average monthly production tax
 4 value **of a** [PER] BTU equivalent barrel and \$30; or

5 (2) if the producer's average monthly production tax value **of a** [PER]
 6 BTU equivalent barrel of the taxable oil and gas for the month is more than **\$155, the**
 7 **tax rates are**

8 **(A) 0.2 percent on the first \$125 of monthly production tax**
 9 **value for each BTU equivalent barrel above \$30; and**

10 **(B) 0.1 percent of the monthly production tax value for**
 11 **each BTU equivalent barrel that is greater than \$155** [\$92.50, THE TAX
 12 RATE IS THE SUM OF 25 PERCENT AND THE PRODUCT OF 0.1
 13 PERCENT MULTIPLIED BY THE NUMBER THAT REPRESENTS THE
 14 DIFFERENCE BETWEEN THE AVERAGE MONTHLY PRODUCTION
 15 TAX VALUE PER BTU EQUIVALENT BARREL AND \$92.50, EXCEPT
 16 THAT THE SUM DETERMINED UNDER THIS PARAGRAPH MAY NOT
 17 EXCEED 50 PERCENT].

18 * **Sec. 5.** AS 43.55 is amended by adding a new section to read:

19 **Sec. 43.55.022. Tax rebate for employing resident workers.** (a) Subject to
 20 appropriation and the requirements of this section, a taxpayer subject to tax under
 21 AS 43.55.011(e)(1) that incurs labor costs that are allowable lease expenditures under
 22 AS 43.55.165 is entitled to a rebate if 80 percent or more of the labor is done by
 23 resident workers.

24 (b) The amount of the rebate is equal to a percentage of the tax paid under
 25 AS 43.55.011(e)(1) based on the percentage of labor done by resident workers the cost
 26 of which is included in an allowable lease expenditure under AS 43.55.165. The
 27 amount of the rebate is equal to the following percentage of the tax paid under
 28 AS 43.55.011(e)(1):

29 (1) two percent if the percentage of labor done by resident workers is
 30 at least 80 percent but less than 82.5 percent;

31 (2) four percent if the percentage of labor done by resident workers is

1 at least 82.5 percent but less than 85 percent;

2 (3) six percent if the percentage of labor done by resident workers is at
3 least 85 percent but less than 87.5 percent;

4 (4) eight percent if the percentage of labor done by resident workers is
5 at least 87.5 percent but less than 90 percent;

6 (5) 10 percent if the percentage of labor done by resident workers is at
7 least 90 percent but less than 92.5 percent;

8 (6) 12 percent if the percentage of labor done by resident workers is at
9 least 92.5 percent but less than 95 percent;

10 (7) 14 percent if the percentage of labor done by resident workers is at
11 least 95 percent but less than 97.5 percent;

12 (8) 16 percent if the percentage of labor done by resident workers is at
13 least 97.5 percent but less than 100 percent; and

14 (9) 20 percent if the percentage of labor done by resident workers is
15 100 percent.

16 (c) The percentage of labor done by resident workers is

17 (1) determined on a calendar year basis using the number of hours of
18 labor the cost of which is a lease expenditure, and includes all hours of labor,
19 regardless of whether a worker is paid on an hourly or some other basis; and

20 (2) a fraction the numerator of which is the number of hours of labor
21 done by resident workers the cost of which is a lease expenditure, and the denominator
22 of which is the number of hours of labor by all workers the cost of which is a lease
23 expenditure, expressed as a percentage.

24 (d) To qualify for the rebate under this section, a person subject to tax under
25 AS 43.55.011(e) shall file an application for the rebate at the time a statement must be
26 filed under AS 43.55.030(a) for the calendar year for which the rebate is claimed. The
27 application must include the following for the calendar year for which the rebate is
28 claimed:

29 (1) the number of hours of labor, the cost of which is a lease
30 expenditure;

31 (2) the number of hours of labor done by resident workers that are

1 included in (1) of this subsection;

2 (3) the total cost of labor that is a lease expenditure; and

3 (4) other information required by the department in a regulation
4 adopted to administer this section, including the names of the resident workers whose
5 hours of labor are included in (1) of this subsection.

6 (e) At the same time an application is made to the department under (d) of this
7 section, the person applying for a rebate shall file a report with the commissioner of
8 labor and workforce development. The report must include the information in (d)(1)
9 and (2) of this section and other information required by the commissioner of labor
10 and workforce development by regulation. Any amendment to the application in (d) of
11 this section that changes the information in (d)(1) and (2) of this section must also be
12 filed with the commissioner of labor and workforce development. At the request of the
13 commissioner, the Department of Labor and Workforce Development shall audit the
14 information reported in (d)(1) and (2) of this section and notify the commissioner of
15 the results of the audit.

16 (f) A person claiming a rebate under this section has the burden of proving
17 eligibility for the rebate, including a claim that an individual is a resident worker.

18 (g) The department shall report to the legislature the amount of rebates paid
19 under this section and statistical information relating to the percentage of labor done
20 by resident workers based on hours worked.

21 (h) In this section,

22 (1) "lease expenditure" means an expenditure allowed as a lease
23 expenditure under AS 43.55.165;

24 (2) "resident worker" has the meaning given in AS 43.40.092.

25 * **Sec. 6.** AS 43.55.040 is amended to read:

26 **Sec. 43.55.040. Powers of Department of Revenue.** Except as provided in
27 AS 43.05.405 - 43.05.499, the department may

28 (1) require a person engaged in production and the agent or employee
29 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil
30 or gas to furnish, whether by the filing of regular statements or reports or otherwise,
31 additional information that is considered by the department as necessary to compute

1 the amount of the tax or of the rebate under AS 43.55.022; notwithstanding any
 2 contrary provision of law, the disclosure of additional information under this
 3 paragraph to the producer obligated to pay the tax does not violate AS 40.25.100(a) or
 4 AS 43.05.230(a); before disclosing information under this paragraph that is otherwise
 5 required to be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the
 6 department shall

7 (A) provide the person that furnished the information a
 8 reasonable opportunity to be heard regarding the proposed disclosure and the
 9 conditions to be imposed under (B) of this paragraph; and

10 (B) impose appropriate conditions limiting

11 (i) access to the information to those legal counsel,
 12 consultants, employees, officers, and agents of the producer who have a
 13 need to know that information for the purpose of determining or
 14 contesting the producer's tax obligation; and

15 (ii) the use of the information to use for that purpose;

16 (2) examine the books, records, and files of the person;

17 (3) conduct hearings and compel the attendance of witnesses and the
 18 production of books, records, and papers of any person;

19 (4) make an investigation or hold an inquiry that is considered
 20 necessary to a disclosure of the facts as to

21 (A) the amount of production from any oil or gas location, or of
 22 a company or other producer of oil or gas; and

23 (B) the rendition of the oil and gas for taxing purposes;

24 (5) require a producer, an explorer, or an operator of a lease or
 25 property to file reports and copies of records that the department considers necessary
 26 to forecast state revenue under this chapter; in the case of reports and copies of records
 27 relating to proposed, expected, or approved unit expenditures for a unit for which one
 28 or more working interest owners other than the operator have authority to approve unit
 29 expenditures, the required reports and copies of records are limited to those reports or
 30 copies of records that constitute or disclose communications between the operator and
 31 the working interest owners relating to unit budget matters;

1 (6) require a producer that has an average total production in the state
 2 of more than 100,000 barrels a day for a calendar year to report the gross value at the
 3 point of production of the producer's taxable oil and gas in the state for a calendar year
 4 and the total amount of lease expenditures in the state for that calendar year; and

5 (7) assess against a person required under this section to file a report,
 6 statement, or other document a penalty, as determined by the department under
 7 standards adopted in regulation by the department, of not more than \$1,000 for each
 8 day the person fails to file the report, statement, or other document after notice by the
 9 department; the penalty is in addition to any penalties under AS 43.05.220 and
 10 43.05.290 and is assessed, collected, and paid in the same manner as a tax deficiency
 11 under this title; the penalty shall bear interest at the rate specified under
 12 AS 43.05.225(1).

13 * **Sec. 7.** AS 43.55.075(a) is amended to read:

14 (a) Except as provided in AS 43.05.260(c), **for a tax period ending before**
 15 **January 1, 2011**, the amount of a tax imposed by this chapter must be assessed within
 16 six years after the return was filed.

17 * **Sec. 8.** AS 44.31.020 is amended to read:

18 **Sec. 44.31.020. Duties of department.** The Department of Labor and
 19 Workforce Development shall

20 (1) enforce the laws and adopt regulations under them concerning
 21 employer-employee relationships, including the safety, hours of work, wages, and
 22 conditions of workers, including children;

23 (2) accumulate, analyze, and report labor statistics;

24 (3) operate systems of workers' compensation and unemployment
 25 insurance;

26 (4) gather data reflecting the cost of living in the various election
 27 districts of the state upon request of the director of personnel under AS 39.27.030; in
 28 this paragraph, "election district" has the meaning given in AS 39.27.020(b);

29 (5) operate the federally funded employment and training programs
 30 under 29 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998);

31 (6) administer the state's program of adult basic education and adopt

1 regulations to administer the program; [AND]

2 (7) administer the programs of the Alaska Vocational Technical Center
3 and adopt regulations to administer the programs, including regulations that set rates
4 for student tuition and room and board and fees for the programs and services
5 provided by the department regarding the Alaska Vocational Technical Center; **and**

6 **(8) at the request of the commissioner of revenue, audit**
7 **information described in AS 43.55.022(d)(1) and (2) that is submitted by a person**
8 **applying for a rebate under AS 43.55.022.**

9 * **Sec. 9.** Sections 4 and 5 of this Act take effect on the first day of the month immediately
10 following the effective date of secs. 1 - 3 and 6 - 10 of this Act.

11 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect immediately under
12 AS 01.10.070(c).