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Referred: Rules

Original sponsors: Fahrenkamp, Faiks
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1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 371 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mining; and providing for an
7 effective date."

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

9 * Section 1. AS 38.05.150(c) is amended to read:

10 (c) Where prospecting or exploration work is necessary to deter-
11 mine the existence or workability of coal deposits in an unclaimed and
12 undeveloped area, the commissioner may issue to qualified applicants
13 prospecting permits for a term of three [TWO] years, covering not more
14 than [EXCEEDING] 5,120 acres with each permit. The commissioner shall
15 grant a two-year extension of the initial three-year term of the per-
16 mit if the permittee has conducted reasonably diligent prospecting or
17 exploration activities in the area covered by the permit, has not been
18 able to determine the existence and workability of coal deposits in
19 the area, and wishes to continue prospecting or exploring in the area.
20 The commissioner may grant up to three two-year extensions of the
21 initial three-year term of the permit. At any time during the period
22 of the permit, the permittee is entitled to a lease after submitting a
23 mining plan satisfactory to the commissioner for that portion of the
24 land in the permit as is shown to the satisfaction of the commissioner
25 to contain coal in commercial quantities or to be needed for mining,
26 reclamation, or processing the coal. [IF WITHIN THE PERIOD OF TWO
27 YEARS THE PERMITTEE SHOWS TO THE COMMISSIONER THAT THE LAND CONTAINS
28 COAL IN COMMERCIAL QUANTITIES AND SUBMITS A SATISFACTORY MINING PLAN
29 FOR THE COAL'S RECOVERY, THE PERMITTEE SHALL BE ENTITLED TO A LEASE

1 FOR ALL OR PART OF THE LAND IN HIS PERMIT. A COAL PROSPECTING PERMIT
2 MAY BE EXTENDED BY THE COMMISSIONER FOR A PERIOD OF TWO YEARS, IF HE
3 FINDS THAT THE PERMITTEE HAS BEEN UNABLE, WITH THE EXERCISE OF REASON-
4 ABLE DILIGENCE, TO DETERMINE THE EXISTENCE OR WORKABILITY OF COAL
5 DEPOSITS IN THE AREA COVERED BY THE PERMIT AND DESIRES TO PROSECUTE
6 FURTHER PROSPECTING OR EXPLORATION, OR FOR OTHER REASONS IN THE OPIN-
7 ION OF THE COMMISSIONER WARRANTING EXTENSION.]

8 * Sec. 2. AS 38.05.190(a) is amended to read:

9 (a) The right to acquire exploration and mining rights under
10 AS 38.05.185 - 38.05.280 may be acquired or held only by

11 (1) citizens of the United States at least 18 [19] years of
12 age;

13 (2) legal guardians or trustees of citizens of the United
14 States under 18 [19] years of age on behalf of the [SUCH] citizens;

15 (3) persons at least 18 [19] years of age who have declared
16 their intention to become citizens of the United States;

17 (4) aliens at least 18 [19] years of age if the laws of
18 their country grant like privileges to citizens of the United States;

19 (5) associations of [SUCH] persons described in (1) - (6)
20 of this subsection;

21 (6) corporations organized under the laws of the United
22 States or of any state or territory of the United States and qualified
23 to do business in this state, except that if more than 50 percent of
24 the stock of a corporation is owned or controlled by aliens who are
25 not qualified, the corporation is not qualified to acquire or hold the
26 [SUCH] rights.

27 * Sec. 3. AS 38.05.195 is amended to read:

28 Sec. 38.05.195. MINING CLAIMS. Rights to deposits of minerals
29 subject to AS 38.05.185 - 38.05.280 in or on state land that is [LANDS

1 WHICH ARE] open to claim staking may be acquired by discovery, loca-
2 tion and filing as prescribed in AS 38.05.185 - 38.05.280. The loca-
3 tor has the exclusive right of possession and extraction of the [ALL
4 SUCH] minerals subject to AS 38.05.185 - 38.05.280 lying within the
5 boundaries of the [HIS] claim. A location may not exceed 1,320 feet
6 in its longest dimension, and the [ITS] boundaries of a claim located
7 after the effective date of this section shall run in the four
8 cardinal directions unless the claim is a fractional claim or the
9 commissioner determines that staking in compliance with this section
10 is impractical because of local topography or because of the location
11 of other claims. A location shall be distinctly marked on the ground
12 in the manner prescribed by the commissioner and a notice of location
13 shall be posted on the claim in the manner and containing the informa-
14 tion required by the commissioner. Within 90 days after the date of
15 posting the notice of location on the claim, the locator shall file
16 for record in the recording district where the claim is located a
17 certificate of location. The certificate of location shall contain
18 the information required by the commissioner. Locations may be amend-
19 ed in the manner and with the effect prescribed in AS 38.05.200.
20 Annual labor shall be performed and statements of annual labor record-
21 ed as prescribed in AS 38.05.210 - 38.05.235.

22 * Sec. 4. AS 38.05.210 is amended by adding a new subsection to read:

23 (b) The statement of annual labor required in (a) of this sec-
24 tion may be amended within two years of the date by which the annual
25 labor statement was required to be filed. An amended statement shall
26 be filed for record in the same manner as the original statement.
27 Additional labor claimed in an amended statement may not be applied
28 against labor required to be done during a subsequent year.

29 * Sec. 5. AS 38.05.240 is amended to read:

1 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. In
2 AS 38.05.210 - 38.05.235, "labor" includes [THE TERM "LABOR" WHERE
3 USED IN SECS. 210 - 235 OF THIS CHAPTER INCLUDES, WITHOUT BEING LIMIT-
4 ED TO,] geological, geochemical, geophysical, and airborne surveys
5 conducted by qualified experts and verified by a detailed report filed
6 in the recording district office in which the claim is located which
7 sets out fully (1) the location of the work performed in relation to
8 the point of discovery and boundaries of the claim, (2) the nature,
9 extent, and cost of it [THEREOF], and (3) the name, address, and
10 professional background of the person [OR PERSONS] conducting the
11 work. [BASIC SURVEY FINDS SHALL BE FILED IN THE CENTRAL RECORDING
12 OFFICE OF THE DEPARTMENT OF NATURAL RESOURCES, BUT KEPT CONFIDENTIAL
13 AND RELEASED ONLY IF THE CLAIM OR PROSPECTING SITE LAPSES.] The
14 commissioner, by regulation, shall define the nature of acceptable
15 survey work and the qualifications of a person competent to perform
16 this work. The airborne surveys, however, may not be applied as labor
17 for more than two consecutive years or for more than a total of five
18 years on any one mining claim, and each of those surveys shall be
19 nonrepetitive of any previous survey on the same claim.

20 * Sec. 6. AS 38.05.245(a) is amended to read:

21 (a) Before the discovery of valuable minerals, an exclusive
22 right to prospect by geophysical, geochemical and similar methods may
23 be acquired by marking boundaries and posting a notice of location of
24 a prospecting site in a manner and containing the [SUCH] information
25 [AS] the commissioner requires. A prospecting site may not exceed
26 2,640 feet in its longest dimension and its boundaries shall run in
27 the four cardinal directions. A certificate of location shall be
28 filed for record in the recording district where the prospecting site
29 is located within 90 days after posting the notice of location [, AND

1 A COPY OF THE CERTIFICATE SHALL ALSO BE MAILED TO THE DIRECTOR WITHIN
2 THE 90 DAY PERIOD]. The locator of a prospecting site has the exclu-
3 sive right to stake mining claims or leasehold locations within the
4 boundaries of the [HIS] site.

5 * Sec. 7. AS 38.05.245(c) is amended to read:

6 (c) A [NO] person may not hold [LOCATE] more than eight [SIX]
7 prospecting sites in one township at one time [CALENDAR YEAR IN ONE
8 RECORDING DISTRICT]. A prospecting site remains in effect for one
9 year after the notice of location is posted and may, at the discretion
10 of the director, be extended for one year periods. During each year,
11 work of a type compatible with the purpose of this section and accept-
12 able to the director shall be done. The minimum expenditure for the
13 work shall be established by the commissioner uniformly for all pros-
14 pecting sites. Where adjacent prospecting sites are held in common
15 the expenditure may be made on any one or more locations. If a pros-
16 pecting site expires, neither the locator nor a [HIS] successor in
17 interest of the locator may again hold [LOCATE] the same prospecting
18 site or any portion of it, as a prospecting site, for a period of one
19 year [TWO YEARS] following the date of expiration or abandonment; nor
20 may the locator or a successor in interest of the locator [HE], during
21 the year [TWO YEARS], either directly or indirectly, obtain a benefi-
22 cial interest in the same prospecting site or a portion of it.

23 * Sec. 8. AS 38.05.250(a) is amended to read:

24 (a) The exclusive right to prospect for deposits of minerals
25 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
26 land [LANDS] may be granted by a permit issued by the director. Per-
27 mits shall be granted to the first qualified applicant. No permit may
28 include an area larger than 2,560 acres, subject to the rule of ap-
29 proximation. Land [LANDS] subject to a prospecting permit shall be as

1 compact in form as possible taking into consideration the area in-
2 volved. The term of the permit shall be 10 [SEVEN] years. Prospect-
3 ing permits shall be conditioned upon payment of rental against which
4 credit shall be given for useful expenditures on land covered by the
5 permit or group of contiguous permits under common ownership or
6 assignment. Excess expenditures may be applied against rentals due
7 for the following four [TWO] years. The rental shall be \$3 per acre
8 for the first two-year period of the permit, payable on the second
9 anniversary of the permit and \$3 per acre for each following year,
10 payable annually on the anniversary date of the permit [AT THE END OF
11 EACH YEAR]. No minerals from land [LANDS] under a prospecting permit
12 may be mined and marketed or used, except for limited amounts neces-
13 sary for sampling or testing. No person may take or hold prospecting
14 permits for minerals on state land under this section exceeding in the
15 aggregate 100,000 acres. No person may take or hold leases for miner-
16 als on state land under this section exceeding in the aggregate 46,080
17 acres.

18 * Sec. 9. AS 38.05.250(a) is amended to read:

19 (a) The exclusive right to prospect for deposits of minerals
20 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
21 land may be granted by a permit issued by the director. Permits shall
22 be granted to the first qualified applicant. No permit may include an
23 area larger than 2,560 acres, subject to the rule of approximation.
24 Lands subject to a prospecting permit shall be as compact in form as
25 possible taking into consideration the area involved. The term of the
26 permit shall be 10 years. Prospecting permits shall be conditioned
27 upon payment of rental against which credit shall be given for useful
28 expenditures on land covered by the permit or group of contiguous
29 permits under common ownership or assignment. Excess expenditures may

1 be applied against rentals due for the following four years. The
2 rental shall be \$3 per acre for the first two-year period of the
3 permit, payable on the second anniversary of the permit and \$3 per
4 acre for each following year, payable annually on the anniversary date
5 of the permit. No minerals from land under a prospecting permit may
6 be mined and marketed or used, except for limited amounts necessary
7 for sampling or testing. No person may take or hold prospecting
8 permits for minerals on state land under this section exceeding in the
9 aggregate 300,000 [100,000] acres. No person may take or hold leases
10 for minerals on state land under this section exceeding in the aggre-
11 gate 100,000 [46,080] acres.

12 * Sec. 10. AS 38.05.250(b) is amended to read:

13 (b) [UPON DISCOVERY, THE RIGHT TO POSSESS AND EXTRACT THE MINER-
14 ALS MAY BE ACQUIRED BY NONCOMPETITIVE LEASE.] A noncompetitive lease
15 shall be granted to a holder of a prospecting permit for so much of
16 the land subject to the permit as is shown to the satisfaction of the
17 director to contain workable mineral deposits. Submerged land [LANDS]
18 containing known deposits of minerals subject to AS 38.05.185 - 38.-
19 05.275 may, in the discretion of the director, be offered by com-
20 petitive bid. The land [THESE LANDS] shall be leased to the [RESPONS-
21 IBLE] qualified person offering the highest amount of cash bonus.

22 * Sec. 11. AS 38.05.250(c) is amended to read:

23 (c) Leases for submerged land [LANDS] shall be conditioned upon
24 payment of an annual rental of \$3 an acre. Expenditures on or for the
25 benefit of the leasehold may be credited against the rental. Rent
26 shall be paid or a statement of annual labor shall be filed within 90
27 days after each anniversary date of the lease. All submerged land
28 mining leases shall be for a period of up to 20 [10] years, and for so
29 long as there is production in paying quantities from the leased area.

1. The commissioner may make reasonable adjustments of the rental rate at
2 the end of each 10-year period, based upon changed conditions in
3 production costs and market.

4 * Sec. 12. AS 38.05.250 is amended by adding a new subsection to read:

5 (d) The commissioner may, on the request of the lessee, assent
6 to the suspension of operation and production under a lease whenever
7 in the judgment of the commissioner the suspension is necessary to
8 promote development of the lease or the lease cannot be successfully
9 operated under its terms. The payment of acreage rental may be sus-
10 pended during the period of suspension of operation and production.
11 The suspension of the lease shall extend the term of the lease by
12 adding the period of suspension to the lease. The commissioner may
13 extend the term of a nonproducing lease on an application by the
14 lessee accompanied by a showing that the lessee is reasonably close to
15 attaining production and that, despite diligent good faith efforts by
16 the lessee, the lessee is not able to produce due to force majeure,
17 depressed market conditions, or other situations beyond the reasonable
18 control of the lessee.

19 * Sec. 13. AS 38.05.265 is amended to read:

20 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
21 record a certificate of location or a statement of annual labor, or
22 (2) file with the director within the time prescribed a lease applica-
23 tion [OR A COPY OF A PROSPECTING SITE LOCATION CERTIFICATE], or (3)
24 pay rental or receive credit for rental, or (4) keep location bound-
25 aries clearly marked, all as required by AS 38.05.185 - 38.05.280 and
26 by regulations adopted under these sections, constitutes abandonment
27 of all rights acquired under the mining lease, location, or site in-
28 volved, and it is subject to relocation by others. If a location is
29 not relocated by another person within [WITH] one year after the

1 [SUCH] failure, [OR, IN THE CASE OF A PROSPECTING SITE, TWO YEARS,]
2 the locator or claimant of the abandoned location, or a [HIS] succes-
3 sor in interest, may return to relocate it as though it had never been
4 located. A statement of annual labor which does not accurately set
5 out the essential facts is void and of no effect.

6 * Sec. 14. AS 38.05.275 is amended to read:

7 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations
8 made on state land [LANDS], including shorelands, tidelands or sub-
9 merged land [LANDS,] or state selected land [LANDS], under AS 38.05.-
10 185 - 38.05.280 or in the manner described in AS 27.10 acquire for the
11 locator mining rights under AS 38.05.185 - 38.05.280, subject to
12 existing claims and to any denial of or restriction in the tentative
13 approval of state selection or [OF THE] patent of the land [LANDS] to
14 the state. If shorelands, tidelands or submerged land is [LANDS ARE]
15 included in a mining location or within the projected boundaries of a
16 mining location made in accordance with this section, the locator
17 shall [IS REQUIRED TO] file a certificate of location under [WITH THE
18 DIVISION OF LANDS WITHIN 90 DAYS FOLLOWING THE DATE OF POSTING THE
19 NOTICE OF LOCATION, IN ADDITION TO FILING A CERTIFICATE OF LOCATION AS
20 REQUIRED BY] AS 38.05.195. The certificate of location must identify
21 the position of the mining location in the system of rectangular or
22 protracted surveys. If the mining location is made in the manner
23 described in AS 27.10, the commissioner may require that the locator
24 amend the mining location to conform with AS 38.05.185 - 38.05.280 and
25 thereafter to comply with the requirements of AS 38.05.185 -
26 38.05.280.

27 * Sec. 15. AS 27.05.080 is amended to read:

28 Sec. 27.05.080. PUBLIC ASSAY OFFICES. The department shall, for
29 the purpose of aiding bona fide miners and prospectors and stimulating

1 mineral discoveries, establish a [AT LEAST ONE] public assay office
2 [IN EACH OF THE FOUR JUDICIAL DISTRICTS]. The department may adopt
3 regulations and establish procedures considered necessary and expedi-
4 ent to carry out this section and AS 27.05.090.

5 * Sec. 16. AS 27.05.180 - 27.05.210 and AS 27.15.010 are repealed.

6 * Sec. 17. Sections 3 and 9 of this Act take effect January 1, 1985.
7 Sections 6 and 14 of this Act take effect September 1, 1984. Sections 1 -
8 2, 4 - 5, 7 - 8, 10 - 13, and 15 - 16 of this Act take effect July 1, 1984.