

Original sponsor: Rules Committee by
request of the Governor

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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 1 *dm*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SPECIAL SESSION

5 A BILL

6 For an Act entitled: "An Act providing for taxes on property used in the
7 exploration for, production of, or pipeline trans-
8 portation of gas or unrefined oil; and providing for
9 an effective date."

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

11 * Section 1. AS 43 is amended by adding a new chapter to read:

12 CHAPTER 56. OIL AND GAS EXPLORATION, PRODUCTION AND

13 PIPELINE TRANSPORTATION PROPERTY TAXES.

14 Sec. 43.56.010. LEVY OF TAX. (a) An annual tax of 20 mills is
15 levied each tax year beginning January 1, 1974, on the full and true
16 value of taxable property taxable under this chapter.

17 (b) Notwithstanding AS 29.53.030, municipalities may levy and
18 collect a tax on the full and true value of taxable property taxable
19 under this chapter as valued by the assessment board established by
20 this chapter at a rate not to exceed that which produces an amount of
21 revenue equivalent to \$1,000 per person per year residing within its
22 boundaries. A tax levied by a municipality under this subsection shall
23 be credited against that amount of the tax levied under (a) of this
24 section and shall be levied at a rate no higher than the millage rate,
25 using the same assessment methods, applicable to other property taxable
26 by the municipality. Exemptions shall be limited to those set out in
27 AS 29.53.020 and 29.53.025 and sec. 20 of this chapter.

28 Sec. 43.56.020. EXEMPTIONS. The following are exempt from the
29 taxes levied or authorized under this chapter:

1 (1) property rights attached to or inherent in the right
2 to explore for or produce oil or gas;

3 (2) oil or gas leases or properties, whether producing or
4 not; "properties" means mineral interests in oil and gas and working
5 interests, royalty interest, and overriding royalty interests in oil
6 and gas leases;

7 (3) oil or gas in place;

8 (4) oil or gas produced or extracted in the state;

9 (5) the value of intangible drilling and development expenses
10 and exploration expenses;

11 (6) an interest in property described in AS 43.55.010(b);

12 (7) before the construction commencement date, property taxed
13 under sec. 10(a) of this chapter which is intended to be used in this
14 state primarily for pipeline transportation of gas or unrefined oil
15 or for the production of gas or unrefined oil to be transported by that
16 pipeline; and

17 (8) before the construction commencement date, property taxed
18 under sec. 10(a) of this chapter which is intended to be used within
19 this state primarily in the erection, construction, installation, opera-
20 tion or maintenance of facilities for pipeline transportation of gas or
21 unrefined oil, or facilities for production of gas or unrefined oil to
22 be transported by that pipeline.

23 Sec. 43.56.030. IN PLACE OF ALL OTHER TAXES. Except for those
24 taxes imposed under ch. 55 of this title and ch. 57 of this title,
25 the taxes levied or authorized under this chapter are in place of

26 (1) all ad valorem taxes or other taxes imposed by the
27 state or a municipality on property subject to tax under this chapter
28 or exempted from taxation by sec. 20 of this chapter, and

29 (2) all other taxes imposed by a municipality on or with

1 respect to the property subject to tax under this chapter or exempted
2 from taxation by sec. 20 of this chapter, including, but not limited to,

3 (A) taxes on the sale or use of the property (except
4 for retail sales taxes on purchases within a municipality of
5 property not to be included in the value of taxable property
6 subject to taxes under this chapter);

7 (B) taxes on the sale or use of gas or unrefined oil;

8 (C) taxes on the sale or use of services used in or
9 associated with the property or in its erection, construction,
10 maintenance or operation;

11 (D) taxes on or measured by gross or net income from
12 the property, including income from the exploration for, produc-
13 tion of, or pipeline transportation of gas or unrefined oil or
14 property; and

15 (E) any license, excise, fee, charge or other tax on
16 or pertaining to the property or services.

17 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State Assess-
18 ment Review Board is created within the Department of Revenue. The
19 board consists of five persons appointed by the governor to serve at
20 his pleasure, each of whom must be knowledgeable of assessment proce-
21 dures and is not required to be a resident of the state.

22 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board
23 shall receive per diem and expenses authorized by law for boards and
24 commissions.

25 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess
26 property for the taxes levied under sec. 10(a) of this chapter at its
27 full and true value as of January 1 of the assessment year except that
28 in the case of taxable property used or intended to be used for the
29 pipeline transportation of gas or unrefined oil or for the production

1 of gas or unrefined oil to be transported by that pipeline or in the
2 erection, construction, installation, operation or maintenance of
3 facilities for pipeline transportation of gas or unrefined oil, or in
4 the erection, construction, installation, operation or maintenance of
5 facilities for production of gas or unrefined oil to be transported
6 by that pipeline, the first assessment date shall be the construction
7 commencement date. If the construction commencement date is used as
8 the assessment date, the tax payable shall be prorated on the basis of
9 the assessment year remaining.

10 (b) The full and true value of taxable property used or intended
11 to be used for the exploration for gas or unrefined oil, or in the
12 erection, construction, installation, operation or maintenance of
13 facilities for the exploration for gas or unrefined oil, is the esti-
14 mated price which the property would bring in an open market and under
15 the then prevailing market conditions in a sale between a willing seller
16 and a willing buyer both conversant with the property and with prevailing
17 general price levels.

18 (c) The full and true value of taxable property used or intended
19 to be used for the production of gas or unrefined oil or in the
20 erection, construction, installation, operation or maintenance of
21 facilities for the production of gas or unrefined oil is:

22 (1) on the construction commencement date the actual cost
23 incurred or accrued with respect to the property as of the date of
24 assessment;

25 (2) determined on each January 1 thereafter on the basis
26 of replacement cost less depreciation based on the economic life of
27 proven reserves.

28 (d) The full and true value of taxable property used or intended
29 to be used for pipeline transportation of gas or unrefined oil, or in

1 the erection, construction, installation, operation or maintenance of
2 facilities for the pipeline transportation of gas or unrefined oil is:

3 (1) on the construction commencement date and until
4 January 1 following the date the pipeline begins to transport gas or
5 unrefined oil, the actual cost incurred or accrued with respect to the
6 property as of the date of assessment;

7 (2) determined on each January 1 thereafter with due regard
8 to the replacement cost of the pipeline the economic life of the
9 property, including the pipeline, based on the estimated life of the
10 proven reserves of gas or unrefined oil then technically, economically
11 and legally deliverable into the transportation facility; however, if
12 the proven reserves of gas or unrefined oil then technically, economi-
13 cally and legally deliverable indicate an economic life materially
14 shorter than the estimated physical life of the transportation facility,
15 the full and true value is the replacement cost reduced by an annual
16 allowance for depreciation on a straight line basis over an economic
17 life based on the actual elapsed life from the commencement of full
18 operation to the date of assessment plus the estimated remaining life
19 of the proven reserves of gas and unrefined oil then technically,
20 economically and legally deliverable into the transportation facility
21 as of the date of the assessment; and

22 (3) on the assessment date next following inability to use
23 or construct all or a substantial part of the facility for a period of
24 90 or more consecutive days because of natural disaster or legal pro-
25 hibition, or other events beyond the control of a person having owner-
26 ship or control of the property.

27 (e) For purposes of this section "actual cost" and "replacement
28 cost" do not include interest capitalized before or during the period
29 of construction nor the value of intangible drilling and development

1 expenses. In the case of taxable property under construction, "actual
2 cost" for purposes of this section means the costs incurred or accrued
3 with respect to the property as of the date of assessment.

4 Sec. 43.56.070. RETURNS. (a) The department may require by
5 notice every person having ownership or control of an interest in
6 property taxable under sec. 10(a) of this chapter to submit a return
7 in the form prescribed by the department, based on property values
8 existing on January 1, except as otherwise provided in this chapter.

9 (b) The department by written notice may require a person to
10 provide additional information within 30 days of the notice.

11 Sec. 43.56.080. INVESTIGATION. (a) The department may make an
12 investigation of property on which a return has been filed or of taxable
13 property upon which no return has been filed. In either case, the
14 department may make its own valuation of the taxable property, which
15 is prima facie evidence of full and true value.

16 (b) An employee or agent of the department may enter any premise
17 necessary for the investigation during reasonable hours and may examine
18 property and appropriate records. The owner of the taxable property
19 upon request shall furnish to the employee or agent of the department
20 reasonable assistance required for the investigation. If refused entry,
21 the department may seek a court order to compel entry.

22 (c) For the purpose of the investigation the owner of the taxable
23 property or his representative may be required to present himself for
24 examination under oath by the department.

25 Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare
26 annually the only assessment roll for taxation under sec. 10(a) of this
27 chapter. The roll shall contain:

- 28 (1) a description of all taxable property;
29 (2) the assessed value of all taxable property;

1 (3) the names and addresses of persons owning property
2 subject to assessment and taxation.

3 Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1
4 of each year, the department shall send to every owner of taxable
5 property named in the assessment roll a notice of assessment, showing
6 the assessed value of the property. Notice of assessment is effective
7 on the date of mailing.

8 (b) The department shall send to a municipality a copy of the
9 notice of assessment on any taxable property which is assessed under
10 the provisions of this chapter and which is located in the municipality
11 and on which a tax is authorized under sec. 10(b) of this chapter.

12 Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of
13 taxable property or a municipality receiving an assessment notice may
14 object to the assessment by advising the department in writing of the
15 objections to the assessment within 20 days of the effective date of
16 the notice.

17 (b) The department shall provide by regulation for notices of
18 appeals to interested persons and municipalities.

19 (c) Following an objection the department may adjust the assess-
20 ment and the assessment roll. An adjustment based on an objection from
21 an owner of taxable property or a municipality shall be made within
22 30 days of the effective date of the notice of assessment.

23 Sec. 43.56.120. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD.

24 (a) After a ruling by the department on an appeal made under sec. 110
25 of this chapter, the owner or a municipality may further appeal to the
26 board. The appeal must be filed in writing within 50 days of the
27 effective date of the notice of assessment.

28 (b) The board shall provide by regulation for notices of appeals
29 to interested persons and municipalities.

1 Sec. 43.56.130. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a)
2 The board shall hear appeals filed under sec. 120(a) of this chapter.

3 (b) A majority of the board constitutes a quorum required to
4 transact business.

5 (c) The board shall provide by regulation for notices of hearings
6 to interested persons and municipalities.

7 (d) If an appellant fails to appear at the hearing, the board
8 may proceed with the hearing in his absence.

9 (e) The appellant bears the burden of proof at the hearing.

10 (f) The only grounds for adjustment of assessed value is proof of
11 unequal, excessive or improper valuation or valuation not determined in
12 accordance with the standards set out in this chapter, based on
13 facts stated in a written appeal timely filed or proved at the hearing.

14 (g) The board shall certify its determinations to the department
15 within seven days of the hearing.

16 (h) The department shall enter the changes and certify the final
17 assessment roll on or before June 1 of each year and by July 1 shall
18 mail to the owner of taxable property or his authorized agent a
19 statement of the amount of tax due.

20 (i) An owner or municipality may appeal to the superior court
21 for, and is entitled to, trial de novo of the board's action.

22 Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department
23 shall include property omitted from the assessment roll on a supple-
24 mentary roll, using the procedures set out in this chapter for the
25 original roll.

26 Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by
27 sec. 10(a) of this chapter is payable to the department on or before
28 September 30 of the tax year.

29 (b) The department may provide for voluntary prepayment and for

1 payment by installments.

2 (c) All other taxes, interest and penalties collected under
3 this chapter shall be deposited in the general fund.

4 Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by
5 sec. 10(a) of this chapter becomes delinquent, a penalty of 10 per cent
6 shall be added. Interest on the delinquent taxes, exclusive of penalty,
7 shall be assessed at a rate of eight per cent a year.

8 Sec. 43.56.170. LIEN FOR TAX. The tax levied under sec. 10(a)
9 of this chapter and the interest and penalty provided in sec. 160 of this
10 chapter are first and paramount liens on the property subject to tax
11 under this chapter.

12 Sec. 43.56.180. REMEDY. The remedy of distraint on property
13 set out in AS 43.20.270 applies to the tax levied by sec. 10(a) of
14 this chapter. However, only property subject to the tax may be dis-
15 trained.

16 Sec. 43.56.190. PENALTIES. A person who knowingly fails to
17 file a return when due or who makes a false statement in a return
18 required under this chapter with intent to evade taxation is guilty of
19 a misdemeanor and upon conviction is punishable by a fine of not more
20 than \$1,000 or by imprisonment for not more than six months, or by both,
21 together with costs of prosecution.

22 Sec. 43.56.200. REGULATIONS. The board and the department may
23 adopt regulations in accordance with AS 44.62 as appropriate to carry
24 out their respective duties under this chapter.

25 Sec. 43.56.210. DEFINITIONS. In this chapter

26 (1) "board" means State Assessment Review Board;

27 (2) "construction commencement date" means:

28 (A) April 1, 1974; or

29 (B) if earlier, the date the following occur:

1 (1) there has been issued to the owner or his agent
2 right-of-way permits, leases, and title and other rights in
3 lands, and other approvals, permits, licenses and certificates,
4 by federal, state and local agencies that a reasonable and
5 prudent person would consider adequate to commence construction
6 of the facilities in the expectation that all other approvals,
7 permits, licenses and certificates necessary for the completion
8 of facilities will be obtained;

9 (ii) all approvals, permits, licenses and certificates
10 are in full force and effect, unrevoked and without any modifi-
11 cation, which might jeopardize the completion or continued
12 construction of the facilities; and

13 (iii) no order, judgment, decree, determination or
14 award of a federal, state or local court or administrative or
15 regulatory agency enjoining, either temporarily or permanently,
16 the construction or the continuation of construction of the
17 facilities is in effect;

18 (3) "department" means Department of Revenue;

19 (4) "gas" includes all natural gas and all hydrocarbons
20 produced at the wellhead not defined as oil;

21 (5) "intangible drilling and development expenses" means
22 those expenses defined in sec. 263(c) of the United States Internal
23 Revenue Code as defined on the effective date of this paragraph;

24 (6) "taxable property" means real and tangible personal
25 property used or intended to be used within this state primarily in
26 the exploration for, production of, or pipeline transportation of gas
27 or unrefined oil (except for property used solely for the retail
28 distribution of natural gas), or in the erection, construction,
29 installation, operation or maintenance of facilities used in the

1 exploration for, production of or pipeline transportation of gas or
2 unrefined oil, including machinery, appliances, supplies, equipment,
3 drilling rigs, gathering lines and transmission lines, pumping
4 stations, compressor stations, power plants, topping plants, processing
5 units, roads, tank farms, tanker terminals, docks and other port
6 facilities, air strips, communication equipment and facilities, and
7 maintenance equipment and facilities, construction and maintenance
8 camps and other related facilities;

9 (7) "unrefined oil" includes crude petroleum oil and other
10 hydrocarbons regardless of gravity which are produced at the wellhead
11 in liquid form and the liquid hydrocarbons known as distillate or
12 condensate recovered or extracted from gas other than gas produced
13 in association with oil and commonly known as casinghead gas.

14 * Sec. 2. AS 29.53.025(a) is repealed.

15 * Sec. 3. This Act takes effect on the day after its passage and approval
16 or on the day it becomes law without approval.