

Offered: 4/27/90
Referred: Rules

6-0529M

Original sponsor(s): REP. BROWN, M.Davis, Gruenberg, Ellis

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 128 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to state oil and gas and geothermal
7 leasing practices and adjustments of state royalties
8 to encourage commercial production."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 38.05.035(e) is amended to read:
11 (e) Upon a written finding that the interests of the state will
12 be best served, the director may, with the consent of the commis-
13 sioner, approve contracts for the sale, lease, or other disposal of
14 available land, resources, property or interests in them, and, in
15 addition to the conditions and limitations imposed by law, may impose
16 additional conditions or limitations in the contracts as the director
17 determines, with the consent of the commissioner, will best serve the
18 interests of the state. A written finding for an oil and gas lease
19 sale under AS 38.05.180 is subject to (g) of this section. A contract
20 for the sale, lease, or other disposal of available land or an inter-
21 est in land is not legally binding on the state until the commissioner
22 approves the contract but if the appraised value is not greater than
23 \$50,000 in the case of the sale of land or an interest in land, or
24 \$5,000 in the case of the annual rental of land or interest in land,
25 the director may execute the contract without the approval of the
26 commissioner. Before a public hearing, if held, or in any case no
27 less than 21 days before the sale, lease, or other disposal of avail-
28 able land, property, resources, or interests in them, the director
29 shall make available to the public a written finding that sets out the

1 facts and applicable law upon which the determination that the sale,
2 lease, or other disposal will best serve the interests of the state
3 was based. A written finding is not required before the approval of

4 (1) a contract for a negotiated sale authorized under
5 AS 38.05.115;

6 (2) a lease of land for a shore fishery site under AS 38.-
7 05.082;

8 (3) a permit or other authorization revocable by the com-
9 missioner;

10 (4) a mineral claim located under AS 38.05.195;

11 (5) a mineral lease issued under AS 38.05.205; [OR]

12 (6) a production license issued under AS 38.05.207; [OR]

13 (7) an exempt oil and gas sale under AS 38.05.180(d) of
14 acreage offered in a sale that was held within the previous five years
15 if the sale was subject to [FOR WHICH] a written best interest find-
16 ing, [HAS BEEN ISSUED FOR THE AREA OF THE SALE WITHIN THE 36 MONTHS
17 BEFORE THE DATE OF THE SALE] unless the commissioner determines that
18 new information has become available that justifies a revision of the
19 best interest finding; or

20 (8) a lease sale under AS 38.05.180(w) of acreage offered
21 in a sale that was held within the previous five years if the sale was
22 subject to a best interest finding, unless the commissioner determines
23 that new information has become available that justifies a revision of
24 the best interest finding.

25 * Sec. 2. AS 38.05.035 is amended by adding a new subsection to read:

26 (g) When the director prepares a written finding required under
27 (e) of this section for an oil and gas lease sale scheduled under
28 AS 38.05.180, the director shall consider and discuss in the finding

29 (1) facts that are known to the director at the time of

1 preparation of the finding and that are material to the following
2 matters or to issues that were raised during the period allowed for
3 receipt of public comment:

4 (A) property descriptions and locations;

5 (B) the petroleum potential of the sale area, in
6 general terms;

7 (C) fish and wildlife species and their habitats in
8 the area;

9 (D) the current and projected uses in the area, in-
10 cluding uses and value of fish and wildlife;

11 (E) the governmental powers to regulate oil and gas
12 exploration, development, production, and transportation;

13 (F) the reasonably foreseeable cumulative effects of
14 oil and gas exploration, development, production, and transporta-
15 tion on the sale area, including effects on subsistence uses,
16 fish and wildlife habitat and populations and their uses, and
17 historic and cultural resources;

18 (G) lease stipulations and mitigation measures, in-
19 cluding any measures to prevent and mitigate releases of oil and
20 hazardous substances, to be included in the leases, and a dis-
21 cussion of the protections offered by these measures;

22 (H) the method or methods most likely to be used to
23 transport oil or gas from the lease sale area, and the advan-
24 tages, disadvantages, and relative risks of each;

25 (I) the reasonably foreseeable fiscal effects of the
26 lease sale and the subsequent activity on the state and affected
27 municipalities and communities, including the explicit and im-
28 plicit subsidies associated with the lease sale, if any;

29 (J) the reasonably foreseeable effects of oil and gas

1 exploration, development, production, and transportation on
2 municipalities and communities within or adjacent to the lease
3 sale area; and

4 (K) the bidding method or methods adopted by the
5 commissioner under AS 38.05.180;

6 (2) a summary of agency and public comments received and
7 the department's responses to those comments; and

8 (3) the basis for the director's determination that, on
9 balance, leasing the area would be in the state's best interest.

10 * Sec. 3. AS 38.05.180(j) is amended to read:

11 (j) To prolong the economic life of an oil and gas field or to
12 reestablish commercial production of shut-in oil or gas that would not
13 otherwise be economically feasible, the commissioner shall adopt
14 regulations [FOR ALL BIDDING METHODS] to allow reduction of royalty on
15 leases [WITHIN THE FIELD TO COMPENSATE FOR INCREASING COSTS IN THE
16 LATER STAGES OF PRODUCTION DECLINE]. The commissioner may not grant a
17 reduction of royalty unless the [UNTIL TWO YEARS' INITIAL PRODUCTION
18 FROM THE FIELD HAS OCCURRED AND EACH] lessee requesting the reduction
19 makes [HAS MADE] a clear showing that the revenue from the lessee's
20 share of all hydrocarbons produced from the field is and is likely to
21 continue to be insufficient to produce a reasonable rate of return
22 with respect to the [THAT] lessee's total investment in the field.
23 The commissioner may condition a royalty reduction granted under this
24 subsection in any way necessary to protect the state's interest,
25 including restoration of the state's royalty share in the event of an
26 increase in the price of oil or gas. Before approving a royalty
27 reduction, the commissioner shall make a written finding that the
28 state has obtained the maximum possible economic return that is com-
29 patible with allowing a reasonable rate of economic return for the

1 lessee, and send copies of the finding to all members of the legisla-
2 ture.

3 * Sec. 4. AS 38.05.180(w) is amended to read:

4 (w) Notwithstanding any other provisions of this section, land
5 which has been offered for lease within the previous five years and
6 which received no bids at competitive sale or for which no bid was
7 accepted may be, at the discretion of the commissioner, immediately
8 offered for lease, under regulations adopted by the commissioner, upon
9 terms appearing most advantageous to the state; however, noncompeti-
10 tive leasing is prohibited. The commissioner shall establish a royal-
11 ty determined to be in the public interest but not less than 12 1/2
12 percent. A lease must provide for payment to the state or rental but
13 need not adhere to the rental schedule in (n) of this section nor to
14 the 5,760-acres-per-lease limitation in (m) of this section. The
15 lease term may not exceed 10 [FIVE] years, except as provided in (m)
16 and (o) of this section.

17 * Sec. 5. AS 38.05.945(c) is amended to read:

18 (c) Notice [EXCEPT FOR OIL AND GAS LEASING UNDER AS 38.05.180
19 AND GEOTHERMAL LEASING UNDER AS 38.05.181, NOTICE] at least 30 days
20 before action under (a) of this section shall also be given to the
21 following:

22 (1) to a municipality if the land is within the boundaries
23 of the municipality, to a coordinating body established by community
24 councils in a municipality if the coordinating body or a community
25 council within the area served by a coordinating body requests notice
26 in writing; if there is no coordinating body within the municipality,
27 notice shall be provided to each community council established by the
28 charter or ordinance of the municipality if the land is located within
29 the boundaries of the municipality and if the community council

1 requests notice in writing;

2 (2) to a regional corporation if the boundaries of the
3 corporation as established by sec. 7(a) of the Alaska Native Claims
4 Settlement Act encompass the land and the land is outside a municipal-
5 ity;

6 (3) to a village corporation organized under sec. 8(a) of
7 the Alaska Native Claims Settlement Act if the land is within 25 miles
8 of the village for which the corporation was established and the land
9 is located outside a municipality;

10 (4) to the postmaster of a permanent settlement of more
11 than 25 persons located within 25 miles of the land if the land is
12 located outside a municipality, with a request that the notice be
13 posted in a conspicuous location;

14 (5) to a nonprofit community organization or a governing
15 body that has requested notification in writing and provided a map of
16 its boundaries, if the land is within the boundaries.