

SENATE BILL NO. 150

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/5/93
Referred: O&G, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for oil and gas exploration licenses, and oil and gas leases,
2 in certain areas of the state; and providing for an effective date."

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

4 * Section 1. AS 38 is amended by adding new sections to read:

5 ARTICLE 5A. OIL AND GAS EXPLORATION LICENSES; LEASES.

6 Sec. 38.05.131. APPLICABILITY; DETERMINATION; REGULATIONS. (a)

7 Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the provisions of
8 AS 38.05.005 - 38.05.040; AS 38.05.180; AS 38.05.182 - 38.05.184; and AS 38.05.920
9 - 38.05.990 apply to the issuance of licenses and leases under AS 38.05.132 -
10 38.05.134.

11 (b) The commissioner shall make a preliminary written determination of the
12 state land that will be subject to the provisions of AS 38.05.132. The determination
13 shall be given public notice using the methods described in AS 38.05.945(b). After
14 completion of the comment period and evaluation of the comments received, the

1 commissioner shall issue a written determination of the state land that is subject to the
2 provisions of AS 38.05.132.

3 (c) The commissioner may adopt regulations necessary to implement
4 AS 38.05.131 - 38.05.134.

5 Sec. 38.05.132. OIL AND GAS EXPLORATION LICENSE. (a) To
6 encourage exploration for oil and gas on state land for which insufficient or
7 undocumented geologic and geophysical information exists concerning the oil and gas
8 potential of that land, or for state land that was subject to a competitive lease sale
9 under AS 38.05.180, but for which no lease has been issued, the commissioner may
10 issue an oil and gas exploration license to a prospective licensee.

11 (b) A license issued under this section gives the licensee

12 (1) the exclusive right to explore for deposits of oil and gas in unleased
13 state land described in the license, for a term not to exceed 10 years; and

14 (2) the option to convert the license for all or part of the state land into
15 an oil and gas lease upon fulfillment of the work commitments contained in the oil and
16 gas exploration license.

17 (c) A license awarded under this section

18 (1) is not subject to the acreage limitations imposed by AS 38.05.140(c)
19 or AS 38.05.180(m);

20 (2) may cover an area of not more than 500,000 acres, which must be
21 reasonably compact and contiguous;

22 (3) must be conditioned upon an obligation to perform a specified
23 minimum work commitment, expressed in dollars of exploration expenditures; "work
24 commitment" includes the drilling of one or more exploration wells or the gathering
25 of geophysical data, or both;

26 (4) is subject to revocation if the commissioner determines that the
27 licensee has failed to perform the minimum work commitment;

28 (5) must be conditioned upon the posting of a work commitment
29 performance bond or other security in favor of the state in an amount that is not less
30 than the amount of the work commitment; the bond or other security must be subject
31 to forfeiture to the state upon revocation of the license to the extent of the difference

1 between the dollar amount of the minimum work commitment specified in the license
2 and the dollar amount of the minimum work commitment that was fulfilled to the
3 satisfaction of the commissioner as of the date of the revocation of the license;

4 (6) must be conditioned upon payment to the commissioner of a non-
5 refundable oil and gas exploration license fee of \$1 for each acre of land that is subject
6 to the license; and

7 (7) must be conditioned upon an agreement that exploration
8 expenditures are subject to audit by the commissioner.

9 Sec. 38.05.133. LICENSE PROCEDURES. (a) The procedures in this section
10 apply to the issuance of a license under AS 38.05.132.

11 (b) The licensing process is initiated by the commissioner preparing, or a
12 prospective licensee submitting to the commissioner, a proposal that identifies a
13 specific area to be subject to the license, proposes specific minimum work
14 commitments, and states the minimum qualifications for a licensee as established by
15 regulations adopted by the commissioner. A prospective licensee may initiate a
16 proposal only in response to a call for proposals by the commissioner or during a
17 period specified in regulations adopted by the commissioner. The regulations shall
18 provide for at least one such period each calendar year.

19 (c) If the commissioner initiates the licensing process under (b) of this section,
20 the commissioner shall publish notice of the commissioner's proposal in order to solicit
21 comments and competing proposals.

22 (d) Within 30 days after receipt of a proposal from a prospective licensee
23 under (b) of this section, the commissioner shall either reject it in a written decision
24 or give public notice of the intent to evaluate the acceptability of the proposal. The
25 commissioner shall solicit comments on a proposal for which public notice is given
26 under this subsection, and shall request competing proposals.

27 (e) The commissioner may make a written request to a prospective licensee for
28 additional information on the prospective licensee's proposal. The commissioner shall
29 keep confidential information described in AS 38.05.035(a)(9) that is voluntarily
30 provided.

31 (f) After considering proposals not rejected under (d) of this section, and

1 public comment on those proposals, the commissioner shall issue a written finding
2 addressing all matters set out in AS 38.05.035(e) and (g), except for
3 AS 38.05.035(g)(1)(K). If the finding concludes that the state's best interests would
4 be served by issuing an oil and gas exploration license, the finding shall (1) describe
5 any limitations, stipulations, conditions, or changes from the initiating proposal or
6 competing proposals that are required to make the issuance of the license conform to
7 the best interests of the state, and (2) if only one proposal was submitted, the identity
8 of the prospective licensee whom the commissioner finds should be issued the license.
9 The commissioner shall attach to the finding the exploration license to be issued and
10 the form of lease that will be used if the license subsequently is converted to an oil
11 and gas lease under AS 38.05.134. The commissioner shall promptly provide a copy
12 of the finding and required attachments to all prospective licensees whose proposals
13 were considered before the commissioner's issuance of the finding.

14 (g) If only one prospective licensee submits a proposal and the finding under
15 (f) of this section concludes that a license should be issued to that prospective licensee,
16 that person has 30 days after issuance of the finding within which to accept or reject
17 the issuance of the license, as limited or conditioned by the terms contained in the
18 finding and the form of license and lease attached to that finding.

19 (h) If competing proposals are submitted, and the commissioner's finding
20 under (f) of this section concludes that an oil and gas exploration license should be
21 issued, the commissioner shall conduct an oral outcry auction, under procedures
22 adopted by the commissioner by regulation, to determine which prospective licensee
23 should be issued the license. The finding provided to the prospective licensees under
24 (f) of this section shall contain notice that (1) the commissioner intends to conduct an
25 oral outcry auction, (2) if a prospective licensee intends to participate in the auction,
26 that person must notify the commissioner in writing by the date specified in the notice,
27 and (3) a prospective licensee's notice of intent to participate in the auction constitutes
28 acceptance of issuance of the license, as limited or conditioned by the terms contained
29 in the finding and the form of license and lease attached to that finding, if the
30 prospective licensee is the successful bidder at the auction. The successful bidder at
31 the auction is the prospective licensee who submits the highest bid in terms of the

1 minimum work commitment dollar amount.

2 Sec. 38.05.134. **CONVERSION TO LEASE.** If the commissioner determines
3 that the minimum work commitment obligation set out in a license issued under
4 AS 38.05.132 has been met, the commissioner will convert, at the licensee's option,
5 all or part of the license area to one or more oil and gas leases. A lease issued under
6 this section

7 (1) may not exceed 30,000 acres;

8 (2) is not subject to the acreage limitations imposed by AS 38.05.140(c)
9 or AS 38.05.180(m);

10 (3) must be conditioned upon a royalty in amount or value of not less
11 than 12 1/2 percent of production;

12 (4) must include an annual rent of \$3 per acre or fraction of an acre
13 initially paid to the state at inception of the lease and payable annually after that until
14 the income to the state from royalty under that lease exceeds the rental income to the
15 state under that lease for that year; and

16 (5) is subject to other conditions and obligations that are specified in
17 the lease.

18 * Sec. 2. AS 38.05.135(a) is amended to read:

19 (a) Except as otherwise provided, valuable mineral deposits in land belonging
20 to the state shall be open to exploration, development, and the extraction of minerals.
21 All land, together with tide, submerged, or shoreland, to which the state holds title to
22 or to which the state may become entitled, may be obtained by permit or lease for the
23 purpose of exploration, development, and the extraction of minerals. Except as
24 specifically limited by AS 38.05.131 [AS 38.05.135] - 38.05.181, land may be
25 withheld from lease application on a first-come, first-served basis, and offered only on
26 a competitive bid basis when determined by the commissioner to be in the best
27 interests of the state. In unproven areas the commissioner may offer additional
28 incentives, including a reduction of royalty to a minimum of five percent in the case
29 of oil and gas, and other terms in and granting permit or lease for exploration and
30 development whenever it appears to be in the best interests of the state to do so.

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

1 (c) A person may not take or hold at one time phosphate leases on state land
2 exceeding in the aggregate 10,240 acres. A person may not take or hold sodium leases
3 or permits during the life of sodium leases on state land exceeding in the aggregate
4 acreage 5,120 acres, except that the commissioner may, where it is necessary in order
5 to secure the economic mining of sodium compounds, permit a person to take or hold
6 sodium leases or permits for up to 15,360 acres. Except as provided in
7 AS 38.05.131 - 38.05.134, a [A] person may not take or hold at any one time oil or
8 gas leases exceeding in the aggregate 500,000 acres granted on tide and submerged
9 land and 500,000 acres on all land other than tide and submerged land, including
10 leases held both as lessee and under option or operating agreement from others.
11 Where more than a single person holds an interest in an oil or gas lease, each person
12 shall be charged only with that percentage of the total acreage which corresponds to
13 its percentage share of the total beneficial interest in the lease.

14 * Sec. 4. AS 38.05.180(d) is amended to read:

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

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

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

24 (3) the land to be leased is adjacent to land owned or controlled by
25 another party on which a discovery of commercial quantities of oil or gas has been
26 made, and the commissioner finds, after hearing, that there is a reasonable probability
27 that the land to be leased contains oil or gas in communication with the oil or gas
28 discovered on the land of the other party; [OR]

29 (4) the land to be leased is adjacent to land included in the federal five-
30 year Outer Continental Shelf leasing program under 43 U.S.C. 1344, and the
31 commissioner makes a written finding, after hearing, that coordinated or simultaneous

1 leasing with the federal government is in the public interest; or
2 (5) the land to be leased is the subject of an oil and gas exploration
3 license issued under AS 38.05.131 - 38.05.134.

4 * Sec. 5. AS 38.05.180(m) is amended to read:

5 (m) An oil and gas lease must cover a reasonably compact area that may not
6 exceed [EXCEEDING] 5,760 acres unless entered into under AS 38.05.131 -
7 38.05.134. and may be for a maximum period of 10 years, except that the
8 commissioner may issue a lease for a period of not less than five years upon a finding
9 that it is in the best interests of the state. An oil and gas lease shall be automatically
10 extended if and for so long thereafter as oil or gas is produced in paying quantities
11 from the lease or if the lease is committed to a unit approved by the commissioner.
12 A lease issued under this section covering land on which there is a well capable of
13 producing oil or gas in paying quantities does not expire because the lessee fails to
14 produce oil or gas unless the lessee is allowed reasonable time to place the well on a
15 producing status. Upon extension, the commissioner may increase lease rentals so long
16 as the increased rental rate does not exceed 150 percent of the rate for the preceding
17 year. If drilling has commenced on the expiration date of the primary term of the
18 lease and is continued with reasonable diligence, including such operations as
19 redrilling, sidetracking, or other means necessary to reach the originally proposed
20 bottom hole location, the lease continues in effect until 90 days after drilling has
21 ceased and for so long thereafter as oil or gas is produced in paying quantities. An
22 oil and gas lease issued under this section that [WHICH] is subject to termination by
23 reason of cessation of production does not terminate if, within 60 days after production
24 ceases, reworking or drilling operations are commenced on the land under lease and
25 are thereafter conducted with reasonable diligence during the period of nonproduction.

26 * Sec. 6. AS 38.05.945(a) is amended to read:

27 (a) This section establishes the requirements for notice given by the department
28 for the following actions:

29 (1) classification or reclassification of state land under AS 38.05.300
30 and the closing of land to mineral leasing or entry under AS 38.05.185;

31 (2) zoning of land under applicable law;

1 (3) a decision under AS 38.05.132 - 38.05.134 or AS 38.05.035(e)
2 regarding the sale, lease, or disposal of an interest in state land or resources;

3 (4) a competitive disposal of an interest in state land or resources after
4 final decision under AS 38.05.035(e);

5 (5) a public hearing under AS 38.05.856(b);

6 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
7 concerning sites for aquatic farms and related hatcheries.

8 * Sec. 7. REGULATIONS. The commissioner of natural resources may proceed to adopt
9 regulations necessary to implement this Act. The regulations take effect under the
10 Administrative Procedure Act (AS 44.62), but not before the effective date of secs. 1 - 6 of
11 this Act.

12 * Sec. 8. Section 7 of this Act takes effect immediately under AS 01.10.070(c).