

Introduced: 3/11/80  
Referred: Resources

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 955

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to coal exploration and leasing on  
7 state land."

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

9 \* Section 1. AS 38.05.150 is repealed and re-enacted to read:

10 Sec. 38.05.150. COAL. Rights to coal in state land may be ac-  
11 quired by

12 (1) prospecting permits under AS 38.05.151; or

13 (2) competitive leases under AS 38.05.152.

14 \* Sec. 2. AS 38.05 is amended by adding new sections to read:

15 Sec. 38.05.151. COAL PROSPECTING PERMITS. (a) If prospecting or  
16 exploration work is necessary to determine the existence or workability  
17 of coal deposits in an unleased or undeveloped area of state land, the  
18 commissioner may issue to an applicant a prospecting permit for a term  
19 of two years covering a tract of land not exceeding 5,120 acres. If  
20 within the term of the permit the permittee demonstrates to the commis-  
21 sioner that the tract of land contains a coal deposit and submits a  
22 satisfactory mining plan for recovery of the coal, the permittee is  
23 entitled to a lease under AS 38.05.153 for all or part of the tract of  
24 land covered by his permit.

25 (b) A prospecting permit may be extended by the commissioner for a  
26 period of two years if he finds that the permittee has been unable, with  
27 the exercise of reasonable diligence, to determine the existence or  
28 workability of coal deposits in the tract of land covered by the permit  
29 or for other reasons which, in the judgment of the commissioner, warrant

1 extension.

2 Sec. 38.05.152. LEASING OF COAL TRACTS. (a) State land which is  
3 classified by the department for coal development shall be offered by  
4 the commissioner for competitive coal leasing if

5 (1) the land is known to contain commercial deposits of coal;  
6 the determination of commercial quantity shall be based on estimates of  
7 the quantity and quality of coal derived from sample analysis and mea-  
8 surements, and from geologic projections;

9 (2) geological or geophysical surveys indicate the probable  
10 existence of commercial deposits of coal in the land;

11 (3) there is significant interest in competitive leasing of  
12 the land for coal exploration or development;

13 (4) the land is available because an existing coal lease  
14 expired, or was cancelled, surrendered, or otherwise terminated.

15 (b) State land may be offered for noncompetitive coal leasing if

16 (1) the land was offered for lease under (a) of this section  
17 and no bids were received; or

18 (2) the commissioner, after a public hearing, determines that  
19 noncompetitive bidding is in the best interests of the state.

20 (c) The commissioner may choose any appropriate coal leasing  
21 method for tracts to be leased by competitive bidding. The commissioner  
22 shall adopt regulations necessary for a reasonable understanding and  
23 evaluation of a particular bidding method before the announcement of the  
24 terms of the proposed lease sale employing a particular bidding method.

25 (d) Before the issuance of a coal lease, the commissioner shall  
26 complete a pre-lease analysis of the anticipated effects which mining on  
27 the proposed tract will have on nearby communities and the area sur-  
28 rounding the tract. The pre-lease analysis required by this subsection  
29 shall include an analysis of

- 1 (1) the geology of the tract to be leased;
- 2 (2) the social and environmental impacts of coal exploration,  
3 development, and production on the tract to be leased;
- 4 (3) economic factors affecting coal exploration, development,  
5 and exploration in the tract to be leased, including but not limited to,  
6 the revenue potential of the lease and administrative cost of the lease  
7 to the state.

8 (e) In conjunction with preparation of a pre-lease analysis under  
9 (d) of this section, a public hearing shall be held in the vicinity of  
10 the proposed lease.

11 Sec. 38.05.153. COAL LEASE TERMS AND CONDITIONS. (a) A coal  
12 lease under AS 38.05.152 and this section shall give the lessee the  
13 exclusive right to explore for, develop, mine, and process all coal  
14 found within the boundaries of the leased tract. In addition, the lease  
15 shall give the lessee the right to use as much of the surface of the  
16 leased tract as is reasonably necessary for coal exploration, develop-  
17 ment, mining, processing, and other uses incidental to the development  
18 of the coal deposit.

19 (b) Except as provided in this section, each coal lease shall be  
20 for a term of 20 years and may continue for so long thereafter as coal  
21 continues to be produced from the lease in commercial quantities. A  
22 coal lease which has not produced coal in commercial quantities by the  
23 end of 15 years shall be terminated unless continued by the commissioner  
24 under (d) of this section. Each coal lease shall provide for a prepaid  
25 annual rental of \$3 per acre or fraction of an acre for the first year,  
26 increasing by an amount per acre or fraction of an acre for each suc-  
27 ceeding year which the commissioner determines is commensurate with the  
28 percentage of change in the consumer price index between the year for  
29 which the rental payment is due and the preceding year, as computed for

1 Anchorage and reported by the Bureau of Labor Statistics of the United  
2 States Department of Labor. Each coal lease shall provide that the  
3 annual rental payment is subject to adjustment at intervals of no more  
4 than 10 years. Adjustment shall be based on current rates for similar  
5 properties for which coal leases have been granted. The rental payment  
6 for each year shall be credited against the royalty or net profit share  
7 due the state as it accrues for that year.

8 (c) A lease may not be entered into by the commissioner unless the  
9 royalty due to the state from the lease reserves to the state a royalty  
10 of not less than five percent in amount or value of the production of  
11 coal from the lease. Each coal lease shall provide that the royalty  
12 payment is subject to adjustment at intervals of no more than 10 years  
13 from the start of coal production under the lease, as determined by the  
14 commissioner.

15 (d) Each coal lease is subject to the condition of diligent de-  
16 velopment and continued operation of the coal mine except that the  
17 condition is suspended when operation of the mine is interrupted by  
18 strikes, climatic conditions, abnormal market conditions, or other  
19 circumstances not within the lessee's control. The commissioner may  
20 suspend the conditions of diligent development and continued operation  
21 if the lessee makes payments in place of production in an amount deter-  
22 mined by the commissioner and if the commissioner finds that the public  
23 interest will be served by suspension of the condition. Payments in  
24 place of production may be accepted for no longer than 10 years. After  
25 10 years commercial production must begin or the lease will be ter-  
26 minated.

27 (e) The commissioner

28 (1) may waive, suspend, or amend the operating requirements,  
29 royalties, net profit shares, or rentals contained in a coal lease or in

1 regulations adopted under this section which affect the operation of the  
2 coal lease if, in the interest of conservation and to encourage the  
3 greatest ultimate recovery of coal, he determines that the action is  
4 necessary to promote development and is in the best interests of the  
5 state, or when in his judgment the coal lease cannot be successfully  
6 developed under its terms; the payment of acreage rental or of minimum  
7 royalty prescribed by the lease may be suspended during the period of  
8 suspension of operations and production, and the term of the lease shall  
9 be extended by adding the period of suspension to the lease; and

10 (2) may not grant a reduction of royalty under this subsec-  
11 tion unless there have been two years of production from the coal lease  
12 and the lessee requesting the reduction has made a clear showing that  
13 the revenue from the coal produced from the lease is insufficient to  
14 produce a reasonable rate of return on his total investment in the  
15 lease.

16 (f) The commissioner may include in a coal lease terms imposing a  
17 minimum work commitment on the lessee. These terms may include penalty  
18 provisions to take effect if the lessee fails to comply with the work  
19 commitment requirements.

20 (g) For the purpose of achieving more economic operations or more  
21 efficient recovery of coal, lessees of adjoining coal leases may, with  
22 the approval of the commissioner, unite and adopt a cooperative or unit  
23 plan of development and operation of their coal leases.

24 (h) If required by the commissioner,

25 (1) a lessee shall submit a mining plan to the commissioner  
26 for his approval before beginning mining operations;

27 (2) a person holding a prospecting permit under AS 38.05.151  
28 shall submit a mining plan to the commissioner for his approval before  
29 seeking a coal lease.

1 (i) The commissioner may require that a mining plan submitted to  
2 him under (h) of this section be modified. A mining plan submitted  
3 under (h) of this section shall include, to the greatest extent prac-  
4 tical, the following information:

5 (1) the boundaries, quantity, and grade of the proven and  
6 probable coal reserves located on the coal lease, including the data and  
7 test results from which that information is derived;

8 (2) the planned location of excavations, surface facilities,  
9 roads, and other proposed uses of the coal lease and the land needed for  
10 access to the coal lease;

11 (3) a description of the equipment and facilities which the  
12 lessee plans to use to mine and transport coal and waste material from  
13 the coal lease;

14 (4) the anticipated schedule for each phase of mine develop-  
15 ment, construction, and production;

16 (5) the legal description of any tracts of land which the  
17 lessee may desire to lease for coal development purposes, and a de-  
18 scription of the uses planned for each tract;

19 (6) the manner in which the lessee plans to comply with  
20 federal, state, and local laws relating to reclamation of the tracts  
21 mined and environmental protection.

22 (j) All geological, geophysical, geochemical data, and other  
23 noninterpretive data relating to a tract under a coal prospecting permit  
24 or coal lease shall be furnished to the commissioner by a lessee. Data  
25 submitted under this subsection shall be kept confidential unless the  
26 lessee or permittee authorizes its release.

27 Sec. 38.05.154. ADMINISTRATIVE REQUIREMENTS WITH RESPECT TO COAL  
28 LEASES. (a) State land shall be leased for coal by the commissioner by  
29 tracts. A tract shall be of a size the commissioner finds appropriate

1 and in the public interest, and that will permit mining of all coal  
2 which can economically be extracted from the tract.

3 (b) The commissioner shall prepare and periodically update a  
4 series of detailed geological and geophysical maps of land to be offered  
5 for leasing under AS 38.05.152 - 38.05.153.

6 (c) A royalty from a coal lease may be taken in kind, rather than  
7 in value, if the commissioner determines that taking in kind would be in  
8 the best interest of the state.

9 (d) The share of the net profit reserved to the state under a coal  
10 lease which provides for a royalty based on a net profit share is a  
11 mineral lease royalty for the purposes of the Alaska permanent fund  
12 under AS 37.10.065 and the Alaska renewable resources development fund  
13 under AS 37.11.020.

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