

Introduced: 3/10/76
Referred: Resources and
Finance

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 698

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 state taxes and revenues; and
7 providing for an effective date."

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

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

10 CHAPTER 68. COAL RESERVES SPECULATION TAX.

11 Sec. 43.68.010. AD VALOREM TAX. (a) An annual tax is levied each
12 tax year upon the full and true value of taxable property or leasehold
13 interest in taxable property under this chapter beginning January 1,
14 1979 or beginning the second January 1 following the acquisition of tax-
15 able property or leasehold interest in taxable property from the federal
16 or state government or, in the case of land not owned by the federal or
17 state governments, beginning the second January 1 following the acquisi-
18 tion of taxable property or leasehold interest in taxable property
19 through an arms length agreement between two nonrelated and independent
20 individuals or corporations.

21 (b) The rate of levy for the first and second tax year is 5 mills.

22 (c) The rate of levy for the third and fourth tax year is 10
23 mills.

24 (d) The rate of levy for the fifth and sixth tax year is 20 mills.

25 (e) The rate of levy for the seventh and succeeding tax years is
26 50 mills.

27 Sec. 43.68.020. EXEMPTIONS. (a) The following property that
28 would otherwise be taxable property is exempt from taxation under this
29 chapter:

1 (1) any interest of the United States and the state;

2 (2) property producing during the past five years a volume of
3 coal equal or greater in value to five times the assessed taxes payable
4 under this chapter and any taxable property within 30 miles of producing
5 property held as reserves by the same individual or corporation, if the
6 value of production equals or exceeds five times the assessed taxes for
7 all properties covered by this exemption;

8 (3) property located more than 30 miles from tide water that
9 is navigable year-round and more than 30 miles from a year-round high-
10 way, railroad or river transportation system having a terminus at tide
11 water that is navigable year-round;

12 (4) property conveyed under the Alaska Native Claims Settle-
13 ment Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) to a Native
14 individual, Native group, or village or regional corporation which is
15 not developed or leased to third parties until December 18, 1991.

16 (b) The department shall determine which property is exempt under
17 this section.

18 Sec. 43.68.030. ASSESSMENT. (a) The department shall assess tax-
19 able property under this chapter to the owner of it at its full and true
20 value as of January 1 of each year.

21 (b) The full and true value of taxable property under this chapter
22 is the estimated price which the property would bring in an open market
23 and under the then prevailing market conditions in a sale between a
24 willing seller and a willing buyer both conversant with the property and
25 with prevailing values. In determining this value, the department shall
26 consider all factors which may be known by the department to affect the
27 value of taxable property, including but not limited to the discounted
28 present value of the expected future net income from the taxable proper-
29 ty.

1 Sec. 43.68.040. ASSESSMENT ROLL. The department shall prepare
2 annually the assessment roll for taxation under this chapter. The roll
3 shall contain:

- 4 (1) a description of all taxable property;
5 (2) the assessed value of all taxable property; and
6 (3) the names and addresses of persons owning or otherwise
7 holding an interest in taxable property.

8 Sec. 43.68.050. ASSESSMENT NOTICE. On or before April 15 of each
9 year, the department shall send to every owner of taxable property named
10 in the assessment roll a notice of assessment showing the assessed value
11 of the property. The notice of assessment is effective on the date of
12 its mailing.

13 Sec. 43.68.060. APPEAL. (a) A person aggrieved by the action of
14 the department in making an assessment may appeal that action and obtain
15 a hearing upon its validity before the department by filing written
16 objections to the assessment not later than 20 days after the effective
17 date of the assessment notice.

18 (b) The procedures for conduct of the hearing and preliminary
19 activities to it shall be in accordance with AS 44.62.350, 44.62.430,
20 44.62.450 - 44.62.460, 44.62.480, 44.62.500 - 44.62.550, 44.62.590, and
21 44.62.610 - 44.62.640. The term "respondent" used in those sections of
22 AS 44.62 (Administrative Procedure Act) shall be considered, for the
23 purposes of this section, to include the person aggrieved by action of
24 the department. The department shall provide by regulation for notices
25 of hearing under this section to interested persons. At the hearing the
26 appellant bears the burden of proof. In the absence of this proof the
27 assessment is to be upheld by the department. If the department, after
28 hearing, determines that a correction of the assessment is warranted,
29 the department shall correct the assessment and the assessment roll.

1 (c) Within 30 days after the decision by the department following
2 the hearing, a person aggrieved by that decision may appeal to the
3 superior court. The superior court shall grant priority on its dockets
4 for the appeals over all civil cases then pending.

5 Sec. 43.68.070. CERTIFICATION. On or before June 15 of each year,
6 the department shall certify the final assessment roll and mail to the
7 owner, operator or other person filing a return and paying tax on the
8 taxable property a statement of the amount of tax due.

9 Sec. 43.68.080. SUPPLEMENTAL ASSESSMENT ROLLS. The department
10 shall include property omitted from the assessment roll on a supple-
11 mental roll, using the procedures set out in this chapter for the
12 original roll.

13 Sec. 43.68.090. INVESTIGATION. (a) The department may make an
14 investigation of property on which a return has been filed or on pro-
15 perty for which no return has been filed. In either case, the depart-
16 ment shall make its own valuation of the taxable property, which is
17 prima facie evidence of full and true value.

18 (b) An employee or agent of the department may enter any premises
19 necessary for the investigation during reasonable hours and may examine
20 property and other appropriate records. The owner of taxable property,
21 upon request, shall furnish to the employee or agent of the department
22 reasonable assistance required for the investigation. If an employee or
23 agent of the department seeking to enter any premises necessary for an
24 investigation under this section or to obtain reasonable assistance
25 required for an investigation under this section is refused such entry
26 or assistance, the superior court may, after reasonable notice to and
27 hearing of the owner, order the owner to allow the entry or to furnish
28 the assistance.

29 (c) For the purpose of the investigation, the owner, operator or

1 other person filing a return and paying the tax on the taxable property
2 or his representative may be required to present himself for examination
3 under oath by the department.

4 Sec. 43.68.100. RETURNS AND PAYMENT OF TAX. (a) A return of
5 taxable property shall be submitted on or before February 1 on the form
6 prescribed by the department based on property values existing on Janu-
7 ary 1 of each year, except as otherwise provided in this chapter, by

8 (1) a person who is the owner of the property, or who con-
9 trols that property as agent, or on account of any other person;

10 (2) a guardian or other person who has charge of taxable
11 property belonging to a minor or other person;

12 (3) the trustee of a trust estate holding taxable property in
13 trust for the benefit of another person;

14 (4) the executor or administrator of a deceased person's
15 estate which includes taxable property;

16 (5) the receiver of a corporation who has its assets in his
17 hands.

18 (b) The person required to submit the return specified under (a)
19 of this section is primarily liable for payment of the tax levied by
20 this chapter. The persons or estates specified in (a)(2) - (5) of this
21 section in whose behalf the tax levied by this chapter is to be paid are
22 secondarily liable for payment of the tax. With the written approval of
23 the department, an operator or nonoperator of the lease or property may
24 submit returns or make payment of the tax levied under this chapter on
25 behalf of himself and such other persons as the department may approve.

26 (c) The tax levied under this chapter is payable to the department
27 on or before June 30 of each year or in installments at the times and
28 under the conditions the department may by regulation require. This tax
29 is payable on the due date set out in this subsection even though the

1 assessment is under appeal or the validity, enforceability or appli-
2 cation of this chapter or any provision of this chapter is challenged
3 before the department or in the courts.

4 (d) With the prior written approval of the department, a person
5 submitting returns or making payments as required under this chapter for
6 more than one taxable property may regard those leases or properties as
7 a single taxable property for purposes of submitting those reports or
8 making those payments.

9 (e) Any person making payment of the tax levied under this chapter
10 on behalf of one or more other persons owning or otherwise holding an
11 interest in a taxable property may withhold a proportionate share of the
12 payment from any proceeds or other benefits from the taxable property
13 owed to any person on whose behalf the payment is made. Unless other-
14 wise specifically provided by written contract or agreement, the person
15 so withholding a proportionate share of the tax levied under this
16 chapter incurs no liability to those from whom it is withheld by virtue
17 of having made the withholding.

18 (f) By written notice the department may require a person filing a
19 return to submit additional information to the department no later than
20 30 days after the notice.

21 Sec. 43.68.110. CIVIL PENALTY. Five per cent shall be added to
22 the tax for each 30-day period or fraction of that period during which
23 the taxpayer fails to file a return or pay the full amount of the tax,
24 or a portion or a deficiency of the tax due and payable as finally
25 determined by the department and required by this chapter, unless it is
26 shown that the failure is due to a reasonable cause and not to wilful
27 neglect. The penalty may not exceed 25 per cent in the aggregate. The
28 penalty shall be collected at the same time, in the same manner and as a
29 part of the original tax, but if the original tax is paid before the

1 neglect is discovered, the penalty shall be collected in the same
2 manner as the original tax. The department shall describe by regulation
3 circumstances which constitute reasonable cause for purposes of this
4 section.

5 Sec. 43.68.120. INTEREST. When the tax levied in this chapter
6 becomes delinquent it bears interest at the rate of eight per cent a
7 year.

8 Sec. 43.68.130. LIEN. The tax, penalty and interest payable under
9 this chapter are first and paramount liens on the property subject to
10 tax under this chapter.

11 Sec. 43.68.140. REMEDY. The remedy of distraint of property set
12 out in AS 43.20.270 applies to the tax, penalty and interest levied by
13 this chapter.

14 Sec. 43.68.150. REGULATIONS. The department may adopt regulations
15 in accordance with the Administrative Procedure Act (AS 44.62) as appro-
16 priate to administer and enforce this chapter.

17 Sec. 43.68.160. DEFINITIONS. In this chapter

18 (1) "coal" means coal of all ranks from lignite to anthra-
19 cite;

20 (2) "department" means the Department of Revenue;

21 (3) "proven reserves" means the volumes of coal in a known
22 deposit which geological and engineering information indicate to be re-
23 coverable in the future under prevailing economic conditions and tech-
24 nology;

25 (4) "taxable property" means any lease or property having
26 proven reserves.

27 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).
29

#