

Original sponsor: Rules Committee by
request of the Governor

Offered: 11/8/73
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 1

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
15 is levied each tax year beginning January 1, 1974, on the full and true
16 value of taxable property taxable under this chapter.

17 (b) A municipality may levy and collect a tax under AS 29.53.045
18 at the rate of taxation that applies to other property taxed by the
19 municipality. A tax collected by a municipality as authorized by
20 AS 29.53.045 shall be credited against the tax levied under (a) of this
21 section and shall be levied at a rate no higher than the rate applicable
22 to other property taxable by the municipality. Exemptions shall be
23 limited to those in AS 29.53.020 and 29.53.025 and sec. 20 of this
24 chapter.

25 (c) For purposes of AS 29.53.045, population shall be determined
26 by the commissioner of community and regional affairs based on the
27 latest statistics of the United States Bureau of the Census or on other
28 reliable population data, and shall advise each municipality of its
29 population as so determined by January 15 of each year.

1 (d) If the total value of assessed property of a municipality
2 taxing under AS 29.53.045(c) exceeds the product of 250 per cent of
3 the average per capita assessed full and true value of property in
4 the state (to be determined by the department and reported to each
5 municipality by January 15 of each year) multiplied by the number of
6 residents of the taxing municipality, the department shall designate the
7 portion of the tax base against which the local tax may be applied.

8 Sec. 43.56.020. EXEMPTIONS. (a) The following are exempt from
9 local taxes levied or authorized under sec. 10(b) of this chapter.

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

12 (2) oil or gas leases or properties, whether producing or
13 not;

14 (3) oil or gas in place;

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

16 (5) the value of intangible drilling expenses and exploration
17 expenses;

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

19 (7) before the construction commencement date, property
20 taxed under sec. 10(a) of this chapter which is committed by contract
21 or other agreement for use in this state primarily for pipeline trans-
22 portation of gas or unrefined oil or for the production of gas or un-
23 refined oil to be transported by that pipeline.

24 (b) In (a)(2) of this section, "properties" means mineral inter-
25 ests in oil and gas and working interests, royalty interest, and over-
26 riding royalty interests in oil and gas leases.

27 Sec. 43.56.030. IN PLACE OF OTHER TAXES. Except for those taxes
28 imposed under ch. 55 of this title and ch. 57 of this title, and
29 except for special assessments levied under AS 29.63, the taxes levied

1 or authorized under sec. 10(b) of this chapter are in place of

2 (1) all other ad valorem taxes or other taxes imposed by
3 a municipality on property subject to tax under this chapter or
4 exempted from taxation by sec. 20 of this chapter, and

5 (2) all other taxes imposed by a municipality on or with
6 respect to the property subject to tax under this chapter or exempted
7 from taxation by sec. 20 of this chapter, including, but not limited to,

8 (A) taxes on the retail sale or use of the property
9 except for the retail sales tax on the first \$1,000 of each sale;

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

11 (C) taxes on the sale or use of services used in or
12 associated with the property or in its erection, construction,
13 maintenance or operation except for the sales tax on the first
14 \$1,000 of each sale;

15 (D) taxes on or measured by gross or net income from
16 the property, including income from the exploration for, production
17 of, or pipeline transportation of gas or unrefined oil or property;
18 and

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

21 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State
22 Assessment Review Board is created within the Department of Revenue.
23 The board consists of five persons appointed by the governor to serve
24 at his pleasure, each of whom must be knowledgeable of assessment
25 procedures. Each board member is subject to confirmation by a majority
26 of the members of the legislature in joint session.

27 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board
28 shall receive per diem and expenses authorized by law for boards and
29 commissions.

1 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess
2 property for the tax levied under sec. 10(b) of this chapter and
3 AS 29.53.045 on property used or committed by contract or other agree-
4 ment for use for the pipeline transportation of gas or unrefined oil
5 or for the production of gas or unrefined oil at its full and true
6 value as of January 1 of the assessment year.

7 (b) The department shall assess property for the taxes levied
8 under sec. 10(a) of this chapter at its full and true value as of
9 January 1 of the assessment year except that in the case of taxable
10 property used or committed by contract or other agreement for the
11 pipeline transportation of gas or unrefined oil or for the production
12 of gas or unrefined oil to be transported by that pipeline, the first
13 assessment date shall be the construction commencement date. If the
14 construction commencement date is used as the assessment date, the tax
15 payable shall be prorated on the basis of the assessment year remaining.

16 (c) The full and true value of taxable property used or committed
17 by contract or other agreement for the production of gas or unrefined
18 oil is:

19 (1) on the construction commencement date the actual cost
20 incurred or accrued with respect to the property as of the date of
21 assessment;

22 (2) determined on each January 1 thereafter on the basis
23 of replacement cost less depreciation based on the economic life of
24 proven reserves.

25 (d) The full and true value of taxable property used or committed
26 by contract or other agreement for pipeline transportation of gas or
27 unrefined oil is:

28 (1) on the construction commencement date and until
29 January 1 following the date the pipeline begins to transport gas or

1 unrefined oil, the actual cost incurred or accrued with respect to the
2 property as of the date of assessment;

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

17 (3) on the assessment date next following inability to use
18 or construct all or a substantial part of the facility for a period of
19 90 or more consecutive days because of natural disaster or legal pro-
20 hibition, or other events beyond the control of a person having owner-
21 ship or control of the property, adjusted to take into account any
22 diminution in value; and

23 (4) the assessment standard provided in this subsection
24 is applicable only to pipelines of a diameter in excess of 30 inches;
25 pipelines of a diameter of 30 inches or less shall be valued at full
26 and true value.

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 expenses. In

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

4 (f) The department may enter into agreements with a municipality
5 for the cooperative or joint administration of the assessing authority
6 conferred on the department by this section.

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

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

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

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

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

28 Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare
29 annually the assessment roll for taxation under this chapter. The

1 roll shall contain:

- 2 (1) a description of all taxable property;
- 3 (2) the assessed value of all taxable property;
- 4 (3) the names and addresses of persons owning property
- 5 subject to assessment and taxation.

6 Sec. 43.56.100. ASSESSMENT NOTICE. (a) On or before March 1

7 of each year, the department shall send to every owner of taxable

8 property named in the assessment roll a notice of assessment, showing

9 the assessed value of the property. Notice of assessment is effective

10 on the date of mailing.

11 (b) the department shall send to a municipality a copy of the

12 notice of assessment on any taxable property which is assessed under

13 the provisions of this chapter and which is located in the municipality

14 and on which a tax is authorized under sec. 10(b) of this chapter.

15 Sec. 43.56.110. APPEAL TO THE DEPARTMENT. (a) An owner of

16 taxable property or a municipality receiving an assessment notice may

17 object to the assessment by advising the department in writing of the

18 objections to the assessment within 20 days of the effective date of

19 the notice.

20 (b) The department shall provide by regulation for notices of

21 appeals to interested persons and municipalities.

22 (c) Following an objection the department may adjust the assess-

23 ment and the assessment roll. An adjustment based on an objection

24 from an owner of taxable property or a municipality shall be made

25 within 30 days of the effective date of the notice of assessment.

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

27 (a) After a ruling by the department on an appeal made under sec. 110

28 of this chapter, the owner or a municipality may further appeal to the

29 board. The appeal must be filed in writing within 50 days of the

1 effective date of the notice of assessment.

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by

1 sec. 10(a) of this chapter is payable to the department on or before
2 September 30 of the taxable year.

3 (b) The department may provide for voluntary prepayment and for
4 payment by installments.

5 (c) The tax levied under sec. 10(a) of this chapter, interest
6 and penalties collected with respect to this levy shall be deposited
7 in the general fund.

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

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

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

20 Sec. 43.56.190. PENALTIES. A person who knowingly fails to
21 file a return when due or who makes a false statement in a return
22 required under this chapter with intent to evade taxation is guilty of
23 a misdemeanor and upon conviction is punishable by a fine of not more
24 than \$1,000 or by imprisonment for not more than six months, or by both,
25 together with the costs of prosecution, notwithstanding the provisions
26 of AS 12.80.030.

27 Sec. 43.56.200. REGULATIONS. The board and the department may
28 adopt regulations in accordance with the Administrative Procedure Act
29 (AS 44.62) as appropriate to carry out their respective duties under

1 this chapter.

2 Sec. 43.56.210. DEFINITIONS. In this chapter

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

4 (2) "construction commencement date" means the earlier
5 of April 1, 1974 or the date the following occur:

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

14 (B) all approvals, permits, licenses and certificates
15 are in full force and effect, unrevoked and without any modifi-
16 cation, which might jeopardize the completion or continued
17 construction of the facilities; and

18 (C) no order, judgment, decree, determination or
19 award of a federal, state or local court or administrative or
20 regulatory agency enjoining, either temporarily or permanently,
21 the construction or the continuation of construction of the
22 facilities is in effect;

23 (3) "department" means the Department of Revenue;

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

26 (5) "intangible drilling expenses" means those expenses
27 defined in sec. 263(c) of the United States Internal Revenue Code
28 as defined on the effective date of this paragraph;

29 (6) "taxable property" means real and tangible personal

1 property used or committed by contract or other agreement for use
2 within this state primarily in the production of or pipeline
3 transportation of gas or unrefined oil (except for property used
4 solely for the retail distribution or liquefaction of natural gas),
5 including machinery, appliances, equipment, wells (whether producing
6 or not), gathering lines and transmission lines, pumping stations,
7 compressor stations, power plants, topping plants, processing units,
8 roads, tank farms, tanker terminals, docks and other port facilities,
9 air strips, and communication equipment and facilities; "taxable
10 property" does not include permanent residences, office buildings
11 requiring substantial local government services, or gas pipeline systems
12 operated as utilities and regulated by the Alaska Public Utilities
13 Commission;

14 (7) "unrefined oil" includes crude petroleum oil and other
15 hydrocarbons regardless of gravity which are produced at the wellhead
16 in liquid form and the liquid hydrocarbons known as distillate or
17 condensate recovered or extracted from gas other than gas produced in
18 association with oil and commonly known as casinghead gas.

19 * Sec. 2. AS 29.53 is amended by adding a new section to read:

20 Sec. 29.53.045. TAX ON OIL AND GAS PRODUCTION AND PIPELINE
21 PROPERTY. (a) A municipality may levy and collect taxes on taxable
22 property taxable under AS 43.56 only by using one of the methods set
23 out in (b) or (c) of this section.

24 (b) A municipality may levy and collect a tax on the full and
25 true value of taxable property taxable under AS 43.56 as valued by
26 the Department of Revenue at a rate not to exceed that which produces
27 an amount of revenue from the total municipal property tax equivalent
28 to \$1,000 a year for each person residing within its boundaries.

29 (c) A municipality may levy and collect a tax on the full and

1 true value of that portion of taxable property taxable under AS 43.56
2 as assessed by the Department of Revenue which, when combined with
3 the value of property otherwise taxable by the municipality, does
4 not exceed the product of 250 per cent of the average per capita
5 assessed full and true value of property in the state multiplied by
6 the number of residents of the taxing municipality.

7 (d) By February 1 of each assessment year a taxing municipality
8 must inform the Department of Revenue which method of taxation the
9 municipality will use.

10 * Sec. 3. AS 29.53.025 (a) is amended to read:

11 Sec. 29.53.025. OPTIONAL EXEMPTIONS AND EXCLUSIONS. (a)
12 Municipalities may exclude or exempt or partially exempt residential
13 property from taxation by ordinance ratified by the voters at a
14 regular or special election. An exclusion or exemption authorized by
15 this section may not exceed \$10,000 for any one residence.

16 * Sec. 4. AS 29.53.055 is amended to read:

17 Sec. 29.53.055. NO LIMITATION ON TAXES TO PAY BONDS. The
18 limitations [LIMITATION] provided for in sec. 45 or 50 of this
19 chapter do [DOES] not apply to taxes levied or pledged to pay or
20 secure the payment of the principal and interest on bonds. Taxes
21 to pay or secure the payment of principal and interest on bonds may
22 be levied without limitation as to rate or amount.

23 * Sec. 5. This Act takes effect on December 31, 1973.
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