

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE 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
9 for 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) Political subdivisions may levy a tax not to exceed seven
18 mills on the full and true value of taxable property taxable under
19 this chapter. A tax levied by a political subdivision under this sub-
20 section shall be credited against the tax levied under (a) of this
21 section.

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

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

26 (2) oil or gas leases or properties, whether producing or
27 not;

28 (3) oil or gas in place;

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

1 (5) the value of intangible drilling and development
2 expenses and exploration expenses;

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

4 (7) before the construction commencement date, property
5 which is intended to be used in this state primarily for pipeline
6 transportation of gas or unrefined oil or for the production of gas or
7 unrefined oil to be transported by that pipeline; and

8 (8) before the construction commencement date, property
9 which is intended to be used within this state primarily in the
10 erection, construction, installation, operation or maintenance of
11 facilities for pipeline transportation of gas or unrefined oil, or
12 facilities for production of gas or unrefined oil to be transported by
13 that pipeline.

14 Sec. 43.56.030. IN PLACE OF ALL OTHER TAXES. Except for those
15 taxes imposed under AS 43.55 and AS 43.57, the taxes levied or
16 authorized under this chapter are in place of

17 (1) all ad valorem taxes or other taxes imposed by
18 the state or a political subdivision on property subject to tax
19 under this chapter or exempted from taxation by sec. 20 of this
20 chapter, and

21 (2) all other taxes imposed by a political subdivision
22 on or with respect to the property subject to tax under this
23 chapter or exempted from taxation by sec. 20 of this chapter,
24 including, but not limited to

25 (A) taxes on the sale or use of the property (except
26 for retail sales taxes on purchases within a political subdivision
27 of property not to be included in the value of taxable property
28 subject to taxes under this chapter);

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

1 (C) taxes on the sale or use of services used in or
2 associated with the property or in its erection, construction,
3 maintenance or operation;

4 (D) taxes on or measured by gross or net income from
5 the property, including income from the exploration for, produc-
6 tion of, or pipeline transportation of gas or unrefined oil or
7 property; and

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

10 Sec. 43.56.040. STATE ASSESSMENT REVIEW BOARD. The State
11 Assessment Review Board is created within the Department of Revenue.
12 The board consists of five persons appointed by the governor to serve
13 at his pleasure.

14 Sec. 43.56.050. PER DIEM AND EXPENSES. Members of the board
15 shall receive per diem and expenses authorized by law for boards and
16 commissions.

17 Sec. 43.56.060. ASSESSMENT. (a) The department shall assess
18 property for the taxes levied under secs. 10(a) and 10(b) of this
19 chapter at its full and true value as of January 1 of the assessment
20 year except that in the case of taxable property used or intended to
21 be used for the pipeline transportation of gas or unrefined oil or for
22 the production of gas or unrefined oil to be transported by that
23 pipeline or in the erection, construction, installation, operation or
24 maintenance of facilities for pipeline transportation of gas or
25 unrefined oil, or in the erection, construction, installation, opera-
26 tion or maintenance of facilities for production of gas or unrefined
27 oil to be transported by that pipeline, the first assessment date
28 shall be the construction commencement date. If the construction
29 commencement date is used as the assessment date, the tax payable

1 shall be prorated on the basis of the assessment year remaining.

2 (b) The full and true value of taxable property used or intended
3 to be used for the exploration for gas or unrefined oil, or in the
4 erection, construction, installation, operation or maintenance of
5 facilities for the exploration for gas or unrefined oil, is the
6 estimated price which the property would bring in an open market and
7 under the then prevailing market conditions in a sale between a willing
8 seller and a willing buyer both conversant with the property and with
9 prevailing general price levels.

10 (c) The full and true value of taxable property used or intended
11 to be used for the production of gas or unrefined oil or in the
12 erection, construction, installation, operation or maintenance of
13 facilities for the production of gas or unrefined oil
14 is:

15 (1) on the construction commencement date the actual
16 cost incurred or accrued with respect to the property as of the
17 date of assessment;

18 (2) determined on each January 1 thereafter on the basis
19 of actual cost less depreciation based on units of production.

20 (d) The full and true value of taxable property used or
21 intended to be used for pipeline transportation of gas or unrefined
22 oil, or in the erection, construction, installation, operation or
23 maintenance of facilities for the pipeline transportation of gas or
24 unrefined oil is:

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

29 (2) determined on each January 1 thereafter with due regard

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

14 (3) on the assessment date next following inability to use
15 or construct all or a substantial part of the facility for a period of
16 90 or more consecutive days because of natural disaster or legal pro-
17 hibition, or other events beyond the control of a person having
18 ownership or control of the property, adjusted to take into account
19 any diminution in value.

20 (e) For purposes of this section "actual cost" does not include
21 interest capitalized prior to or during the period of construction
22 nor the value of intangible drilling and development expenses.
23 In the case of taxable property under construction, "actual cost" for
24 purposes of this section means the costs incurred or accrued with
25 respect to the property as of the date of assessment.

26 Sec. 43.56.070. RETURNS. (a) The department may require by
27 notice every person having ownership or control of an interest in
28 property taxable under this chapter to submit a return in the form
29 prescribed by the department, based on property values existing on

1 January 1, except as otherwise provided in this chapter.

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

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

9 (b) An employee or agent of the department may enter any premise
10 necessary for the investigation during reasonable hours and may examine
11 property and appropriate records. The owner of the taxable property
12 upon request shall furnish to the employee or agent of the department
13 reasonable assistance required for the investigation. If refused entry,
14 the department may seek a court order to compel entry.

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

18 Sec. 43.56.090. ASSESSMENT ROLL. The department shall prepare
19 annually the only assessment roll for taxation under this chapter. The
20 roll shall contain:

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

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

1 (b) The department shall also send to a political subdivision
2 a copy of the notice of assessment on any taxable property which is
3 assessed under the provisions of this chapter and which is located in
4 the political subdivision and on which a tax is authorized under
5 sec. 10(b) of this chapter.

6 Sec. 43,56.110. APPEAL TO THE DEPARTMENT. (a) An owner of
7 taxable property or a political subdivision receiving an assessment
8 notice may object to the assessment by advising the department in
9 writing of the objections to the assessment within 20 days of the
10 effective date of the notice.

11 (b) The department shall provide by regulation for notices of
12 appeals to interested persons and political subdivisions.

13 (c) Following an objection the department may adjust the assess-
14 ment and the assessment roll. An adjustment based on an objection from
15 an owner of taxable property or a political subdivision shall be made
16 within 30 days of the effective date of the notice of assessment.

17 Sec. 43,56.120. APPEAL TO THE STATE ASSESSMENT REVIEW BOARD.

18 (a) After a ruling by the department on an appeal made under sec. 110
19 of this chapter, the owner or political subdivision may further appeal
20 to the board. The appeal must be filed in writing within 50 days
21 of the effective date of the notice of assessment.

22 (b) The board shall provide by regulation for notices of appeals
23 to interested persons and political subdivisions.

24 Sec. 43,56.130. HEARINGS OF STATE ASSESSMENT REVIEW BOARD. (a)
25 The board shall hear appeals filed under sec. 120(a) of this chapter.

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

28 (c) The board shall provide by regulation for notices of hearings
29 to interested persons and political subdivisions.

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

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

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

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

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

14 (i) An owner or political subdivision may appeal to the superior
15 court for, and is entitled to, trial de novo of the board's action.

16 Sec. 43.56.140. SUPPLEMENTARY ASSESSMENT ROLLS. The department
17 shall include property omitted from the assessment roll on a supple-
18 mentary roll, using the procedures set out in this chapter for the
19 original roll.

20 Sec. 43.56.150. COLLECTION AND DEPOSIT. (a) The tax levied by
21 this chapter is payable to the department on or before September 30 of
22 the tax year.

23 (b) The department may provide for voluntary prepayment and for
24 payment by installments.

25 (c) If a political subdivision levies the tax authorized by
26 sec. 10(b) of this chapter, the department shall collect the tax
27 under this chapter and promptly remit it to the political subdivision.

28 (d) All other taxes, interest and penalties collected under
29 this chapter shall be deposited in the general fund.

1 Sec. 43.56.160. INTEREST AND PENALTY. When the tax levied by this
2 chapter becomes delinquent, a penalty of 10 per cent shall be added.
3 Interest on the delinquent taxes, exclusive of penalty, shall be
4 assessed at a rate of eight per cent a year.

5 Sec. 43.56.170. LIEN FOR TAX. The tax levied under this chapter
6 and the interest and penalty provided in sec. 160 of this chapter are
7 first and paramount liens on the property subject to tax under this
8 chapter.

9 Sec. 43.56.180. REMEDY. The remedy of distraint on property
10 set out in AS 43.20.270 applies to the tax levied by this chapter.
11 However, only property subject to the tax may be distrained.

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

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

21 Sec. 43.56.210. DEFINITIONS. In this chapter

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

23 (2) "construction commencement date" means the date on which

24 (A) there has been issued to the owner or his agent
25 right-of-way permits, leases, and title and other rights in lands,
26 and other approvals, permits, licenses and certificates, by
27 federal, state and local agencies that a reasonable and prudent
28 person would consider adequate to commence construction of the
29 facilities in the expectation that all other approvals, permits,

1 licenses and certificates necessary for the completion of
2 facilities will be obtained;

3 (B) all approvals, permits, licenses and certificates
4 are in full force and effect, unrevoked and without any modifi-
5 cation, which might jeopardize the completion or continued con-
6 struction of the facilities; and

7 (C) no order, judgment, decree, determination or award
8 of a federal, state or local court or administrative or regulatory
9 agency enjoining, either temporarily or permanently, the construc-
10 tion or the continuation of construction of the facilities is in
11 effect.

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

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

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

18 (6) "taxable property" means real and tangible personal
19 property used or intended to be used within this state primarily in
20 the exploration for, production of, or pipeline transportation of gas
21 or unrefined oil (except for property used solely for the retail
22 distribution or solely for the liquification of natural gas), or in
23 the erection, construction, installation, operation or maintenance of
24 facilities used in the exploration for, production of or pipeline
25 transportation of gas or unrefined oil, including machinery, appliances,
26 supplies, equipment, drilling rigs, gathering lines and transmission
27 lines, pumping stations, compressor stations, power plants, topping
28 plants, processing units, roads, tank farms, tanker terminals, docks
29 and other port facilities, air strips, communication equipment and

1 facilities, and maintenance equipment and facilities, construction
2 and maintenance camps and other related facilities;

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

8 * Sec. 2. This Act takes effect on the day after its passage and
9 approval or on the day it becomes law without approval.

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