

SENATE BILL NO. 161

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/22/20

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to geothermal resources; relating to the definition of 'geothermal
2 resources'; and providing for an effective date."

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

4 * **Section 1.** AS 31.05.030(m) is amended to read:

5 (m) The commission has jurisdiction and authority over all persons and
6 property, public and private, necessary to carry out the purposes and intent of
7 AS 41.06 [, EXCEPT FOR PROVISIONS IN AS 41.06 FOR WHICH THE
8 DEPARTMENT OF NATURAL RESOURCES HAS JURISDICTION].

9 * **Sec. 2.** AS 38.05.181(a) is amended to read:

10 (a) The commissioner may, under regulations adopted by the commissioner,
11 grant prospecting licenses [PERMITS] and leases to a qualified person to explore for,
12 develop, or use geothermal resources. A prospecting license or lease is not required
13 under this section to explore for, develop, or use geothermal resources drawn
14 from a depth with a ground temperature of not more than 30 degrees Celsius if

1 **the geothermal resource is intended for domestic, noncommercial, or small-scale**
 2 **industrial use** [WHEN TITLE TO THE SURFACE PARCEL IS HELD BY A
 3 PERSON OTHER THAN THE STATE, THAT PERSON SHALL HAVE A
 4 PREFERENTIAL RIGHT TO A GEOTHERMAL PROSPECTING PERMIT OR
 5 LEASE FOR THE AREA UNDERLYING THE SURFACE PARCEL. THE
 6 SURFACE OWNER MUST EXERCISE THE PREFERENCE RIGHT WITHIN 30
 7 DAYS AFTER RECEIVING NOTICE OF THE APPLICATION FOR A PERMIT,
 8 OR BY AGREEING TO MEET THE TERMS OF A BID WITHIN 60 DAYS AFTER
 9 RECEIVING NOTICE OF THE ACCEPTANCE OF THE BID FOR A LEASE].

10 * **Sec. 3.** AS 38.05.181(c) is amended to read:

11 (c) On state land that has not been declared a competitive geothermal area or
 12 withdrawn from geothermal prospecting, the commissioner may issue a prospecting
 13 **license** [PERMIT] to the first qualified applicant. The **license** [PERMIT] conveys an
 14 exclusive right, for a period of **five** [TWO] years, to prospect for geothermal resources
 15 on state land included under the **license** [PERMIT]. The commissioner has discretion
 16 to renew the **license** [PERMIT] for an additional one-year term. A holder of a
 17 prospecting **license** [PERMIT] has the right, **after completion of an agreed-upon**
 18 **work commitment** [UPON THE SHOWING OF A DISCOVERY OF
 19 GEOTHERMAL RESOURCES IN COMMERCIAL QUANTITIES] and the
 20 submission of **an exploration** [A DEVELOPMENT] plan acceptable to the
 21 commissioner, to convert the **license** [PERMIT] to a noncompetitive lease at a royalty
 22 rate under (g) of this section. The conversion privilege must be exercised not later than
 23 30 days after the expiration of the **license** [PERMIT]. If the land included within the
 24 **license** [PERMIT] is designated a competitive geothermal area during the **license**
 25 [PERMIT] term, the **licensee** [PERMITTEE] must apply for a noncompetitive lease
 26 within 30 days after notification of the designation or forfeit the conversion privileges
 27 and the exclusive right to prospect.

28 * **Sec. 4.** AS 38.05.181(d) is amended to read:

29 (d) On state land that is designated a competitive geothermal area and is not
 30 subject to an existing prospecting **license** [PERMIT], the commissioner may issue
 31 geothermal leases to the highest bidder by competitive bidding procedures established

by regulations adopted by the commissioner. At the discretion of the commissioner, competitive lease sales may be by oral or sealed bid, on the basis of a cash bonus, profit share, or royalty share.

* **Sec. 5.** AS 38.05.181(e) is amended to read:

(e) Prospecting licenses [PERMITS] and geothermal leases granted under this section must [, EXCEPT IN THE CASE OF PARCELS SUBJECT TO A PREFERENCE RIGHT UNDER (b) OF THIS SECTION,] be issued for at least 40 acres but not more than 2,560 acres. A person may not own, or hold an interest in, geothermal leases covering more than 100,000 [51,200] acres. However, geothermal leases in commercial production, individually or under a unit operation or well spacing or pooling arrangement, do not count against the acreage limitation. All prospecting licenses [PERMITS] and geothermal leases are subject to an annual rental fee established by the department in regulation and [,] payable in advance [, OF \$3 PER ACRE]. The rental for a year shall be credited against royalties accruing for that year.

* **Sec. 6.** AS 38.05.181(f) is amended to read:

(f) A geothermal license [LEASE] shall be issued for a [PRIMARY] term of five [10] years and may be converted to a lease under (c) of this section [RENEWED FOR AN ADDITIONAL TERM OF FIVE YEARS IF THE LESSEE IS ACTIVELY ENGAGED IN DRILLING OPERATIONS]. A geothermal lease is valid for the duration of commercial production. Beginning 20 years after the initiation of commercial production and at 10-year intervals thereafter, the commissioner may renegotiate the rentals and royalties due on a geothermal lease.

* **Sec. 7.** AS 38.05.181 is amended by adding new subsections to read:

(i) The commissioner may require that a geothermal lease issued under this section require the lessee to operate under a unit agreement and may prescribe a plan under which the lessee must operate. A unit agreement must adequately protect all parties in interest, including the state. Except as provided in (f) and (j) of this section, the commissioner may not reduce royalty on a geothermal lease issued under this section in connection with a unit agreement.

(j) When determined by the commissioner to be in the public interest, the

commissioner may authorize a lessee and the lessee's representative together with each other, or jointly or severally with another lessee, to collectively adopt or operate under a unit agreement. The commissioner may, with the consent of the holders of leases involved, establish, change, or revoke drilling, producing, and royalty requirements of the leases.

(k) A geothermal lease and a unit agreement approved under this section must specify the lease and unit agreement are subject to applicable statutes and regulations in force at the time the lease or unit agreement is entered and to any amendments to those statutes or regulations and to statutes or regulations thereafter.

* **Sec. 8.** AS 38.05.965(6) is repealed and reenacted to read:

(6) "geothermal resources" means the natural heat of the earth; the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat; and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth; but excluding oil, hydrocarbon gases, or other hydrocarbon substances;

* **Sec. 9.** AS 41.06.020(e) is amended to read:

(e) Nothing in this chapter limits the authority of the department
 [(1)] over geothermal resources under AS 38.05.181, **including the authority** [; OR
 (2)] to approve and manage geothermal units or operations that include state land.

* **Sec. 10.** AS 41.06.020 is amended by adding a new subsection to read:

(f) The commission may, when consistent with the purpose and intent of this chapter, exempt from this chapter a domestic, noncommercial, or small-scale industrial use of geothermal resources drawn from a depth with a ground temperature of not more than 30 degrees Celsius.

* **Sec. 11.** AS 41.06.060(5) is repealed and reenacted to read:

(5) "geothermal resources" means the natural heat of the earth; the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat; and all minerals in

1 solution or other products obtained from naturally heated fluids, brines, associated
2 gases, and steam, in whatever form, found below the surface of the earth; but
3 excluding oil, hydrocarbon gases, or other hydrocarbon substances;

4 * **Sec. 12.** AS 41.06.005(b) and 41.06.030 are repealed.

5 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. This Act applies to a license or lease for a geothermal resource
8 entered into on or after the effective date of this Act.

9 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 TRANSITIONAL PROVISIONS: REGULATIONS. (a) The Department of Natural
12 Resources and the Alaska Oil and Gas Conservation Commission may adopt regulations to
13 implement the changes made by this Act. The regulations take effect under AS 44.62
14 (Administrative Procedure Act) but not before the effective date of the law implemented by
15 the regulation.

16 * **Sec. 15.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect July 1, 2020.