Original sponsor: Rules Committee by request of the Governor

Offered: 5/4/78
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 854 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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 AS 38.05.180 is repealed and re-enacted to read:

Sec. 38.05.180. OIL AND GAS LEASING. (a) The legislature finds that

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

(A) maximize the economic recovery of the resources;

(B) maximize competition among parties seeking to explore and develop the resources;

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

(2) it is in the best interests of the state to encourage an assessment of its oil and gas resources and to allow the maximum flexibility in the methods of issuing leases to

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

(B) minimize the adverse impact of exploration, development, production, and transportation activity.

(b) The commissioner shall annually prepare and submit to the legislature, between the first and the 15th day of each regular legislative session, a proposed oil and gas leasing program specifying as precisely as practicable the location of tracts proposed to be offered for oil and gas leasing during the third and fourth calendar years following the calendar year in which the proposed program is submitted to the legislature. Within 60 days after receiving the proposed oil and gas leasing program the legislature may by concurrent resolution disapprove all or any part of the proposed leasing program.

(c) Except as provided in (d) of this section, no oil and gas lease issued by the commissioner shall be valid unless it was included in a proposed leasing program submitted to the legislature during the third and fourth calendar years preceding the year in which the lease is issued and was in a part of the program not disapproved by the legislature, except that an area proposed for leasing in the fourth calendar year after the year in which the program is submitted to the legislature may be leased if the commissioner reproposes the area to the following regular legislative session, and the area is not subsequently disapproved in accordance with (b) of this section.

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

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

(2) the land to be leased is contiguous to land already under state, federal or private lease and the commissioner makes a written finding, after hearing, that leasing of the land would result in a substantial probability of early evaluation and development of the land to be leased; or

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

hearing, that there is a reasonable probability that the land to be leased contains oil or gas in communication with the oil or gas discovered on the land of the other party.

(e) Simultaneously with submission of the leasing program required under (b) of this section, the commissioner shall submit to the legislature a report containing the following:

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

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

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

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

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

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

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

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

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

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

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

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

(g) The share of the net profit derived from a lease reserved to the state under (f) of this section is royalty sale proceeds for the purposes of the Alaska permanent fund under AS 37.10.065 and the Alaska renewable resources development fund under AS 37.11.020.

(h) The commissioner may include terms in any oil and gas lease imposing a minimum work commitment on the lessee. These terms shall be made public before the sale, and may include appropriate penalty provisions to take effect in the event the lessee does not fulfill the minimum work commitment.

(i) The commissioner may provide for the establishment of an exploration incentive credit system under which a lessee of state land drilling an exploratory well on that land may earn credits based upon the footage drilled and the region in which the well is situated. The commissioner may also provide for credits to be earned by persons performing geophysical work on state land, if that work is performed during the two seasons immediately preceding an announced lease sale and on land included within the sale area and the geophysical information is made public following the sale. Credits may not exceed 50 per cent of the cost of the drilling or geophysical work. Credits may be used during a limited period established by the commissioner and may be assigned during that period. Credits may be applied against (1) oil and gas royalty and rental payments payable to the state or (2) taxes payable under AS 43.55. No credit may exceed 50 per cent of the payment toward which it is being applied. Amounts due the Alaska permanent fund (AS 37.10.065) and the Alaska renewable resources development fund (AS 37.11.020) shall be calculated before the application of credits under this subsection.

(j) To prolong the economic life of an oil and gas field, the commissioner shall adopt regulations for all bidding methods to allow reduction of royalty on leases within the field to compensate for increasing costs in the later stages of production decline. The commissioner may not grant a reduction of royalty until two years' initial production from the field has occurred and each lessee requesting the reduction has made a clear showing that the revenue from all hydrocarbons produced from the field is insufficient to produce a reasonable rate of return with respect to that lessee's total investment in the field.

(k) The commissioner may, in his discretion, defer any part of the payment of a cash bonus, under (f) of this section, according to a schedule announced at the time of the announcement of the lease sale, but the payment shall be made in total no later than five years from the date of the lease sale.

(l) The commissioner shall define all terms and adopt all regulations necessary for a reasonable understanding and evaluation of a particular bidding method before the public announcement of the terms of proposed sale employing that method.

(m) Subject to the provisions of AS 31.05, the commissioner may, at his discretion, enter into an agreement whereby, with the consent of the lessee, the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade current royalty production from a field for a like amount, kind, and quality of future production, on the condition that the state receives back its stored or traded royalty share during the first half of the estimated field life or no later than 15 years after start of production, whichever is sooner.

(n) An oil and gas lease must cover a reasonably compact area not exceeding 5,760 acres, and must be for a period of five years. The commissioner may grant a lease for a term greater than five years but not to exceed 10 years when he finds that the longer period is necessary to encourage exploration and development in areas where environmental conditions severely restrict operations. An oil and gas lease shall be automatically extended if and for so long thereafter as oil or gas is produced in paying quantities from the lease or, if the lease is committed to a unit approved by the commissioner. A lease issued under this section covering land on which there is a well capable of producing oil or gas in paying quantities does not expire because the lessee fails to produce oil or gas unless the lessee is allowed reasonable time to place the well on a producing status. Upon extension, the commissioner may increase lease rentals so long as the increased rental rate does not exceed 150 per cent of the rate for the preceding year. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as re-drilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease continues in effect until 90 days after drilling has ceased and for so long thereafter as oil or gas is produced in paying quantities. An oil and gas lease issued under this section which is subject to termination by reason of cessation of production does not terminate if, within 60 days after production ceases, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction.

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

(1) for the first year, $1.00 per acre;

(2) for the second year, $1.50 per acre;

(3) for the third year, $2.00 per acre;

(4) for the fourth year, $2.50 per acre;

(5) for the fifth year, $3.00 per acre.

(p) Upon timely application as provided by regulation, the state may issue to the older of a federal or private lease, a state shorelands lease covering land within the exterior boundaries of the federal or private lease which has been excluded on the basis of navigability or which is later administratively or judicially determined to be shoreland. The term of such a state shoreland lease shall be the same as the term of the federal or private lease.

(q) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, the lessees and their representatives may unite with each other, or jointly or separately with others, in collectively adopting or operating under a cooperative or a unit plan of development or operation of the pool, field, or like area, or a part of it, when determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, change, or revoke drilling, producing, and royalty requirements of the leases and adopt regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest; however, the commissioner may not reduce the state's royalty within any unit except as provided in (i) of this section. The commissioner may require oil and gas leases issued under this section to contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee must operate. The plan must adequately protect all parties in interest, including the state.

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

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

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

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

(v) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas whether or not produced from state land, in land leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced. A lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(w) Each oil or gas lease issued by the state must contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment of state residents on the leased property. The commissioner of labor shall adopt regulations necessary to implement this subsection.

(x) Notwithstanding any other provision of this section, land which has been offered for lease within the previous five years and which received no bids at competitive sale may be, at the discretion of the commissioner, immediately offered for lease, under regulations adopted by him, upon terms appearing most advantageous to the state; however, noncompetitive leasing is prohibited. The commissioner shall use a sliding scale royalty based upon such formulae as he determines to be in the public interest but not less than 12 1/2 per cent at the beginning of production from the lease in amount or value of the production removed or sold from the lease. A lease must provide for payment to the state of rental but need not adhere to the rental schedule in (o) of this section nor to the 5,760-acres-per-lease limitation in (n) of this section. The lease term may not exceed five years except as provided in (n) and (p) of this section.

(y) In accordance with regulations adopted in advance, the commissioner, with respect to any individual oil and gas lease sale, may, for the purpose of promoting competition, restrict joint bidding.

(z) An oil or gas lease may give to the state the right to purchase for in-state use a specified volume of oil or gas produced from a lease issued in accordance with this section. The disposal of oil and gas purchased under this subsection is subject to the provisions governing the disposal of royalty set out in sec. 183 of this chapter.

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

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

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

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

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

(c) No person may take or hold at one time phosphate leases on state lands exceeding in the aggregate 10,240 acres. No person may take or hold sodium leases or permits during the life of sodium leases on state lands, exceeding in the aggregate acreage 5,120 acres, except that the commissioner may, where it is necessary in order to secure the economic mining of sodium compounds, permit a person to take or hold sodium leases or permits for up to 15,360 acres. No person may take or hold at any one time oil or gas leases exceeding in the aggregate 500,000 acres granted on tide and submerged lands, and 300,000 [500,000] acres on all land [LANDS] other than tide and submerged land [LANDS], including leases held both as lessee and under option or operating agreement from others. A person has 10 years from the effective date of this Act to conform to the 300,000-acre upland limitation. Where more than a single person holds an interest in an oil or gas lease, each person shall be charged only with that percentage of the total acreage which corresponds to its percentage share of the total beneficial interest in the lease.

* Sec. 4. AS 38.05.335(c) is amended to read:

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

* Sec. 5. AS 38.05.145(b) is repealed.

* Sec. 6. TRANSITIONAL PROVISIONS. By the 15th day of the First Session of the Eleventh Legislature the commissioner of natural resources shall submit a proposed oil and gas leasing program to the legislature in accordance with AS 38.05.180(b), except that the proposed program shall cover all areas to be leased in 1979 through 1983. No lease, except as authorized under AS 38.05.180(d), shall be issued during 1979, 1980, or 1981 unless the land to be leased was included in this proposed leasing program, and was not disapproved by the legislature by concurrent resolution within 60 days of the date it received the proposed program.