

Introduced: 2/1/64  
Referred: Judiciary

1 IN THE SENATE

RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 225

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act to change and add provisions to  
7 AS 38.05."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 38.05.020(b)(1) is amended to read:

10 (1) establish reasonable procedures and adopt  
11 reasonable rules and regulations necessary to carry out this  
12 chapter and may, whenever necessary, issue directives or  
13 orders to the director to carry out specific functions and  
14 duties. All rules and regulations adopted by the commis-  
15 sioner shall be adopted under the Administrative Procedure  
16 Act (AS 44.62). Orders by the commissioner classifying  
17 lands issued after January 3, 1959, are not required to be  
18 adopted under the Administrative Procedure Act (AS 44.62);

19 \* Sec. 2. AS 38.05.135 is repealed and re-enacted to read:

20 Sec. 38.05.135. GENERALLY. Except as otherwise pro-  
21 vided, valuable mineral deposits in lands belonging to the  
22 state shall be open to exploration, development, and the  
23 extraction of minerals. All lands, together with tide,  
24 submerged or shore lands, to which the state holds title  
25 or to which the state may become entitled, may be obtained  
26 by permit or lease for the purpose of exploration, develop-  
27 ment, and the extraction of minerals. Lands may be with-  
28 held from lease application on a first-come, first-served  
29 basis, and offered only on a competitive bid basis when

1 determined by the commissioner to be in the best interests  
2 of the state. In unproven areas the commissioner may offer  
3 additional incentive and other terms in granting permit for  
4 exploration and development whenever it appears to be in  
5 the best interests of the state to do so.

6 \* Sec. 3. AS 38.05 is amended by adding a new section to  
7 read:

8 Sec. 38.05.137. LEASING AGREEMENTS. The commissioner  
9 is authorized to enter into cooperative mineral leasing  
10 agreements with the United States regarding lands which  
11 are the subject of a title dispute between federal and state  
12 authorities. Any such lease need not conform to the pro-  
13 visions of state law applicable to state leases issued under  
14 the authority of AS 38.05.

15 \* Sec. 4. AS 38.05.145 is amended to read:

16 Sec. 38.05.145. LEASING PROCEDURE. (a) Deposits of  
17 coal, phosphates, oil shale, sodium, potassium, oil, gas  
18 and state lands containing these deposits are subject to  
19 disposition under rules and regulations, recommended by the  
20 director and adopted by the commissioner, and the provisions  
21 of secs. 145 - 180 of this chapter. In applying the acreage  
22 limitations the commissioner may apply the rule of approxi-  
23 mation. The uses of the rule of approximation made before  
24 March 31, 1960, by the commissioner are ratified.

25 (b) If the state selects or otherwise acquires land  
26 other than shorelands, title to which was in the federal  
27 government and which, at the effective date of the selection  
28 or acquisition, is subject to a valid existing offer for a  
29 noncompetitive United States oil and gas lease, or appli-

1 N cation for a prospecting permit or noncompetitive mining  
2 E lease for coal, phosphates, sulphur, oil shale, sodium or  
3 W potassium under the federal act of February 25, 1920, (41  
4 Stat. 437 as amended), the offeror or applicant for the  
5 federal permit or lease, if a qualified applicant hereunder,  
6 shall be considered the first qualified applicant for a  
7 state noncompetitive oil and gas lease, prospecting permit  
8 or noncompetitive mining lease and is entitled to a state  
9 noncompetitive lease or permit upon compliance with the pro-  
10 visions of the regulation covering applications within 60  
11 days after receipt of written notice from the commissioner,  
12 M of selection or acquisition. These priorities are not  
13 A effective if the land covered by the federal offers or  
14 T applications is classified by the commissioner as competitive  
15 T land within 90 days after the selection of the land is  
16 E finally approved by the Secretary of the Interior or the  
17 R land is otherwise acquired.

18 \* Sec. 5. AS 38.05.180(a) is amended to read:

19 (a) All tide and submerged lands, mental health lands,  
20 school lands, and university lands shall be leased by  
21 competitive bidding, and whenever oil or gas is discovered  
22 in commercial quantities, the commissioner shall determine  
23 the extent of the area of lands in addition to tide, sub-  
24 merged, mental health lands, school, or university lands in  
25 the same general area of the discovery well which, by reason  
26 of the discovery, the commissioner reasonably believes to be  
27 capable of producing oil or gas, and the additional lands  
28 shall be leased to the highest responsible qualified bidder  
29 by competitive bidding under general regulations, in units of

1 not exceeding 640 acres (except that tide and submerged  
2 lands shall be leased in units of not exceeding 5,760 acres),  
3 which shall be as nearly compact in form as possible, upon  
4 the payment by the lessee of such bonus as may be accepted  
5 by the commissioner and of such royalty as may be fixed in  
6 the lease which shall be not less than 12 1/2 per cent in  
7 amount or value of the production removed or sold from the  
8 lease. However, the holder of a lease who drills and makes  
9 the first discovery of oil or gas in commercial quantities  
10 in a geologic structure shall pay a royalty on all production  
11 under the lease of five per cent for 10 years following the  
12 date of discovery and thereafter the royalty rate shall be  
13 not less than 12 1/2 per cent. [ALL LANDS OTHER THAN THOSE  
14 ABOVE PROVIDED TO BE LEASED BY COMPETITIVE BIDDING SHALL BE  
15 LEASED WITHOUT COMPETITIVE BIDDING TO THE FIRST QUALIFIED  
16 PERSON MAKING APPLICATION.] Noncompetitive leases shall be  
17 issued in units of not exceeding 2,560 acres in any one  
18 lease. Noncompetitive leases shall be conditioned upon the  
19 payment by the lessee of a royalty of 12 1/2 per cent in  
20 amount or value of the production removed or sold from the  
21 lease. However, the holder of a lease who drills and makes  
22 the first discovery of oil or gas in commercial quantities  
23 in a geologic structure shall pay a royalty on all production  
24 under the lease of five per cent for 10 years following the  
25 date of discovery and thereafter the royalty rate is 12 1/2  
26 per cent. Leases issued under this subsection shall be for  
27 a primary term of five years and shall continue so long  
28 thereafter as oil or gas is produced in paying quantities.  
29 If drilling has commenced on the expiration date of the

1 primary term of the lease and is continued with reasonable  
2 diligence, such operations to include redrilling, side-  
3 tracking or other means necessary to reach the originally  
4 proposed bottom hole location, the lease shall continue in  
5 effect until 90 days after drilling has ceased and for so  
6 long thereafter as oil or gas is produced in paying quan-  
7 tities. If all or part of the lands covered by the lease  
8 are lands that have been selected by the state under laws  
9 of the United States granting lands to the state and a  
10 conditional lease was issued thereon, the term of the lease  
11 shall be extended for a period equal to the period during  
12 which the lease was conditional.

13 \* Sec. 6. AS 38.05.180(d) is amended to read:

14 (d) The commissioner may provide for extension of the  
15 term of a lease whether competitive or noncompetitive, if  
16 all or part of the lease is [, ON THE EXPIRATION DATE,] in-  
17 cluded in an approved unit plan or program of secondary  
18 recovery operation to bring about or restore production.

19 \* Sec. 7. AS 38.05.180(e) is amended to read:

20 (e) All noncompetitive [COMPETITIVE] oil or gas leases  
21 issued under this section shall be conditioned upon the pay-  
22 ment by the lessee in advance of an annual rental of 50 cents  
23 an acre or fraction of an acre. All competitive oil and gas  
24 leases issued under this section shall be conditioned upon  
25 the payment of an annual rental, before discovery on the  
26 leased lands, of \$1 an acre or fraction of an acre. A  
27 minimum royalty of \$1 an acre instead of rental is payable  
28 at the expiration of each lease year beginning on or after  
29 a discovery of oil or gas in paying quantities on the lands

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leased.

\* Sec. 8. AS 38.05.180(f) is repealed.

\* Sec. 9. AS 38.05.180(i) is repealed.

\* Sec. 10. AS 38.05.180(k) is amended to read:

(k) Instead of the foregoing procedure, the federal lessee or his assignee may, at his option, exercise his preference right for a state lease on the shorelands included within the exterior boundaries of his federal lease by applying to the division of lands, Department of Natural Resources. If at the time of applying, the lands are classified as noncompetitive, the state shall, upon application [WITHIN 60 DAYS AFTER THE ISSUANCE OF THE FEDERAL LEASE, OR IF THE FEDERAL LEASE WAS ISSUED BEFORE JULY 1, 1960], issue a lease covering whatever shorelands are included within the exterior boundaries of the federal lease. If at the time of applying, the shorelands included in the [OFFER FOR A] federal lease are classified as competitive lands, the lands shall be leased by competitive bidding. The competitive lease shall be issued to the [OFFEROR FOR THE] federal lessee or his assignee [LEASE] upon payment to the state of an amount equal to the highest bid for the lease, plus the rental for the first year, payment to be made within 10 days after the lessee's or assignee's [OFFEROR'S] receipt of written notice from the director of the division of lands of the amount of the highest bid. These leases whether competitive or noncompetitive shall carry the same conditions as an ordinary state lease on the same lands, except that the term of the state lease shall conform to that of the adjoining federal lease, including

1 extended terms, and shall terminate if the federal lease is  
2 terminated for any reason. The lease shall provide for  
3 annual rental at the rate of \$100 a unit of 640 acres or  
4 part thereof of the lands included within the federal lease  
5 until agreement is reached between the state and the Secre-  
6 tary of the Interior of the United States, or his authorized  
7 representative, as to the actual area of the shorelands in-  
8 cluded in the [OFFER FOR A] federal lease, and as to the  
9 apportionment between the state and federal government of  
10 the rental theretofore paid under the federal lease.

11 \* Sec. 11. AS 38.05.300 is amended to read:

12 Sec. 38.05.300. CLASSIFICATION OF LANDS. The  
13 director shall make a preliminary classification for surface  
14 use of all lands in areas where he considers it necessary  
15 and proper for future development. The classification, to-  
16 gether with a land use plan, shall be transmitted to the  
17 commissioner for his approval, modification or rejection.  
18 This section does not prevent reclassification of lands  
19 where the public interest warrants reclassification, nor  
20 does it preclude multiple purpose use of lands whenever dif-  
21 ferent uses are compatible. No state land, water, or land  
22 and water area shall, except by act of the state legislature,  
23 be closed to multiple purpose use, if the area involved con-  
24 tains more than 640 acres. [(1) WITHDRAWN FROM SETTLEMENT,  
25 LOCATION, SALE OR ENTRY; (2) RESERVED FOR SPECIAL USE; OR  
26 (3) RESTRICTED FROM OPERATION OF THE MINING AND MINERAL  
27 LEASING PROVISIONS OF THIS CHAPTER, IF THE AREA INVOLVED IN  
28 WITHDRAWAL, RESERVATION, OR RESTRICTION EXCEEDS IN THE  
29 AGGREGATE 640 ACRES.]

1 \* Sec. 12. AS 38.05.365(14) is repealed and re-enacted to  
2 read:

3 (14) "school lands" means those rectangular sec-  
4 tions 16 and 36 within each township surveyed on or before  
5 January 3, 1959, and confirmed and transferred to the  
6 State of Alaska upon its admission under sec. 6(k), Alaska  
7 Statehood Act, 72 Stat. 339, and any other lands designated  
8 solely for school revenues.

9 \* Sec. 13. Sec. 1 of this Act insofar as it applies to orders  
10 classifying lands issued after January 3, 1959, is expressly de-  
11 clared to be retroactive.

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