

Introduced: 3/17/76
Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 HOUSE BILL NO. 872

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the leasing and exploration of
7 state land for oil and gas."

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

9 * Section 1. AS 38.05.180 is repealed and re-enacted to read:

10 Sec. 38.05.180. OIL AND GAS LEASING. (a) The commissioner is
11 authorized to grant to the highest responsible qualified bidder by com-
12 petitive bidding under regulations promulgated in advance, oil and gas
13 leases on state land. The bidding shall be by sealed bids, and, at the
14 discretion of the commissioner, shall be either

15 (1) on the basis of a cash bonus bid with a royalty reserved
16 to the state of 12 1/2 per cent of the amount or value of the production
17 saved, removed or sold;

18 (2) on the basis of a cash bonus bid with a fixed share of
19 the net profit derived from operation of the tract of not less than 30
20 per cent reserved to the state;

21 (3) on the basis of a fixed cash bonus with the net profit
22 share reserved to the state as the bid variable; or

23 (4) after public hearing and certification to the legislature
24 by the commissioner that royalty bidding would be in the best interests
25 of the state, on the basis of a fixed cash bonus with the royalty
26 reserved to the state as the bid variable.

27 (b) The state's net profit share shall be calculated on the basis
28 of the value of the production saved, removed, or sold, less those
29 capital and operating costs directly assignable to the development and

1 operation (but not acquisition) of a oil and gas lease issued under a
2 net profit-sharing arrangement. No capital or operating charges for
3 materials or labor services not actually used on the area leased for oil
4 or gas under a net profit-sharing arrangement; allocation of income
5 taxes; nor expenditure for materials or labor services used before lease
6 acquisition shall be permitted as a deduction in the calculation of net
7 income. The commissioner shall by regulation establish accounting pro-
8 cedures and standards to govern the calculation of net profits. In the
9 event of a dispute between the state and a lessee concerning the cal-
10 culation of the net profits, the burden of proof shall be on the lessee.
11 That part of the net profits share due the state which is attributable
12 to oil production may be taken in kind in the form of oil and that part
13 of the net profit share attributable to gas may be taken in kind in the
14 form of gas. The fraction of the production due in kind shall be
15 determined by dividing the net profit due the state attributable to the
16 product or products taken in kind by the fair market value at the
17 wellhead of the oil or gas (as the case may be) saved, removed or sold.
18 The attribution of profits as between oil and gas shall be proportionate
19 to the value of their respective shares of production.

20 (c) An oil and gas lease issued by the commissioner shall cover a
21 reasonably compact area not exceeding 5,760 acres, and be for a period
22 of five years or for up to ten years if the commissioner determines and
23 certifies to the legislature that a longer term is necessary to provide
24 the lessee a reasonable opportunity to develop the oil and gas resource.
25 Expiring oil and gas leases shall be automatically renewed if and for as
26 long thereafter as oil or gas is produced in paying quantities from the
27 lease or, if the lease is a part of a unit approved by the commissioner
28 under AS 31.05.100 - 31.05.110, the unit of which it is a part. A
29 temporary cessation of production approved by the commissioner does not

1 constitute grounds for nonrenewal or cancellation of the lease.

2 (d) Oil and gas leases shall provide for payment to the state of
3 rental on the following basis:

4 (1) for leases with a five year primary term

5 (A) for the first and second year, none

6 (B) for the third year, \$3 per acre

7 (C) for the fourth year, \$6 per acre

8 (D) for the fifth year, \$12 per acre;

9 (2) for leases with a primary term in excess of five years

10 (A) for the final year of the primary term, \$24 per acre

11 (B) for the second year before the end of the primary
12 term, \$12 per acre

13 (C) for the third year before the end of the primary
14 term, \$6 per acre

15 (D) for the fourth year before the end of the primary
16 term, \$3 per acre

17 (E) for all years before the fourth year before the end
18 of the primary term, none;

19 (3) for leases in production or extended past the primary
20 term, none.

21 (e) To conserve the natural resources of all or a part of an oil
22 or gas pool, field, or like area, whether or not the part is then sub-
23 ject to a cooperative or unit plan of development or operation, lessees
24 and their representatives may unite with each other, or jointly or
25 separately with others, in collectively adopting or operating under a
26 cooperative or a unit plan of development or operation of the pool,
27 field, or like area, or a part of it, when determined and certified by
28 the commissioner to be necessary or advisable in the public interest.
29 The commissioner may, with the consent of the holders of leases involved,

1 establish, alter, change, or revoke drilling, producing, rental minimum
2 royalty, and royalty requirements of the leases and make regulations
3 with reference to the leases, with like consent on the part of the
4 lessees, in connection with the institution and operation of a coopera-
5 tive or unit plan as he determines necessary or proper to secure the
6 proper protection of the public interest. The commissioner may provide
7 that oil and gas leases issued under this section shall contain a pro-
8 vision requiring the lessee to operate under a reasonable cooperative or
9 unit plan, and he may prescribe a plan under which the lessee shall
10 operate. The plan shall adequately protect all parties in interest,
11 including the state.

12 (f) A plan authorized by (e) of this section, which includes land
13 owned by the state, may contain a provision vesting the commissioner, or
14 a person, committee, or state agency with authority to alter or modify
15 from time to time the rate of prospecting and development and the
16 quantity and rate of production under the plan. All leases operated
17 under a plan approved or prescribed by the commissioner are excepted in
18 determining holdings or control under sec. 140 of this chapter. The
19 provisions of this section concerning cooperative or unit plans are in
20 addition to, and do not affect AS 31.05.

21 (g) Producing acreage on a known geologic structure of a producing
22 oil or gas field is excluded from chargeability as against the acreage
23 limitation provisions of sec. 140 of this chapter.

24 (h) When separate tracts cannot be individually developed and
25 operated in conformity with an established well-spacing or development
26 program, a lease, or a portion of a lease, may be pooled with other
27 land, whether or not owned by the state, under a communitization or
28 drilling agreement providing for an apportionment of production or
29 royalties among the separate tracts of land comprising the drilling or

1 spacing unit when determined by the commissioner to be in the public
2 interest. Operations or production under the agreement shall be con-
3 sidered as operations or production as to each lease committed to the
4 agreement.

5 (i) The commissioner may, on conditions which he prescribes,
6 approve drilling, or development contracts made by one or more lessees
7 of oil or gas leases, with one or more persons, when, in his discretion,
8 the conservation of natural products or the public convenience or neces-
9 sity requires it or the interests of the state are best served. All
10 leases operated under approved drilling, or development contracts, and
11 interests under them are excepted in determining holding or control
12 under sec. 140 of this chapter.

13 (j) To avoid waste or to promote conservation of natural resources,
14 the commissioner may authorize the subsurface storage of oil or gas
15 whether or not produced from state land, in land leased or subject to
16 lease under this section. This authorization may provide for the pay-
17 ment of a storage fee or rental on the stored oil or gas, or, instead of
18 the fee or rental, for a royalty other than that prescribed in the lease
19 when the stored oil or gas is produced in conjunction with oil or gas
20 not previously produced. A lease on which storage is so authorized
21 shall be extended at least for the period of storage and so long there-
22 after as oil or gas not previously produced is produced in paying
23 quantities.

24 (k) Each oil or gas lease issued by the state shall contain a pro-
25 vision requiring the lessee to furnish the Department of Labor a quarter-
26 ly report regarding the employment on the leased property of state
27 residents. The commissioner of labor shall promulgate regulations
28 necessary to carry out the provisions of this subsection.

29 * Sec. 2. AS 38.05 is amended by adding a new section to read:

1 Sec. 38.05.184. OIL AND GAS COMPETITIVE CONTRACT EXPLORATION

2 PERMITS. (a) The commissioner may grant competitive contract explora-
3 tion permits for oil and gas by sealed bid, under regulations promul-
4 gated in advance, on the basis of a fixed cash bonus with the reward
5 payable by the state to the permit holder per unit of recoverable
6 petroleum hydrocarbon discovered as the bid variable. All petroleum
7 hydrocarbons or minerals discovered by virtue of activities conducted
8 under a competitive contract exploration permit shall remain the proper-
9 ty of the state, and no interest in these minerals may accrue to the
10 permit holder except as provided under (g) of this section.

11 (b) Competitive contract exploration permits may not encompass
12 more than 64,000 acres, the boundaries of which shall be established by
13 the commissioner in order to as nearly as possible encompass a single
14 potentially petroliferous subsurface geological structure, and be for a
15 term not to exceed five years.

16 (c) Payment of the discovery reward under a competitive contract
17 exploration permit shall be made on the basis of the quantity of petro-
18 leum hydrocarbons proven to be economically recoverable from the land
19 covered by the permit. Determination of the proven economically re-
20 coverable reserves shall be made by an independent assessment board
21 consisting of three professional engineers, none of whom may be an em-
22 ployee of or affiliated with either the state or the permit holder. The
23 state and the permit holder shall each appoint one member of the assess-
24 ment board, who shall then meet and jointly appoint the third member.

25 (d) The initial assessment of reserves shall be made when re-
26 quested by the permit holder and at the expense of the state. Reassess-
27 ments shall be made at the request and expense of the permit holder. No
28 reassessment of reserves may be allowed after 10 years have elapsed from
29 the date the permit was initially issued except as may be required by

1 actual production.

2 (e) Bids for permits shall be submitted in terms of the reward per
3 unit of oil discovered; payment for gas discovered shall be on the basis
4 of a ratio between the expected average values of oil and gas estab-
5 lished by the commissioner before offering the competitive contract
6 exploration permit for bid.

7 (f) The commissioner may include in the permit contract provisions
8 limiting the maximum annual discovery reward payment to a permit holder
9 and providing for the payment of the reward in periodic installments.

10 (g) The commissioner may include in the permit contract a provi-
11 sion granting the holder of a permit a preference right to obtain an oil
12 and gas lease or leases covering that part of the permit area proven to
13 be productive of oil or gas, if the area should be offered for lease by
14 the state. The preference right so granted shall allow the permit
15 holder to obtain the lease on the terms offered by the bidder that in
16 the absence of the preference right would have been awarded the lease.
17 The granting of a preference right shall not obligate the state to lease
18 the permit area or to develop reserves that may have been discovered
19 there.

20 * Sec. 3. AS 38.05.145(b) is amended to read:

21 (b) If the state selects or otherwise acquires land other than
22 shorelands, title to which was in the federal government and which, at
23 the effective date of the selection or acquisition, is subject to a
24 valid [EXISTING OFFER FOR A NONCOMPETITIVE UNITED STATES OIL AND GAS
25 LEASE, OR] application for a prospecting permit or noncompetitive mining
26 lease, for coal, phosphates, sulphur, oil shale, sodium, or potassium
27 under the federal Act of February 25, 1920 (41 Stat. 437 as amended), or
28 for a noncompetitive United States geothermal lease, or application for
29 a prospecting permit or noncompetitive lease under the federal Act

1 of December 24, 1970 (84 Stat. 1566), the offeror or applicant for the
2 federal permit or lease, if a qualified applicant hereunder, shall be
3 considered the first qualified applicant for a state [NONCOMPETITIVE OIL
4 AND GAS LEASE,] noncompetitive geothermal lease, prospecting permit, or
5 noncompetitive mining lease and is entitled to a state noncompetitive
6 lease or permit upon compliance with the provisions of the regulations
7 covering applications within 60 days after receipt of written notice
8 from the commissioner of selection or acquisition. These priorities are
9 not effective if the land covered by the federal offers or applications
10 is classified by the commissioner as competitive land within 90 days
11 after the selection of the land is finally approved by the Secretary of
12 the Interior or the land is otherwise acquired.