

HOUSE BILL NO. 134

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/15/19

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the commissioner of natural resources to modify a net profit share**
2 **lease."**

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

4 * **Section 1.** AS 36.30.850(b)(32) is amended to read:

5 (32) contracts between the Department of Natural Resources and
6 contractors qualified to evaluate hydrocarbon development, production, transportation,
7 and economics, to assist the commissioner of natural resources in evaluating
8 applications for royalty increases or decreases or other royalty adjustments,
9 **modifications to net profit share,** and evaluating the related financial and technical
10 data, entered into under AS 38.05.180(j);

11 * **Sec. 2.** AS 38.05.180(j) is amended to read:

12 (j) The commissioner

13 (1) may provide for modification of royalty **and net profit share** on
14 individual leases, leases unitized as described in (p) of this section, leases subject to an

1 agreement described in (s) or (t) of this section, or interests unitized under AS 31.05

2 (A) to allow for production from an oil or gas field or pool if

3 (i) the oil or gas field or pool has been sufficiently
4 delineated to the satisfaction of the commissioner;

5 (ii) the field or pool has not previously produced oil or
6 gas for **commercial** sale; and

7 (iii) oil or gas production from the field or pool would
8 not otherwise be economically feasible;

9 (B) to prolong the economic life of an oil or gas field or pool as
10 per barrel or barrel equivalent costs increase or as the price of oil or gas
11 decreases, and the increase or decrease is sufficient to make future production
12 no longer economically feasible; or

13 (C) to reestablish production of shut-in oil or gas that would
14 not otherwise be economically feasible; **or**

15 **(D) to prolong the economic life of an oil or gas field or pool**
16 **if required additional capital expenditures would make future production**
17 **no longer economically feasible;**

18 (2) may not grant a royalty **or net profit share** modification unless the
19 lessee or lessees requesting the change make a clear and convincing showing that a
20 modification of royalty **or net profit share** meets the requirements of this subsection
21 and is in the best interests of the state;

22 (3) shall provide for an increase or decrease or other modification of
23 the state's royalty **or net profit** share by a **fixed royalty**, sliding scale royalty, **net**
24 **profit share**, or other mechanism that shall be based on a change in the price of oil or
25 gas and may also be based on other relevant factors such as a change in production
26 rate, projected ultimate recovery, development costs, and operating costs;

27 (4) may not grant a royalty reduction for a field or pool

28 (A) under (1)(A) **or (1)(D)** of this subsection if the royalty
29 modification for the field or pool would establish a royalty rate of less than
30 five percent in amount or value of the production removed or sold from a lease
31 or leases covering the field or pool;

(B) under (1)(B) or (1)(C) of this subsection if the royalty modification for the field or pool would establish a royalty rate of less than three percent in amount or value of the production removed or sold from a lease or leases covering the field or pool;

(C) under (1)(A) - (D) of this subsection if the net profit share modification for the field or pool would establish a share reserved to the state of less than 10 percent of the net profit derived from the lease;

(5) may not grant a royalty **or net profit share** reduction under this subsection without including an explicit condition that the royalty **or net profit share** reduction is not assignable without the prior written approval, which may not be unreasonably withheld, by the commissioner; the commissioner shall, in the preliminary and final findings and determinations, set out the conditions under which the royalty **or net profit share** reduction may be assigned;

(6) shall require the lessee or lessees to submit, with the application for the royalty **or net profit share** reduction, financial and technical data that demonstrate that the requirements of this subsection are met; the commissioner

(A) may require disclosure of only the financial and technical data related to development, production, and transportation of oil and gas or gas only from the field or pool that are reasonably available to the applicant; and

(B) shall keep the data confidential under AS 38.05.035(a)(8) at the request of the lessee or lessees making application for the royalty **or net profit share** reduction; the confidential data may be disclosed by the commissioner to legislators and to the legislative auditor and as directed by the chair or vice-chair of the Legislative Budget and Audit Committee to the director of the division of legislative finance, the permanent employees of their respective divisions who are responsible for evaluating a royalty **or net profit share** reduction, and to agents or contractors of the legislative auditor or the legislative finance director who are engaged under contract to evaluate the royalty **or net profit share** reduction, if they sign an appropriate confidentiality agreement; **and**

1 **(C) shall require the lessee or leasees to submit, with the**
 2 **application for the royalty or net profit share reduction, a nonconfidential**
 3 **cover letter explaining the rationale for and the terms of requested**
 4 **modification with sufficient detail to allow the commissioner to publish the**
 5 **preliminary and final findings and determinations;**

6 (7) may

7 (A) require the lessee or lessees making application for the
 8 royalty **or net profit share** reduction under (1)(A) **or (1)(D)** of this subsection
 9 to pay for the services of an independent contractor, selected by the lessee or
 10 lessees from a list of qualified consultants compiled by the commissioner, to
 11 evaluate hydrocarbon development, production, transportation, and economics
 12 and to assist the commissioner in evaluating the application and financial and
 13 technical data; if, under this subparagraph, the commissioner requires payment
 14 for the services of an independent contractor, the total cost of the services to be
 15 paid for by the lessee or lessees may not exceed \$150,000 for each application,
 16 and the commissioner shall determine the relevant scope of the work to be
 17 performed by the contractor; selection of an independent contractor under this
 18 subparagraph is not subject to AS 36.30;

19 (B) with the mutual consent of the lessee or lessees making
 20 application for the royalty **or net profit share** reduction under (1)(B) or (1)(C)
 21 of this subsection, request payment for the services of an independent
 22 contractor, selected from a list of qualified consultants to evaluate hydrocarbon
 23 development, production, transportation, and economics by the commissioner
 24 to assist the commissioner in evaluating the application and financial and
 25 technical data; if, under this subparagraph, the commissioner requires payment
 26 for the services of an independent contractor, the total cost of the services that
 27 may be paid for by the lessee or lessees may not exceed \$150,000 for each
 28 application, and the commissioner shall determine the relevant scope of the
 29 work to be performed by the contractor; selection of an independent contractor
 30 under this subparagraph is not subject to AS 36.30;

31 (8) shall make and publish a preliminary findings and determination on

1 the royalty **or net profit share** reduction application, give reasonable public notice of
 2 the preliminary findings and determination, and invite public comment on the
 3 preliminary findings and determination during a 30-day period for receipt of public
 4 comment;

5 (9) shall offer to appear before the Legislative Budget and Audit
 6 Committee, on a day that is not earlier than 10 days and not later than 20 days after
 7 giving public notice under (8) of this subsection, to provide the committee a review of
 8 the commissioner's preliminary findings and determination on the royalty **or net**
 9 **profit share** reduction application and administrative process; if the Legislative
 10 Budget and Audit Committee accepts the commissioner's offer, the committee shall
 11 give notice of the committee's meeting to all members of the legislature;

12 (10) shall make copies of the preliminary findings and determination
 13 available to

14 (A) the presiding officer of each house of the legislature;

15 (B) the chairs of the legislature's standing committees on
 16 resources; and

17 (C) the chairs of the legislature's special committees on oil and
 18 gas, if any;

19 (11) shall, within 30 days after the close of the public comment period
 20 under (8) of this subsection,

21 (A) prepare a summary of the public response to the
 22 commissioner's preliminary findings and determination;

23 (B) make a final findings and determination; the
 24 commissioner's final findings and determination prepared under this
 25 subparagraph regarding a royalty **or net profit share** reduction is final and not
 26 appealable to the court;

27 (C) transmit a copy of the final findings and determination to
 28 the lessee;

29 (D) with the applicant's consent, amend the applicant's lease or
 30 unitization agreement consistent with the commissioner's final decision; and

31 (E) make copies of the final findings and determination

1 available to each person who submitted comment under (8) of this subsection
2 and who has filed a request for the copies;
3 (12) is not limited by the provisions of AS 38.05.134(3) or (f) of this
4 section in the commissioner's determination under this subsection.