

SENATE BILL NO. 91

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

BY THE SENATE RESOURCES COMMITTEE

Introduced: 2/10/25

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to clean energy project development licenses and leases of state land**
2 **for clean energy projects."**

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

4 * **Section 1.** AS 38.04.045(b) is amended to read:

5 (b) Before the issuance of a long-term lease under AS 38.05.070, **a lease**
6 **under AS 38.05.430,** or [OF] a patent for state land, an official cadastral survey shall
7 be accomplished, unless a comparable, approved survey exists that has been conducted
8 by the federal Bureau of Land Management. Before land may be offered under
9 AS 38.08 or AS 38.09, or before land may be offered under AS 38.05.055 or
10 38.05.057, except land that is classified for agricultural uses, an official rectangular
11 survey grid shall be established. The rectangular survey section corner positions shall
12 be monumented and shown on a cadastral survey plat approved by the state. For those
13 areas where the state may wish to convey surface estate outside of an official
14 rectangular survey grid, the commissioner may waive monumentation of individual

1 section corner positions and substitute an official control survey with control points
 2 being monumented and shown on control survey plats approved by the state. The
 3 commissioner may not issue more than one conveyance for each section within a
 4 township outside of an official rectangular survey grid. Land to be conveyed may not
 5 be located more than two miles from an official survey control monument except that
 6 the commissioner may waive this requirement on a determination that a single purpose
 7 use does not justify the requirement if the existing status of the land is known with
 8 reasonable certainty. The lots and tracts in state subdivisions shall be monumented and
 9 the cadastral survey and plats for the subdivision shall be approved by the state. Where
 10 land is located within a municipality with planning, platting, and zoning powers, plats
 11 for state subdivisions shall comply with local ordinances and regulations in the same
 12 manner and to the same extent as plats for subdivisions by other landowners. State
 13 subdivisions shall be filed and recorded in the district recorder's office. The
 14 requirements of this section do not apply to land made available for material sales, for
 15 short-term leases, **or** for parcels adjoining a surveyed right-of-way, **to land subject to**
 16 **a clean energy project development license issued under AS 38.05.410,** or **to**
 17 [FOR] land that has been open to random staking under the homestead program in the
 18 past; however, for short-term leases, the lessee shall comply with local subdivision
 19 ordinances unless waived by the municipality under procedures specified by
 20 ordinance. In this subsection, "a single purpose use" includes a communication site, an
 21 aid to navigation, and a park site.

22 * **Sec. 2.** AS 38.05.035(a) is amended to read:

23 (a) The director shall

24 (1) have general charge and supervision of the division and may
 25 exercise the powers specifically delegated to the director; the director may employ and
 26 fix the compensation of assistants and employees necessary for the operations of the
 27 division; the director is the certifying officer of the division, with the consent of the
 28 commissioner, and may approve vouchers for disbursements of money appropriated to
 29 the division;

30 (2) manage, inspect, and control state land and improvements on it
 31 belonging to the state and under the jurisdiction of the division;

1 (3) execute laws, rules, regulations, and orders adopted by the
2 commissioner;

3 (4) prescribe application procedures and practices for the sale, lease, or
4 other disposition of available land, resources, property, or interest in them;

5 (5) prescribe fees or service charges, with the consent of the
6 commissioner, for any public service rendered;

7 (6) under the conditions and limitations imposed by law and the
8 commissioner, issue deeds, leases, or other conveyances disposing of available land,
9 resources, property, or any interests in them;

10 (7) have jurisdiction over state land, except that land acquired by the
11 Alaska World War II Veterans Board and the Agricultural Loan Board or the
12 departments or agencies succeeding to their respective functions through foreclosure
13 or default; to this end, the director possesses the powers and, with the approval of the
14 commissioner, shall perform the duties necessary to protect the state's rights and
15 interest in state land, including the taking of all necessary action to protect and enforce
16 the state's contractual or other property rights;

17 (8) maintain the records the commissioner considers necessary,
18 administer oaths, and do all things incidental to the authority imposed; the following
19 records and files shall be kept confidential upon request of the person supplying the
20 information:

21 (A) the name of the person nominating or applying for the sale,
22 lease, or other disposal of land by competitive bidding;

23 (B) before the announced time of opening, the names of the
24 bidders and the amounts of the bids;

25 (C) all geological, geophysical, meteorological, and other
26 engineering data supplied, whether or not concerned with the extraction or
27 development of natural resources;

28 (D) except as provided in AS 38.05.036, cost data and financial
29 information submitted in support of applications, bonds, leases, and similar
30 items;

31 (E) applications for rights-of-way or easements;

1 (F) requests for information or applications by public agencies
2 for land that is being considered for use for a public purpose;

3 **(G) the name of an applicant for a clean energy project**
4 **development license under AS 38.05.410;**

5 (9) account for the fees, licenses, taxes, or other money received in the
6 administration of this chapter including the sale or leasing of land, identify their
7 source, and promptly transmit them to the proper fiscal department after crediting
8 them to the proper fund; receipts from land application filing fees and charges for
9 copies of maps and records shall be deposited immediately in the general fund of the
10 state by the director;

11 (10) select and employ or obtain at reasonable compensation cadastral,
12 appraisal, or other professional personnel the director considers necessary for the
13 proper operation of the division;

14 (11) be the certifying agent of the state to select, accept, and secure by
15 whatever action is necessary in the name of the state, by deed, sale, gift, devise,
16 judgment, operation of law, or other means any land, of whatever nature or interest,
17 available to the state; and be the certifying agent of the state, to select, accept, or
18 secure by whatever action is necessary in the name of the state any land, or title or
19 interest to land available, granted, or subject to being transferred to the state for any
20 purpose;

21 (12) on request, furnish records, files, and other information related to
22 the administration of AS 38.05.180 to the Department of Revenue for use in
23 forecasting state revenue under or administering AS 43.55, whether or not those
24 records, files, and other information are required to be kept confidential under (8) of
25 this subsection; in the case of records, files, or other information required to be kept
26 confidential under (8) of this subsection, the Department of Revenue shall maintain
27 the confidentiality that the Department of Natural Resources is required to extend to
28 records, files, and other information under (8) of this subsection;

29 (13) when reasonably possible, give priority to and expedite the
30 processing of an application for a lease or assignment of a lease of state land for
31 development and operation of a **clean energy project under AS 38.05.400 -**

1 **38.05.460 or a** gas storage facility, for a right-of-way **necessary for a clean energy**
 2 **project under AS 38.05.400 - 38.05.460 or** [TO] a gas storage facility, for a change
 3 to the allocation of production within a unit, and for a permit necessary for the
 4 operation of a gas storage facility; in this paragraph, "gas storage facility" has the
 5 meaning given in AS 31.05.032;

6 (14) prepare and submit to the senate secretary and chief clerk of the
 7 house of representatives on or before the first day of each regular session of the
 8 legislature an annual report in electronic form concerning site lease applications
 9 submitted under AS 38.05.083; in preparing and submitting the report, the director
 10 shall

11 (A) include in the report

12 (i) a list of all applications pending with the department,
 13 including applications for a new lease and applications for renewal,
 14 amendment, and assignment of a lease, and the length of time each
 15 application has been pending with the department;

16 (ii) for an application that has not been granted, the
 17 reason the application has not been granted; and

18 (iii) the number of leases that the director elected not to
 19 renew under AS 38.05.070;

20 (B) notify the legislature that the report is available.

21 * **Sec. 3.** AS 38.05.035(e) is amended to read:

22 (e) Upon a written finding that the interests of the state will be best served, the
 23 director may, with the consent of the commissioner, approve contracts for the sale,
 24 lease, or other disposal of available land, resources, property, or interests in them. In
 25 approving a contract under this subsection, the director need only prepare a single
 26 written finding. In addition to the conditions and limitations imposed by law, the
 27 director may impose additional conditions or limitations in the contracts as the director
 28 determines, with the consent of the commissioner, will best serve the interests of the
 29 state. The preparation and issuance of the written finding by the director are subject to
 30 the following:

31 (1) with the consent of the commissioner and subject to the director's

1 discretion, for a specific proposed disposal of available land, resources, or property, or
2 of an interest in them, the director, in the written finding,

3 (A) shall establish the scope of the administrative review on
4 which the director's determination is based, and the scope of the written
5 finding supporting that determination; the scope of the administrative review
6 and finding may address only reasonably foreseeable, significant effects of the
7 uses proposed to be authorized by the disposal;

8 (B) may limit the scope of an administrative review and finding
9 for a proposed disposal to

10 (i) applicable statutes and regulations;

11 (ii) the facts pertaining to the land, resources, or
12 property, or interest in them, that the director finds are material to the
13 determination and that are known to the director or knowledge of which
14 is made available to the director during the administrative review; and

15 (iii) issues that, based on the statutes and regulations
16 referred to in (i) of this subparagraph, on the facts as described in (ii) of
17 this subparagraph, and on the nature of the uses sought to be authorized
18 by the disposal, the director finds are material to the determination of
19 whether the proposed disposal will best serve the interests of the state;
20 and

21 (C) may, if the project for which the proposed disposal is
22 sought is a multiphased development, limit the scope of an administrative
23 review and finding for the proposed disposal to the applicable statutes and
24 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
25 pertain solely to the disposal phase of the project when

26 (i) the only uses to be authorized by the proposed
27 disposal are part of that phase;

28 (ii) the disposal is **the issuance of a clean energy**
29 **project development license under AS 38.05.410**, a disposal of oil
30 and gas, or of gas only, and, before the next phase of the project may
31 proceed, public notice and the opportunity to comment are provided

1 under regulations adopted by the department;

2 (iii) the department's approval is required before the
3 next phase of the project may proceed; and

4 (iv) the department describes its reasons for a decision
5 to phase;

6 (2) the director shall discuss in the written finding prepared and issued
7 under this subsection the reasons that each of the following was not material to the
8 director's determination that the interests of the state will be best served:

9 (A) facts pertaining to the land, resources, or property, or an
10 interest in them other than those that the director finds material under (1)(B)(ii)
11 of this subsection; and

12 (B) issues based on the statutes and regulations referred to in
13 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
14 subsection;

15 (3) a written finding for an oil and gas lease sale or gas only lease sale
16 under AS 38.05.180 is subject to (g) of this section;

17 (4) a contract for the sale, lease, or other disposal of available land or
18 an interest in land is not legally binding on the state until the commissioner approves
19 the contract, but if the appraised value is not greater than \$50,000 in the case of the
20 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
21 interest in land, the director may execute the contract without the approval of the
22 commissioner;

23 (5) public notice requirements relating to the sale, lease, or other
24 disposal of available land or an interest in land for oil and gas, or for gas only,
25 proposed to be scheduled in the five-year oil and gas leasing program under
26 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

27 (A) before a public hearing, if held, or in any case not less than
28 180 days before the sale, lease, or other disposal of available land or an interest
29 in land, the director shall make available to the public a preliminary written
30 finding that states the scope of the review established under (1)(A) of this
31 subsection and includes the applicable statutes and regulations, the material

1 facts and issues in accordance with (1)(B) of this subsection, and information
 2 required by (g) of this section, on [UPON] which the determination that the
 3 sale, lease, or other disposal will serve the best interests of the state will be
 4 based; the director shall provide opportunity for public comment on the
 5 preliminary written finding for a period of not less than 60 days;

6 (B) after the public comment period for the preliminary written
 7 finding and not less than 90 days before the sale, lease, or other disposal of
 8 available land or an interest in land for oil and gas or for gas only, the director
 9 shall make available to the public a final written finding that states the scope of
 10 the review established under (1)(A) of this subsection and includes the
 11 applicable statutes and regulations, the material facts and issues in accordance
 12 with (1) of this subsection, and information required by (g) of this section, on
 13 [UPON] which the determination that the sale, lease, or other disposal will
 14 serve the best interests of the state is based;

15 (6) before a public hearing, if held, or in any case not less than 21 days
 16 before the sale, lease, or other disposal of available land, property, resources, or
 17 interests in them other than a sale, lease, or other disposal of available land or an
 18 interest in land for oil and gas or for gas only under (5) of this subsection, the director
 19 shall make available to the public a written finding that, in accordance with (1) of this
 20 subsection, sets out the material facts and applicable statutes and regulations and any
 21 other information required by statute or regulation to be considered on [UPON] which
 22 the determination that the sale, lease, or other disposal will best serve the interests of
 23 the state was based; however, a written finding is not required before the approval of

24 (A) a contract for a negotiated sale authorized under
 25 AS 38.05.115;

26 (B) a lease of land for a shore fishery site under AS 38.05.082;

27 (C) a permit or other authorization revocable by the
 28 commissioner;

29 (D) a mineral claim located under AS 38.05.195;

30 (E) a mineral lease issued under AS 38.05.205;

31 (F) an exempt oil and gas lease sale or gas only lease sale under

1 AS 38.05.180(d) of acreage subject to a best interest finding issued within the
 2 previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under
 3 AS 38.05.180(w) of acreage subject to a best interest finding issued within the
 4 previous 10 years, unless the commissioner determines that substantial new
 5 information has become available that justifies a supplement to the most recent
 6 best interest finding for the exempt oil and gas lease sale or gas only lease sale
 7 acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage;
 8 however, for each oil and gas lease sale or gas only lease sale described in this
 9 subparagraph, the director shall call for comments from the public; the
 10 director's call for public comments must provide opportunity for public
 11 comment for a period of not less than 30 days; if the director determines that a
 12 supplement to the most recent best interest finding for the acreage is required
 13 under this subparagraph,

14 (i) the director shall issue the supplement to the best
 15 interest finding not later than 90 days before the sale;

16 (ii) not later than 45 days before the sale, the director
 17 shall issue a notice describing the interests to be offered, the location
 18 and time of the sale, and the terms and conditions of the sale; and

19 (iii) the supplement has the status of a final written best
 20 interest finding for purposes of (i) and (l) of this section;

21 (G) a surface use lease under AS 38.05.255;

22 (H) a permit, right-of-way, or easement **issued** under
 23 **AS 38.05.430(a) or 38.05.850** [AS 38.05.850];

24 (7) the director shall include in

25 (A) a preliminary written finding, if required, a summary of
 26 agency and public comments, if any, obtained as a result of contacts with other
 27 agencies concerning a proposed disposal or as a result of informal efforts
 28 undertaken by the department to solicit public response to a proposed disposal,
 29 and the department's preliminary responses to those comments; and

30 (B) the final written finding a summary of agency and public
 31 comments received and the department's responses to those comments.

1 * **Sec. 4.** AS 38.05.070(e) is amended to read:

2 (e) The director may renew a lease issued under this section, AS 38.05.075,
3 38.05.083, **38.05.430**, or 38.05.810 upon its expiration if the lease is in good standing
4 and the lease renewal is determined to be in the best interests of the state. A renewal
5 issued under this subsection is not subject to AS 38.05.035(e). A lease under this
6 section, AS 38.05.075, **38.05.430**, or 38.05.810 may be renewed only once for a term
7 not longer than the initial term of the lease. The director shall provide notice of the
8 lease renewal decision.

9 * **Sec. 5.** AS 38.05.075(a) is amended to read:

10 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.081,
11 38.05.082, 38.05.083, 38.05.087, 38.05.102, **38.05.400 - 38.05.460**, 38.05.565,
12 38.05.600, 38.05.810, and this section, when competitive interest has been
13 demonstrated or the commissioner determines that it is in the state's best interests,
14 leasing shall be made at public auction or by sealed bid, at the discretion of the
15 director, to the highest qualified bidder as determined by the commissioner. A bidder
16 may be represented by an attorney or agent at a public auction. In the public notice of
17 a lease to be offered at public auction or by sealed bid, the commissioner shall specify
18 a minimum acceptable bid and the lease compensation method. The lease
19 compensation method shall be designed to maximize the return on the lease to the
20 state and shall be a form of compensation set out in AS 38.05.073(m). An aggrieved
21 bidder may appeal to the commissioner within five days for a review of the
22 determination. The leasing shall be conducted by the commissioner, and the successful
23 bidder shall deposit at the public auction or with the sealed bid the first year's rental or
24 other lease compensation as specified by the commissioner, or that portion of it that
25 the commissioner requires in accordance with the bid. The commissioner shall require,
26 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
27 appraisal costs reasonably incurred by another qualified bidder acting in accordance
28 with the regulations of the commissioner or incurred by the department under
29 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
30 costs is determined by the commissioner to be the highest qualified bidder under this
31 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those

1 costs or to the department if the department incurred the costs. All costs for survey and
 2 appraisal shall be approved in advance in writing by the commissioner. The
 3 commissioner shall immediately issue a receipt containing a description of the land or
 4 interest leased, the price bid, and the terms of the lease to the successful qualified
 5 bidder. If the receipt is not accepted in writing by the bidder under this subsection, the
 6 commissioner may offer the land for lease again under this subsection. A lease, on a
 7 form approved by the attorney general, shall be signed by the successful bidder and by
 8 the commissioner.

9 * **Sec. 6.** AS 38.05.102 is amended to read:

10 **Sec. 38.05.102. Lessee preference.** Except for a lease under AS 38.05.081,
 11 [OR] 38.05.083, or 38.05.430, if land within a leasehold created under AS 38.05.070 -
 12 38.05.105 is offered for sale or long-term lease at the termination of the existing
 13 leasehold, the director may, upon a finding that it is in the best interest of the state,
 14 allow a holder in good standing of the existing leasehold to purchase or lease the land
 15 for its appraised fair market value at the time of the sale or long-term lease.

16 * **Sec. 7.** AS 38.05.125(a) is amended to read:

17 (a) Each contract for the sale, lease, or grant of state land, and each deed to
 18 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
 19 38.05.321, 38.05.400 - 38.05.460, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50
 20 except as provided in AS 38.50.050 is subject to the following reservations: "The
 21 party of the first part, Alaska, hereby expressly saves, excepts, and reserves out of the
 22 grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils,
 23 gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of
 24 every name, kind, or description, and which may be in or upon said land above
 25 described, or any part thereof, and the right to explore the same for such oils, gases,
 26 coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it
 27 also hereby expressly saves and reserves out of the grant hereby made, unto itself, its
 28 lessees, successors, and assigns forever, the right to enter by itself, its or their agents,
 29 attorneys, and servants upon said land, or any part or parts thereof, at any and all times
 30 for the purpose of opening, developing, drilling, and working mines or wells on these
 31 or other land and taking out and removing therefrom all such oils, gases, coal, ores,

1 minerals, fissionable materials, geothermal resources, and fossils, and to that end it
 2 further expressly reserves out of the grant hereby made, unto itself, its lessees,
 3 successors, and assigns forever, the right by its or their agents, servants, and attorneys
 4 at any and all times to erect, construct, maintain, and use all such buildings,
 5 machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such
 6 wells, remove such soil, and to remain on said land or any part thereof for the
 7 foregoing purposes and to occupy as much of said land as may be necessary or
 8 convenient for such purposes hereby expressly reserving to itself, its lessees,
 9 successors, and assigns, as aforesaid, generally all rights and power in, to, and over
 10 said land, whether herein expressed or not, reasonably necessary or convenient to
 11 render beneficial and efficient the complete enjoyment of the property and rights
 12 hereby expressly reserved."

13 * **Sec. 8.** AS 38.05.127(a) is amended to read:

14 (a) **Except as provided in (e) of this section, before** [BEFORE] the sale,
 15 lease, grant, or other disposal of any interest in state land adjacent to a body of water
 16 or waterway, the commissioner shall,

17 (1) determine if the body of water or waterway is navigable water,
 18 public water, or neither;

19 (2) upon finding that the body of water or waterway is navigable or
 20 public water, provide for the specific easements or rights-of-way necessary to ensure
 21 free access to and along the body of water, unless the commissioner finds that
 22 regulating or limiting access is necessary for other beneficial uses or public purposes.

23 * **Sec. 9.** AS 38.05.127(e) is repealed and reenacted to read:

24 (e) For a clean energy project under AS 38.05.400 - 38.05.460 or an oil and
 25 gas, gas only, or mineral lease, the determination required under (a)(1) of this section
 26 and, if applicable, the provision of an easement or right-of-way under (a)(2) of this
 27 section are required only once the lease under AS 38.05.430 or oil and gas, gas only,
 28 or mineral lease is ready to be developed.

29 * **Sec. 10.** AS 38.05 is amended by adding new sections to read:

30 **Article 12A. Clean Energy Projects.**

31 **Sec. 38.05.400. Clean energy project program.** (a) The commissioner may

1 issue clean energy project development licenses under AS 38.05.410 for the use of
 2 state land, including tide, submerged, and shoreland, that entitle a licensee to exclusive
 3 use of the licensed land for the purposes of determining the feasibility of a clean
 4 energy project and preparing a development plan and, upon approval of the licensee's
 5 development plan under AS 38.05.420, to a preference right for a lease and for rights-
 6 of-way and other land use rights and authorizations necessary to implement the
 7 development plan.

8 (b) The commissioner shall adopt regulations to implement AS 38.05.400 -
 9 38.05.460, including regulations

10 (1) setting fees to be paid to the department for submission of clean
 11 energy project development license applications and for issuance of licenses;

12 (2) providing for departmental review of a licensee's development plan
 13 and lease application;

14 (3) addressing rights-of-way and other necessary land use
 15 authorizations and payment to the state for those land use rights.

16 (c) AS 38.05.400 - 38.05.460 authorize the issuance of land use authorizations
 17 to develop clean energy projects only on the state's surface estate.

18 **Sec. 38.05.410. Clean energy project development licenses.** (a) A clean
 19 energy project development license issued under this section is limited to a maximum
 20 of 3,000,000 acres of state land. The commissioner may identify state land eligible for
 21 development and operation of clean energy projects and notify the public that the land
 22 is available for those purposes. State land may also be identified by an applicant in an
 23 application submitted under (e) of this section.

24 (b) Subject to the bonding requirements of AS 38.05.440, a clean energy
 25 project development license authorizes the licensee to conduct feasibility studies and
 26 prepare a development plan for the licensed land. A licensee may conduct sampling,
 27 mapping, data collection, and limited construction and development activities needed
 28 to determine the feasibility of a project and complete a development plan under
 29 AS 38.05.420. In this subsection, "limited construction" includes installing a
 30 meteorological tower, performing geotechnical work, establishing a personnel camp,
 31 constructing a helicopter landing pad, and other similar activities.

1 (c) An initial clean energy project development license issued under this
2 section may be issued for a maximum term of 10 years. A license may be extended
3 twice for a period of up to 10 years each time if the commissioner determines that the
4 licensee

5 (1) is in compliance with the license terms, conditions, and
6 stipulations;

7 (2) has diligently pursued the licensed activities; and

8 (3) is likely to complete a feasibility study if granted an extension.

9 (d) The commissioner may, subject to the acreage limits of (a) of this section,
10 amend the area covered by a clean energy project development license during the
11 license term. The commissioner shall provide public notice of an amendment under
12 this subsection that increases the area covered by a license by 5,000 acres or more.

13 (e) A person may submit to the department an application requesting a clean
14 energy project development license. An applicant must meet qualifications established
15 in regulations adopted by the commissioner. An application for a license under this
16 section must, at a minimum, contain detailed information including

17 (1) a description of the proposed clean energy project;

18 (2) the proposed area to be covered by the license;

19 (3) a description of the nature and scope of activities to be completed
20 during the term of the license;

21 (4) a description of performance benchmarks and project milestones
22 for each phase of the proposed clean energy project, including feasibility studies and
23 project design, funding, construction, and operation; and

24 (5) information relating to project viability, including financing plans,
25 market demand, and anticipated revenue.

26 (f) In addition to information required under (e) of this section, the
27 commissioner may require an applicant to provide additional information that the
28 commissioner determines is necessary to evaluate the application.

29 (g) Upon receiving an application for a clean energy project development
30 license, the department shall solicit competitive interest by issuing a public notice in
31 the manner prescribed in AS 38.05.945. The notice must contain an announcement

1 seeking competitive interest. If competing applications are received following notice,
2 the commissioner shall evaluate the applications as described in (h) of this section.

3 (h) If the commissioner receives two or more clean energy project
4 development license applications for the same land, the commissioner shall review
5 each application and evaluate each application against the others. In evaluating
6 competing applications, the commissioner shall consider

7 (1) whether the applications are for clean energy projects that are
8 similar, compatible, or mutually exclusive for the area proposed;

9 (2) the proposed monetary terms;

10 (3) the potential revenue to the state;

11 (4) the qualifications of each applicant, including the applicant's
12 previous experience with the type of clean energy project proposed;

13 (5) how the proposed use would accommodate multiple uses of the
14 land; and

15 (6) any additional considerations established by the department in
16 regulation.

17 (i) The commissioner may issue a clean energy project
18 development license only after the director issues a finding under
19 AS 38.05.035(e)(6) that the license is in the best interests of the state.

20 In addition to the requirements of AS 38.05.035(e), the best interest
21 finding for a clean energy project development license must

22 (1) describe the area of state land subject to the license by aliquot parts
23 or another descriptive method that reasonably describes the land;

24 (2) include any limitations, stipulations, conditions, or changes to the
25 proposal that the director determines are required for the license to conform to the best
26 interests of the state;

27 (3) outline the specific benchmarks and work that must be satisfied
28 during the license term; and

29 (4) when competing applications are received, address the
30 considerations listed under (h) of this section.

31 (j) State land subject to a clean energy project development license must, to

1 the extent not incompatible with the licensee's approved activities, remain open to

2 (1) the public for access, hunting, fishing, and other generally allowed
3 uses as determined by the department; and

4 (2) other resource exploration and development, including mining.

5 (k) A licensee's use of water within an area covered by a clean energy project
6 development license is limited to those uses necessary to complete a feasibility study
7 and prepare a development plan. Use of water within a license area is governed by
8 AS 46.15.

9 **Sec. 38.05.420. Development plans.** (a) Before the commissioner may issue a
10 lease for a clean energy project under AS 38.05.430 or other related authorization, a
11 licensee under AS 38.05.410 must submit and the commissioner must approve a
12 development plan for the project. The development plan must

13 (1) identify all infrastructure required for the completed project;

14 (2) identify all locations where proposed infrastructure would be
15 located;

16 (3) include a schematic design for the overall project;

17 (4) list all land use authorizations needed to construct and operate the
18 project;

19 (5) include the timeline for completing design development and
20 construction; and

21 (6) contain other information the commissioner determines is
22 necessary to facilitate the commissioner's determination to approve or disapprove the
23 development plan under this section.

24 (b) The commissioner shall review a development plan submitted under (a) of
25 this section and prepare a written finding approving, approving in part, modifying, or
26 disapproving the development plan. The commissioner shall determine and include in
27 the written finding

28 (1) whether any changes or additions to information considered in the
29 best interest finding conducted under AS 38.05.410(i) are needed for the licensee's
30 clean energy project development license, considering the factors described in
31 AS 38.05.035(e)(1) and (2);

1 (2) the likelihood that the project will be constructed and successfully
2 operated;

3 (3) the potential monetary return to the state; and

4 (4) the cumulative effects of the project, taking into account all aspects
5 of the project considered as a whole and the context in which the project would be
6 developed.

7 (c) The commissioner's written finding under (b) of this section is subject to
8 public notice as required by AS 38.05.945.

9 **Sec. 38.05.430. Leases, easements, rights-of-way, and other land use**
10 **authorizations.** (a) Subject to the bonding requirements of AS 38.05.440, after the
11 commissioner approves, or approves in part, a development plan under AS 38.05.420,
12 the commissioner may, upon an application from the licensee, enter into leases with
13 and issue authorizations to a clean energy project development licensee that are
14 identified in the development plan approved by the commissioner under AS 38.05.420
15 and within the area licensed under AS 38.05.410. A separate best interest finding
16 under AS 38.05.035(e) is not required for a lease, easement, or right-of-way accounted
17 for in the licensee's approved development plan. AS 38.05.070(d) does not apply to
18 leases issued under this section. The commissioner may issue a lease, easement, or
19 right-of-way under this section for a maximum period of 55 years and may renew a
20 lease, easement, or right-of-way under this section once for a period not to exceed 55
21 years. A lease agreement under this section must include land use restrictions and
22 authorizations consistent with the purpose of the lease.

23 (b) A lease, easement, or right-of-way that is not accounted for in a licensee's
24 development plan is subject to the requirements of AS 38.05.070 - 38.05.105 and
25 38.05.850, including best interest findings and public notice. A clean energy project
26 development licensee under AS 38.05.410 or lessee under this section shall apply for a
27 permit, right-of-way, or easement under AS 38.05.850 for any necessary road,
28 pipeline, facility, or other infrastructure necessary for development of the clean energy
29 project. A lease, easement, or right-of-way issued under this section is subject to the
30 following requirements:

31 (1) a right-of-way for an oil or natural gas pipeline is subject to

1 AS 38.35, as applicable;

2 (2) the commissioner may include in a lease or right-of-way reasonable
3 provisions and conditions the commissioner determines are required by the public
4 interest;

5 (3) a lease, easement, or right-of-way, including a pipeline right-of-
6 way, must also contain terms and conditions that, to the extent reasonably practicable,

7 (A) prevent conflict with other existing beneficial uses of the
8 land;

9 (B) protect state and private interests in real property;

10 (C) prevent significant adverse environmental effects to

11 (i) land, including erosion; and

12 (ii) fish and wildlife and fish and wildlife habitat;

13 (D) ensure that the land is protected during the term of the lease
14 and, at termination of the lease, is restored and revegetated;

15 (E) protect the interests of individuals living in the general area
16 of the lease, right-of-way, or easement who rely on the fish, wildlife, and
17 replenishable resources of the area for subsistence purposes.

18 (c) Except as provided in (d) of this section, the commissioner shall ensure
19 that compensation for a lease, easement, or right-of-way under this section shall be a
20 form of compensation provided under AS 38.05.073(m), selected to provide the
21 greatest economic benefit to the state and the development of its resources.
22 Compensation for land leased under this section shall be separately accounted for
23 under AS 37.05.142. The lease must stipulate that, at five-year intervals, the lease rent
24 is subject to adjustment to ensure that the state receives the maximum benefit from the
25 lease.

26 (d) Compensation for a pipeline right-of-way lease under this section shall be
27 determined by the commissioner in accordance with AS 38.35.140 and 38.35.145.

28 (e) Land leased under this section must remain open to mineral exploration
29 and development, unless the commissioner determines that mineral exploration and
30 development are incompatible with the lessee's clean energy project and closes the
31 land to mineral development under AS 38.05.300(c).

1 **Sec. 38.05.440. Bonding.** Before the commissioner may issue a clean energy
 2 project development license under AS 38.05.410 or a lease under AS 38.05.430, an
 3 applicant for a license under AS 38.05.410(e) or lease under AS 38.05.430(a) shall
 4 post a performance bond or provide other security acceptable to the commissioner to
 5 cover the costs to the department of one or more of the following, as determined by
 6 the commissioner:

7 (1) administering and managing the license or lease to ensure
 8 completion of the clean energy project and compliance with the terms and conditions
 9 of the license or lease;

10 (2) administrating and managing the license or lease to ensure that
 11 development occurs according to the terms and conditions of the license or lease; and

12 (3) restoring the land at the conclusion of the license period or lease
 13 term, upon the termination of the license or lease, or upon a finding that work
 14 associated with the clean energy project has been abandoned.

15 **Sec. 38.05.450. Termination of clean energy project development license or**
 16 **lease; improvements.** (a) A violation of a provision of a clean energy project
 17 development license or a lease under AS 38.05.430, or any terms, conditions, or
 18 stipulations in the license or lease, subjects the licensee or lessee to appropriate legal
 19 action, including revocation of the license or forfeiture of the lease.

20 (b) The commissioner has the discretion to terminate or revoke a clean energy
 21 project development license issued under AS 38.05.410 if the licensee fails to meet
 22 benchmarks set out in the license. If a license or a lease under AS 38.05.430 is
 23 terminated or work contemplated in the license or lease is abandoned, improvements
 24 remaining on the land are subject to AS 38.05.090.

25 **Sec. 38.05.460. Definitions.** In AS 38.05.400 - 38.05.460,

26 (1) "applicant" means a person submitting a clean energy project
 27 development license application, development plan, or other application for a land use
 28 authorization under AS 38.05.400 - 38.05.460;

29 (2) "competing applications" means the commissioner has received
 30 two or more applications to license the same state land, or to license overlapping areas
 31 of state land, for which only one proposal can be granted to ensure the licensee has

1 exclusive use of the land;

2 (3) "exclusive use" means the exclusive right to conduct activities on
3 land subject to a clean energy project development license for the purposes of
4 determining the feasibility of a clean energy project and preparation of a development
5 plan.

6 * **Sec. 11.** AS 38.05.945(a) is amended to read:

7 (a) This section establishes the requirements for notice given by the
8 department for the following actions:

9 (1) classification or reclassification of state land under AS 38.05.300
10 and the closing of land to mineral leasing or entry under AS 38.05.185;

11 (2) zoning of land under applicable law;

12 (3) issuance of a

13 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
14 regarding the sale, lease, or disposal of an interest in state land or resources for
15 oil and gas, or for gas only, subject to AS 38.05.180(b);

16 (B) written finding for the sale, lease, or disposal of an interest
17 in state land or resources under AS 38.05.035(e)(6), except a lease sale
18 described in AS 38.05.035(e)(6)(F) for which the director must provide
19 opportunity for public comment under the provisions of that subparagraph;

20 (4) a competitive disposal of an interest in state land or resources after
21 final decision under AS 38.05.035(e);

22 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
23 aquatic farms and related hatcheries;

24 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
25 lease, or disposal of an interest in state land or resources;

26 (7) an exchange of state land under AS 38.50;

27 (8) solicitation of competitive interest under AS 38.05.081(c);

28 **(9) a written finding required under AS 38.05.410(i), 38.05.420(c),**
29 **or 38.05.430(b).**

30 * **Sec. 12.** AS 38.05.965 is amended by adding a new paragraph to read:

31 (29) "clean energy project" means a power generating utility or

1 industrial project that includes development of and primary reliance on one or more of
2 the following technologies:

3 (A) solar;

4 (B) wind;

5 (C) hydropower;

6 (D) biomass;

7 (E) energy storage, including pumped storage hydropower and
8 compressed air storage; or

9 (F) advanced nuclear technologies.