

Offered: 3/9/71
Referred: State Affairs;
Labor & Management

1 IN THE SENATE

BY JOSEPHSON

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 53

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hiring requirements under state
7 oil and gas leases; and providing for an effective
8 date."

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

10 * Section 1. PURPOSE. It is declared to be the policy of this state in
11 the management of oil and gas resources located upon state-owned property to
12 seek and accomplish development of these resources so as to provide maximum
13 employment opportunities for its bona fide residents.

14 * Sec. 2. AS 38.05 is amended by adding new sections to read:

15 Sec. 38.05.176. APPLICABILITY. The provisions in secs. 176 - 179
16 of this chapter apply to all employment with respect to the exploration
17 for, or production, transportation, or marketing of oil and gas at or
18 from premises leased from the state, so long as the activity takes
19 place inside the state and is wholly or in substantial part directly
20 attributable to operations at the leased premises.

21 Sec. 38.05.177. PREFERENTIAL HIRING. (a) The commissioner shall
22 cause to be incorporated into every oil and gas lease to which the
23 state is a party a provision requiring the hiring of bona fide Alaska
24 residents, in accordance with secs. 176 - 179 of this chapter. The
25 preferential hiring provision shall require that the lessee, with
26 respect to operations described in sec. 176 of this chapter,

27 (1) maintain a work force during each month of which at
28 least 70 per cent, based upon each monthly weighted average, consists
29 of bona fide Alaska residents during the first year of the lease;

1 (2) maintain a work force during each month of which at
2 least 85 per cent, based upon each monthly weighted average, consists
3 of bona fide Alaska residents during the second year of the lease;

4 (3) maintain a work force during each month of which at
5 least 95 per cent, based upon each weighted monthly average, consists
6 of bona fide Alaska residents during the third year of the lease and
7 thereafter;

8 (4) maintain an on-the-job training program approved by the
9 Department of Labor to assure a sufficient pool of qualified Alaska
10 residents to comply with (a)(1), (2) and (3) of this section;

11 (5) pay to the state in liquidated damages an amount equal
12 to 50 cents per acre of the leased premises involved in which the
13 noncompliance occurs, for each day during which the requirements of
14 (a)(1), (2) and (3) of this section are not complied with, unless
15 compliance is excused in accordance with (b) of this section;

16 (6) submit to the Department of Labor those monthly reports
17 relating to employment as may be required by the department to assure
18 compliance with the provisions of secs. 176 - 179 of this chapter;

19 (7) incorporate into each agreement with an assignee,
20 sublessee, contractor or other person doing work for or in conjunction
21 with the lessee a provision requiring compliance with (a)(1), (2), (3)
22 and (4) of this section which provision shall be expressly made for the
23 benefit of the state and shall require the payment by this person of
24 liquidated damages to the state in accordance with (a)(5) of this
25 section and shall require the filing of reports to the Department of
26 Labor in accordance with (a)(6) of this section.

27 (b) If the lessee has in good faith performed his duties under
28 secs. 176 - 179 of this chapter he is relieved of any liability to
29 the state under (a)(7) of this section and the state is restricted to

1 action against the third party for liquidated damages provided for
2 in (a)(7) of this section.

3 (c) The Department of Labor shall certify those persons coming
4 under secs. 176 - 179 of this chapter who have met the requirements of
5 (a)(1), (2), (3) and (4) of this section and submit a list of persons
6 certified to the commissioner. If the Department of Labor refuses to
7 certify a person due to noncompliance with secs. 176 - 179 of this
8 chapter it shall schedule a hearing with the person, who must appear
9 either in person or through an attorney or agent, to show cause why he
10 should not be subject to the provisions of (a)(5) of this section. If
11 cause can be shown that failure to comply was due to

12 (1) a temporary and emergency condition or other exigencies
13 for which the individual was not responsible and that the person noti-
14 fied the Department of Labor of the emergency or other exigencies upon
15 their discovery and took those measures reasonably calculated to correct
16 the condition; or

17 (2) a failure of the labor force to supply enough bona fide
18 residents of Alaska and that before employing other persons in such
19 numbers as to preclude compliance with (a)(1), (2) and (3) of this
20 section the person informed the Department of Labor of the situation
21 in writing and submitted a list of names and addresses of the persons
22 to be employed and received waivers for these employees from the
23 Department of Labor; the Department of Labor shall issue temporary
24 certification and require a review hearing within the time decided in
25 the original hearing to be a reasonable time to permit correction of
26 the situation causing noncompliance.

27 (d) The Department of Labor shall maintain a file consisting of
28 names of qualified bona fide Alaska residents seeking the type of
29 employment covered by secs. 176 - 179 of this chapter and resident

1 persons enrolled in approved on-the-job training programs who are
2 qualified to perform the work required and shall not grant waivers
3 as provided for in (c) of this section for any position for which
4 these bona fide residents or on-the-job trainees are available. If
5 residents are not available for the job sought to be filled the
6 Department of Labor shall grant the waiver requested under (c) of
7 this section for an initial period not to exceed 30 days.

8 Sec. 38.05.178. REGULATIONS AND HEARINGS. (a) The Department
9 of Labor and the Department of Natural Resources shall from time to
10 time issue, amend, or rescind regulations as considered necessary to
11 carry out the provisions of secs. 176 - 179 of this chapter.

12 (b) Regulations and hearings under secs. 176 - 179 of this chapter
13 are subject to the Administrative Procedure Act (AS 44.62).

14 Sec. 38.05.179. DEFINITIONS. In secs. 176 - 179 of this chapter

15 (1) "bona fide resident of Alaska" or "resident" means

16 (A) a person who has been physically present in the
17 State of Alaska, except for brief intervals, for a period of one
18 year; or

19 (B) a person who has not been present in the state for
20 a period of one year, except for brief intervals, but shows by all
21 attending circumstances that his intent is to make Alaska his
22 permanent residence and the Department of Labor has certified that
23 the attending circumstances show this intent;

24 (2) "work force" means all persons employed on or with
25 respect to premises covered by an oil and gas lease who are paid on an
26 hourly or piecework basis, or who perform unskilled, semiskilled or
27 skilled labor or any trade or craft, regardless of how paid, or who are
28 engaged in the direct supervision of employees at the situs of the
29 work, but does not include other professional or managerial personnel.

1 * Sec. 3. This Act affects all oil and gas leases in effect on the
2 effective date of this Act and all future oil and gas leases which the state
3 may enter into as a party.

4 * Sec. 4. This Act takes effect on the day after its passage and approv-
5 al or on the day it becomes law without approval.

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