

Original sponsor(s): REP. COTTEN, Navarre, Davidson, Gruenberg, Boyer,
Sharp

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 541 (Resources)

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 certain agreements, compromises,
7 and settlements entered into by the Departments of
8 Natural Resources and Revenue; to legislative audit
9 of those departments and the release of a report of
10 the audits, that may include or refer to confidential
11 information, to the legislature and public; and to
12 collection and payments of royalties from state
13 resources, the interest rate on unpaid taxes and
14 royalties from state resources, and the interest rate
15 on overpaid taxes."

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

17 * Section 1. AS 05.15.095(c) is amended to read:

18 (c) Until June 30, 1991, a [A] delinquent fee bears interest at
19 the rate set by AS 43.05.225. After June 30, 1991, a delinquent fee
20 bears interest at the rate of 12 percent a year.

21 * Sec. 2. AS 24.20.271 is amended to read:

22 Sec. 24.20.271. POWERS AND DUTIES. The legislative audit divi-
23 sion shall

24 (1) conduct a performance post-audit of boards and com-
25 missions designated in AS 44.66.010 and of those programs and activ-
26 ities of agencies subject to termination as determined in the manner
27 set out in AS 44.66.020 and 44.66.030, and submit the audit, together
28 with a written report, not later than the first day of the regular
29 session of the legislature convening in each year set out with

1 reference to boards, commissions, or agency programs whose activities
2 are subject to termination as prescribed in AS 44.66;

3 (2) audit at least once every three years the books and
4 accounts of all custodians of public funds and all disbursing officers
5 of the state;

6 (3) at the direction of the Legislative Budget and Audit
7 Committee, conduct performance post-audits on any agency of state
8 government;

9 (4) cooperate with state agencies by offering advice and
10 assistance as requested in establishing or improving the accounting
11 systems used by state agencies;

12 (5) require the assistance and cooperation of all state
13 officials and other state employees in the inspection, examination,
14 and audit of state agency books and accounts;

15 (6) have access at all times to the books, accounts, re-
16 ports, or other records, whether confidential or not, of every state
17 agency;

18 (7) ascertain, as necessary for audit verification, the
19 amount of agency funds on deposit in any bank as shown on the books of
20 the bank; a [NO] bank may not be held liable for making information
21 required under this paragraph available to the legislative audit
22 division;

23 (8) complete studies and prepare reports, memoranda, or
24 other materials as directed by the Legislative Budget and Audit Com-
25 mittee;

26 (9) have direct access to any information related to the
27 management of the University of Alaska and have the same right of
28 access as exists with respect to every other state agency;

29 (10) periodically

1 (A) conduct a performance audit of the tax functions
2 of the Department of Revenue; and

3 (B) submit the audit to the legislature not later than
4 the first day of the next regular legislative session;

5 (11) annually

6 (A) conduct an audit of the resolution of disputed
7 royalties by the Department of Natural Resources and the resolu-
8 tion of disputed taxes by the Department of Revenue under AS 43.-
9 05.060 and 43.05.070; and

10 (B) prepare a report summarizing the results of the
11 audit and submit the audit and the report to the legislature not
12 later than the first day of the next regular legislative session;
13 the legislative auditor may disclose information made confiden-
14 tial by AS 43.05.230 to a committee of the legislature meeting in
15 executive session if the committee has adopted procedures to
16 protect the confidentiality of the information.

17 * Sec. 3. AS 34.45.470(a) is amended to read:

18 (a) Until June 30, 1991, a [A] person who fails to pay or
19 deliver property within the time prescribed by this chapter may be
20 required to pay to the department interest at the annual rate calcu-
21 lated under AS 43.05.225 on the property or the value of it from the
22 date the property should have been paid or delivered. After June 30,
23 1991, a person who fails to pay or deliver property within the time
24 prescribed by this chapter may be required to pay to the department
25 interest at the rate of 12 percent a year on the property or the value
26 of it from the date the property should have been paid or delivered.

27 * Sec. 4. AS 38.05.035 is amended by adding new subsections to read:

28 (g) If the department enters into negotiations to compromise or
29 settle a dispute between the department and a person as to a royalty

1 or net profit payment involving a claim that totals, with applicable
2 interest, \$10,000,000 or more, the commissioner shall, not later than
3 14 days after commencement of negotiations, advise the governor that
4 negotiations have commenced, and shall provide notice to the governor
5 at least once during each subsequent 30-day period that the nego-
6 tiations continue.

7 (h) If the department proposes to compromise or settle a dispute
8 between the department and a person as to a royalty or net profit
9 payment involving a claim that totals, with applicable interest,
10 \$10,000,000 or more, the commissioner may not enter into an agreement
11 to compromise or settle the dispute without first reviewing the
12 proposed compromise or settlement with the governor.

13 (i) The commissioner may not enter into a settlement or compro-
14 mise of a dispute between the department and a person as to a royalty
15 or net profit payment if the settlement or compromise provides that
16 information relevant to the settlement or compromise, or the terms of
17 the settlement or compromise, are confidential beyond the confiden-
18 tiality otherwise provided for by law.

19 (j) The commissioner shall maintain for review full documenta-
20 tion of a settlement or compromise of a dispute between the department
21 and a person as to a royalty or net profit payment.

22 * Sec. 5. AS 38.05.145 is amended by adding new subsections to read:

23 (c) Payment of the royalty to the state under the provisions of
24 AS 38.05.145 - 38.05.181 becomes due on the date and in the manner
25 specified in the lease or in a regulation adopted by the commissioner.

26 (d) If, after June 30, 1991, royalty to which the state is
27 entitled under AS 38.05.180 is not paid when it becomes due under (c)
28 of this section notwithstanding AS 09.30.070, the royalty bears in-
29 terest at the rate of five percentage points above the annual rate

1 charged member banks for advances by the 12th Federal Reserve Dis-
2 trict, as established on the first day of each calendar quarter,
3 compounded quarterly.

4 * Sec. 6. AS 43.05.060 is amended by adding new subsections to read:

5 (b) If the department enters into negotiations to resolve a tax
6 dispute between the department and a taxpayer involving a claim that
7 totals, with applicable penalty and interest, \$10,000,000 or more, the
8 commissioner shall, not later than 14 days after commencement of
9 negotiations, advise the governor that negotiations have commenced,
10 and shall provide notice to the governor at least once during each
11 subsequent 30-day period that the negotiations continue.

12 (c) If the department proposes to enter into an agreement under
13 (a) of this section to resolve a tax dispute between the department
14 and a taxpayer involving a claim that totals, with applicable penalty
15 and interest, \$10,000,000 or more, the commissioner may not enter into
16 the agreement without first reviewing the proposed agreement with the
17 governor.

18 (d) In making an agreement under (a) of this section, neither
19 the department nor the attorney general may agree that information
20 relevant to the agreement, or the terms of the agreement, are confi-
21 dential beyond the confidentiality otherwise provided for by law. The
22 department must maintain for review full documentation of the agree-
23 ment.

24 * Sec. 7. AS 43.05.070 is amended by adding new subsections to read:

25 (c) If the department enters into negotiations to compromise or
26 settle a tax dispute between the department and a taxpayer involving a
27 claim that totals, with applicable penalty and interest, \$10,000,000
28 or more, the commissioner shall, not later than 14 days after com-
29 mencement of negotiations, advise the governor that negotiations have

1 commenced, and shall provide notice to the governor at least once
2 during each subsequent 30-day period that the negotiations continue.

3 (d) If the department proposes to compromise or settle a tax
4 dispute between the department and a taxpayer involving a claim that
5 totals, with applicable penalty and interest, \$10,000,000 or more, the
6 commissioner may not enter into the agreement without first reviewing
7 the proposed compromise or settlement agreement with the governor.

8 (e) In compromising a tax or penalty under this section, neither
9 the department nor the attorney general may agree that information
10 relevant to the compromise, or the terms of the compromise, are confi-
11 dential beyond the confidentiality otherwise provided for by law. The
12 department must maintain for review full documentation of the compro-
13 mise.

14 * Sec. 8. AS 43.05.225 is amended to read:

15 Sec. 43.05.225. INTEREST ON TAXES. Unless otherwise provided,

16 (1) until June 30, 1991, when a tax levied in this title is
17 not paid on or before the date prescribed for its payment, [BECOMES
18 DELINQUENT] it bears interest at the rate of 12 percent a year;

19 (2) after June 30, 1991, when a tax levied in this title is
20 not paid on or before the date prescribed for its payment, it bears
21 interest at the rate of five percentage points above the annual rate
22 charged member banks for advances by the 12th Federal Reserve Dis-
23 trict, as established on the first day of each calendar quarter,
24 compounded quarterly.

25 * Sec. 9. AS 47.23.025 is amended to read:

26 Sec. 47.23.025. RATES OF INTEREST. Until June 30, 1991, the
27 [THE] rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal
28 the rate imposed under AS 43.05.225 or a lesser rate that is the
29 maximum rate of interest permitted to be imposed under federal law.

1 After June 30, 1991, the rate of interest imposed under AS 47.23.-
2 020(a)(2)(C) is 12 percent a year or a lesser rate that is the maximum
3 rate of interest permitted to be imposed under federal law.