

Original sponsor: Rules Committee by
request of the Governor

Offered: 4/14/78
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 854

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH 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 development."

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 AS 38.05.180 is repealed and re-enacted to read: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 legislature finds
11 that

12 (1) the people of Alaska have an interest in the development
13 of the state's oil and gas resources to

14 (A) maximize the economic recovery of the resources;

15 (B) maximize competition among parties seeking to ex-
16 plore and develop the resources;

17 (C) maximize use of Alaska's human resources in the
18 development of the resources;

19 (2) it is in the best interests of the state to encourage an
20 assessment of its oil and gas resources and to allow the maximum flexi-
21 bility in the methods of issuing leases to

22 (A) recognize the many varied geographical regions of
23 the state and the different costs of exploring for oil and gas in
24 these regions;

25 (B) minimize the adverse impact of exploration, develop-
26 ment, production, and transportation activity.

27 (b) The commissioner shall annually prepare and submit to the
28 legislature, between the first and the 15th day of each regular legis-
29 lative session, a proposed oil and gas leasing program specifying as

1 precisely as practicable the location of tracts proposed to be offered
2 for oil and gas leasing during the third and fourth calendar years
3 following the calendar year in which the proposed program is submitted
4 to the legislature. Within 60 days after receiving the proposed oil and
5 gas leasing program the legislature may by concurrent resolution dis-
6 approve all or any part of the proposed leasing program.

7 (c) Except as provided in (d) of this section, no oil and gas
8 lease issued by the commissioner shall be valid unless it was included
9 in a proposed leasing program submitted to the legislature during the
10 third and fourth calendar years preceding the year in which the lease is
11 issued and was in a part of the program not disapproved by the legis-
12 lature, except that an area proposed for leasing in the fourth calendar
13 year after the year in which the program is submitted to the legislature
14 may be leased if the commissioner repropose the area to the following
15 regular legislative session, and the area is not subsequently disap-
16 proved in accordance with (b) of this section.

17 (d) The commissioner may issue oil and gas leases in an area that
18 has not been included in a leasing program submitted, in accordance with
19 (b) of this section, to the legislature if

20 (1) the land to be leased was previously subject to a valid
21 state or federal oil and gas lease;

22 (2) the land to be leased is contiguous to land already under
23 state, federal or private lease, is no more than 5,760 acres in area,
24 and the commissioner finds, after hearing, that leasing of the land
25 would result in a substantial probability of exploratory drilling acti-
26 vity on or adjacent to the land to be leased; or

27 (3) the land to be leased is adjacent to land owned or con-
28 trolled by another party on which a discovery of commercial quantities
29 of oil or gas has been made, and where the commissioner finds, after

1 hearing, that there is a reasonable probability that the land to be
2 leased contains oil or gas in communication with the oil or gas dis-
3 covered on the land of the other party.

4 (e) Simultaneously with submission of the leasing program required
5 under (b) of this section, the commissioner shall submit to the legis-
6 lature a report containing the following:

7 (1) the schedule of all lease sales held during the preceding
8 calendar year, the bidding method or methods utilized, and an analysis
9 of the results of the bidding;

10 (2) a description of all lease sales to be held during the
11 current and next two succeeding calendar years and, if determined, the
12 bidding methods to be used;

13 (3) the reasons a particular bidding method has been
14 selected.

15 (f) The commissioner may issue oil and gas leases on state land to
16 the highest responsible qualified bidder determined by competitive
17 bidding under regulations adopted by the commissioner. Bidding may be
18 by sealed bid or according to any other bidding procedure the commis-
19 sioner determines is in the best interests of the state. Whenever,
20 under any of the leasing methods listed in this subsection, a royalty
21 share is reserved to the state, it is free of all lease or unit expen-
22 ses, including but not limited to separation, cleaning, dehydration,
23 gathering, salt water disposal, and preparation for transportation off
24 the lease or unit area. Following a pre-sale analysis, the commissioner
25 may choose at least one of the following leasing methods:

26 (1) a cash bonus bid with a fixed royalty share reserved to
27 the state of not less than 12 1/2 per cent in amount or value of the
28 production removed or sold from the lease;

29 (2) a cash bonus bid with a fixed royalty share reserved to

1 the state based on a sliding scale according to volume of production but
2 in no event less than 12 1/2 per cent in amount or value of the produc-
3 tion removed or sold from the lease;

4 (3) a cash bonus bid with a fixed royalty share reserved to
5 the state of not less than 12 1/2 per cent in amount or value of the
6 production removed or sold from the lease and a fixed share of the net
7 profit derived from the lease of not less than 30 per cent reserved to
8 the state;

9 (4) a fixed cash bonus with a royalty share reserved to the
10 state based on a sliding scale according to the volume of production as
11 the bid variable but not less than 12 1/2 per cent in amount or value of
12 the production removed or sold from the lease;

13 (5) a fixed cash bonus with a royalty share reserved to the
14 state as the bid variable but not less than 12 1/2 per cent in amount or
15 value of the production removed or sold from the lease;

16 (6) a fixed cash bonus with the share of the net profit
17 derived from the lease reserved to the state as the bid variable;

18 (7) a fixed cash bonus with a fixed royalty share reserved to
19 the state of not less than 12 1/2 per cent in amount or value of the
20 production removed or sold from the lease with the share of the net
21 profit derived from the lease reserved to the state as the bid variable.

22 (g) The share of the net profit derived from a lease reserved to
23 the state under (f) of this section is royalty sale proceeds for the
24 purpose of the Alaska permanent fund under AS 37.10.065;

25 (h) The commissioner may provide for the establishment of an
26 exploration incentive credit system under which a lessee of state land
27 drilling an exploratory well on that land may earn credits based upon
28 the footage drilled and the region in which the well is situated. The
29 commissioner may also provide for credits to be earned by persons per-

1 forming geophysical work on state land, if that work is performed during
2 the two seasons immediately preceding an announced lease sale and on
3 land included within the sale area and the geophysical information is
4 made public following the sale. Credits may not exceed 50 per cent of
5 the cost of the drilling or geophysical work. Credits may be used
6 during a limited period established by the commissioner and may be
7 assigned during that period. Credits may be applied against (1) cash
8 bonuses payable to the state for oil and gas leases, (2) oil and gas
9 royalty and rental payments payable to the state, or (3) taxes payable
10 under AS 43.55. No credit may exceed 50 per cent of the payment toward
11 which it is being applied. No credit may be applied against payments
12 under (1) of this subsection unless the legislature has appropriated an
13 amount sufficient to reimburse the Alaska permanent fund (AS 37.10.065)
14 and the Alaska renewable resources development fund (AS 37.11.020) for
15 revenue lost as a result of the credits applied to the sources of these
16 funds. Amounts due the funds shall be calculated before the application
17 of credits under this subsection.

18 (i) To prolong the economic life of an oil and gas field, the
19 commissioner shall adopt regulations for all bidding methods to allow
20 reduction of royalty on leases within the field to compensate for in-
21 creasing costs in the later stages of production decline. The commis-
22 sioner may not grant a reduction of royalty until two years' initial
23 production from the field has occurred and each lessee requesting the
24 reduction has made a clear showing that the revenue from all hydro-
25 carbons produced from the field is insufficient to produce a reasonable
26 rate of return with respect to that lessee's total investment in the
27 field.

28 (j) The commissioner may, in his discretion, defer any part of the
29 payment of a cash bonus, under (f) of this section, according to a

1 schedule announced at the time of the announcement of the lease sale,
2 but the payment shall be made in total no later than five years from the
3 date of the lease sale.

4 (k) The commissioner shall define all terms and adopt all regula-
5 tions necessary for a reasonable understanding and evaluation of a
6 particular bidding method before the public announcement of the terms of
7 proposed sale employing that method.

8 (l) At his discretion, the commissioner may enter into an agree-
9 ment whereby, with the consent of the lessee, the state's royalty share
10 of oil and gas production may be stored or retained in storage by the
11 lessee, or the commissioner may enter into an agreement with one or more
12 of the affected field lease holders to trade current royalty production
13 from a field for a like amount, kind, and quality of future production,
14 on the condition that the state receives back its stored or traded
15 royalty share during the first half of the estimated field life or no
16 later than 15 years after start of production, whichever is sooner.

17 (m) An oil and gas lease must cover a reasonably compact area not
18 exceeding 5,760 acres, and must be for a period of five years. The
19 commissioner may grant a lease for a term greater than five years but
20 not to exceed 10 years when he finds that the longer period is necessary
21 to encourage exploration and development in areas where environmental
22 conditions severely restrict operations. An oil and gas lease shall be
23 automatically extended if and for so long thereafter as oil or gas is
24 produced in paying quantities from the lease or, if the lease is com-
25 mitted to a unit approved by the commissioner. A lease issued under
26 this section covering land on which there is a well capable of producing
27 oil or gas in paying quantities does not expire because the lessee fails
28 to produce oil or gas unless the lessee is allowed reasonable time to
29 place the well on a producing status. Upon extension, the commissioner

1 may increase lease rentals so long as the increased rental rate does not
2 exceed 150 per cent of the rate for the preceding year. If drilling has
3 commenced on the expiration date of the primary term of the lease and is
4 continued with reasonable diligence, including such operations as re-
5 drilling, sidetracking, or other means necessary to reach the originally
6 proposed bottom hole location, the lease continues in effect until 90
7 days after drilling has ceased and for so long thereafter as oil or gas
8 is produced in paying quantities. An oil and gas lease issued under
9 this section which is subject to termination by reason of cessation of
10 production does not terminate if, within 60 days after production
11 ceases, reworking or drilling operations are commenced on the land under
12 lease and are thereafter conducted with reasonable diligence during the
13 period of nonproduction.

14 (n) The commissioner may establish by regulation that after a well
15 has been plugged and abandoned, the rental rate which was in effect
16 during the year of abandonment is maintained for the remainder of the
17 term. Rental is payable in advance and continues until income to the
18 state from royalty or net profit share exceeds rental income to the
19 state for that year; after the rental income schedule has been exceeded
20 for three consecutive years, the rental terminates. Oil and gas leases
21 shall provide for payment to the state of rental on the following basis:

- 22 (1) for the first year, \$1.00 per acre;
- 23 (2) for the second year, \$1.50 per acre;
- 24 (3) for the third year, \$2.00 per acre;
- 25 (4) for the fourth year, \$2.50 per acre;
- 26 (5) for the fifth year, \$3.00 per acre.

27 (o) Upon timely application as provided by regulation, the state
28 may issue to the holder of a federal or private lease, a state shore-
29 lands lease covering land within the exterior boundaries of the federal

1 or private lease which has been excluded on the basis of navigability or
2 which is later administratively or judicially determined to be shore-
3 land. The term of such a state shoreland lease shall be the same as the
4 term of the federal or private lease.

5 (p) To conserve the natural resources of all or a part of an oil
6 or gas pool, field, or like area, whether or not the part is then sub-
7 ject to a cooperative or unit plan of development or operation, lessees
8 and their representatives may unite with each other, or jointly or
9 separately with others, in collectively adopting or operating under a
10 cooperative or a unit plan of development or operation of the pool,
11 field, or like area, or a part of it, when determined and certified by
12 the commissioner to be necessary or advisable in the public interest.
13 The commissioner may, with the consent of the holders of leases in-
14 volved, establish, change, or revoke drilling, producing, net profit
15 share, and royalty requirements of the leases and adopt regulations with
16 reference to the leases, with like consent on the part of the lessees,
17 in connection with the institution and operation of a cooperative or
18 unit plan as he determines necessary or proper to secure the proper
19 protection of the public interest. The commissioner may require oil and
20 gas leases issued under this section to contain a provision requiring
21 the lessee to operate under a reasonable cooperative or unit plan, and
22 he may prescribe a plan under which the lessee must operate. The plan
23 must adequately protect all parties in interest, including the state.

24 (q) A plan authorized by (p) of this section, which includes land
25 owned by the state, may contain a provision vesting the commissioner, or
26 a person, committee, or state agency with authority to modify from time
27 to time the rate of prospecting and development and the quantity and
28 rate of production under the plan. All leases operated under a plan
29 approved or prescribed by the commissioner are excepted in determining

1 holdings or control under sec. 140 of this chapter. The provisions of
2 this section concerning cooperative or unit plans are in addition to,
3 and do not affect AS 31.05.

4 (r) Producing acreage on a known geologic structure of a producing
5 oil or gas field is excluded from chargeability as against the acreage
6 limitation provisions of sec. 140 of this chapter.

7 (s) When separate tracts cannot be individually developed and
8 operated in conformity with an established well-spacing or development
9 program, a lease, or a portion of a lease, may be pooled with other
10 land, whether or not owned by the state, under a communitization or
11 drilling agreement providing for an apportionment of production or
12 royalties among the separate tracts of land comprising the drilling or
13 spacing unit when determined by the commissioner to be in the public
14 interest. Operations or production under the agreement are considered
15 as operations or production as to each lease committed to the agreement.

16 (t) The commissioner may, on conditions which he prescribes,
17 approve drilling, or development contracts made by one or more lessees
18 of oil or gas leases, with one or more persons, when, in his discretion,
19 the conservation of natural resources or the public convenience or
20 necessity requires it or the interests of the state are best served.
21 All leases operated under approved drilling or development contracts,
22 and interests under them, are excepted in determining holding or control
23 under sec. 140 of this chapter.

24 (u) To avoid waste or to promote conservation of natural re-
25 sources, the commissioner may authorize the subsurface storage of oil or
26 gas whether or not produced from state land, in land leased or subject
27 to lease under this section. This authorization may provide for the
28 payment of a storage fee or rental on the stored oil or gas, or, instead
29 of the fee or rental, for a royalty other than that prescribed in the

1 lease when the stored oil or gas is produced in conjunction with oil or
2 gas not previously produced. A lease on which storage is so authorized
3 shall be extended at least for the period of storage and so long there-
4 after as oil or gas not previously produced is produced in paying quan-
5 titles.

6 (v) Each oil or gas lease issued by the state must contain a
7 provision requiring the lessee to furnish the Department of Labor a
8 quarterly report regarding the employment of state residents on the
9 leased property. The commissioner of labor shall adopt regulations
10 necessary to implement this subsection. No lease issued under this
11 chapter is valid unless it contains provisions requiring the employment
12 of qualified Alaska residents in accordance with AS 38.40.030, and
13 complies in all respects with the requirements of ch. 40 of this title.

14 (w) Notwithstanding any other provision of this section, land
15 which has been offered for lease within the previous five years and
16 which received no bids at competitive sale may be, at the discretion of
17 the commissioner, immediately offered for lease, under regulations
18 adopted by him, upon terms appearing most advantageous to the state,
19 including leasing noncompetitively. The commissioner shall use a
20 sliding scale royalty based upon such formulae as he determines to be in
21 the public interest but not less than 12 1/2 per cent at the beginning
22 of production from the lease in amount or value of the production re-
23 moved or sold from the lease. A lease must provide for payment to the
24 state of rental but need not adhere to the rental schedule in (n) of
25 this section nor to the 5,760-acres-per-lease limitation in (m) of this
26 section. The lease term may not exceed five years except as provided in
27 (m) and (o) of this section.

28 (x) In accordance with regulations adopted in advance, the commis-
29 sioner, with respect to any individual oil and gas lease sale, may, for

1 the purpose of promoting competition, restrict joint bidding among major
2 oil and gas companies.

3 (y) Each oil and gas lease shall give to the state the right to
4 purchase for in-state use up to 16 2/3 per cent of the volume of oil and
5 up to 49 per cent of the volume of gas produced from a lease issued in
6 accordance with this section, at the regulated price, or, if no regu-
7 lated price applies, at the fair market value at the point of sale,
8 except that any oil or gas obtained by the state as royalty or net
9 profits shall be credited against the amount that may be purchased under
10 this subsection. The commissioner may waive all or any part of this
11 right at the time of the announcement of a sale if he believes it to be
12 in the public interest. The disposal of oil and gas purchased under
13 this subsection shall be subject to the provisions governing the dis-
14 posal of royalty set out in sec. 183 of this chapter.

15 (z) A lessee or permittee conducting any exploration for, or
16 development or production of, oil or gas on state land shall provide the
17 commissioner access to all noninterpretive data obtained from that
18 activity and shall provide copies of that data, as the commissioner may
19 request. The confidentiality provisions of sec. 35 of this chapter
20 shall apply to the information obtained under this subsection.

21 (aa) A noncompetitive lease existing at the effective date of this
22 Act shall be extended for a period of two years and so long thereafter
23 as oil and gas is produced in paying quantities. A noncompetitive lease
24 extended under this subsection is subject to the regulations in force at
25 the expiration of the initial five-year term of the lease. No extension
26 may be granted, however, unless within a period of 90 days before the
27 expiration date an application for extension is filed by the record
28 title holder or an assignee whose assignment has been filed for ap-
29 proval, or an operator whose operating agreement has been filed for

1 approval.

2 * Sec. 2. AS 38.05.135(b) is repealed and re-enacted to read:

3 (b) When minerals are to be leased, in addition to any other
4 notice given, notice must also be given as provided in secs. 305 and 345
5 of this chapter.

6 * Sec. 3. AS 38.05.140(c) is amended to read:

7 (c) No person may take or hold at one time phosphate leases on
8 state lands exceeding in the aggregate 10,240 acres. No person may take
9 or hold sodium leases or permits during the life of sodium leases on
10 state lands, exceeding in the aggregate acreage 5,120 acres, except that
11 the commissioner may, where it is necessary in order to secure the
12 economic mining of sodium compounds, permit a person to take or hold
13 sodium leases or permits for up to 15,360 acres. No person may take or
14 hold at any one time oil or gas leases exceeding in the aggregate
15 500,000 acres granted on tide and submerged lands, and 200,000 [500,000]
16 acres on all land [LANDS] other than tide and submerged land [LANDS],
17 including leases held both as lessee and under option or operating
18 agreement from others. A person has 10 years from the effective date of
19 this Act to conform to the 200,000-acre upland limitation. Where more
20 than a single person holds an interest in an oil or gas lease, each
21 person shall be charged only with that percentage of the total acreage
22 which corresponds to its percentage share of the total beneficial in-
23 terest in the lease.

24 * Sec. 4. AS 38.05.145(b) is repealed.

25 * Sec. 5. AS 38.05.335(c) is amended to read:

26 (c) The commissioner shall require each bidder for the competitive
27 leasing of oil and gas lands to submit with his bid a deposit of money
28 equal to 20 per cent of the bonus [AMOUNT BID].

29 * Sec. 6. TRANSITIONAL PROVISIONS. By the 15th day of the First Session

1 of the Eleventh Legislature the commissioner of natural resources shall
2 submit a proposed oil and gas leasing program to the legislature in accor-
3 dance with AS 38.05.180(b), except that the proposed program shall cover all
4 areas to be leased in 1979 through 1983. No lease, except as authorized
5 under AS 38.05.180(d), shall be issued during 1979, 1980, or 1981 unless the
6 land to be leased was included in this proposed leasing program, and was not
7 disapproved by the legislature by concurrent resolution within 60 days of the
8 date it received the proposed program.

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