

**CS FOR SENATE BILL NO. 150(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

**Offered: 4/14/93
Referred: JUD, FIN**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to oil and gas exploration licenses and to oil and gas leases
2 in certain areas of the state, and to the proof of financial responsibility required
3 for operation of onshore facilities for the production of crude oil and associated
4 hydrocarbons and for exploration for oil and gas and related hydrocarbons; and
5 providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

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

9 **Sec. 38.05.131. APPLICABILITY; DETERMINATION; REGULATIONS. (a)**

10 **Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the provisions of**
11 **AS 38.05.005 - 38.05.040, 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 -**
12 **38.05.990 apply to the issuance of oil and gas exploration licenses and leases under**
13 **AS 38.05.132 - 38.05.134.**

- 1 (b) The provisions of AS 38.05.131 - 38.05.134 do not apply to land
2 (1) north of the Umiat baseline; and
3 (2) in the vicinity of Cook Inlet that is within the area bounded by
4 (A) the north boundary of Township 17 North, Seward
5 Meridian;
6 (B) the Seward Meridian;
7 (C) the south boundary of Township 7 South, Seward Meridian;
8 and
9 (D) the west boundary of Range 19 West, Seward Meridian.

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

16 (d) The commissioner may adopt regulations necessary to implement
17 AS 38.05.131 - 38.05.134.

18 Sec. 38.05.132. OIL AND GAS EXPLORATION LICENSE. (a) To
19 encourage exploration for oil and gas on state land, the commissioner may issue oil
20 and gas exploration licenses

21 (1) for unleased state land for which insufficient or undocumented
22 geological and geophysical information exists concerning the oil and gas potential of
23 that land; or

24 (2) for state land that was subject to a competitive lease sale under
25 AS 38.05.180 but for which an oil and gas lease has not been issued.

26 (b) An oil and gas exploration license issued under this section gives the
27 licensee

28 (1) the exclusive right to explore, for a term not to exceed 10 years, for
29 deposits of oil and gas on unleased state land described in the exploration license
30 unless the land is earlier relinquished, removed, or deleted under (d) of this section;
31 and

1 (2) the option to convert the exploration license for all or part of the
2 state land, except the land that is deleted or removed from the land described in the
3 exploration license under (d) of this section, into an oil and gas lease upon fulfillment
4 of the work commitments contained in the exploration license.

5 (c) An exploration license awarded under this section

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

8 (2) may cover an area of not more than 500,000 acres, that must be
9 reasonably compact and contiguous;

10 (3) must be conditioned upon an obligation to perform a specified work
11 commitment, expressed in dollars of direct exploration expenditures; for purposes of
12 this paragraph,

13 (A) "direct exploration expenditure" means cash expenses
14 undertaken in performance of a specified work commitment under the
15 provisions of AS 38.05.131 - 38.05.134 and necessarily incurred by the licensee
16 in the permitting, mobilization, conducting, demobilization, and evaluation of
17 geophysical and geological surveys, including seismic, magnetic, and gravity
18 surveys or the drilling, logging, coring, testing, and evaluation of oil and gas
19 wells; the term

20 (i) includes direct labor costs, including the cost of
21 benefits, for employees directly associated with the work commitment
22 programs, the cost of renting or leasing equipment from parties not
23 affiliated with the licensee, the reasonable costs of maintaining and
24 operating equipment, payments to consultants and independent
25 contractors not affiliated with the licensee, and costs of materials and
26 supplies;

27 (ii) does not include noncash expenses such as
28 depreciation and reserves, interest or other costs of borrowed funds,
29 return on investment, overhead, insurance or bond premiums, or any
30 other expense that is unreasonable or that the licensee has not incurred
31 to satisfy the licensee's work commitment;

1 (B) "work commitment" includes the drilling of one or more
2 exploration wells or the gathering of geophysical data, or both;
3 (4) must be conditioned upon an obligation to perform an annual work
4 commitment;
5 (5) is subject to an annual review and revocation if the commissioner
6 determines that the licensee has failed to
7 (A) perform the previous year's annual work commitment; or
8 (B) provide or maintain in effect the bond or other security
9 required by (6) of this subsection;
10 (6) must be conditioned upon the posting of a bond or other security
11 acceptable to the commissioner in favor of the state and subject to the following
12 requirements:
13 (A) the bond or other security must be renewed annually;
14 (B) the bond or other security must be in the amount of 10
15 percent of the licensee's annual work commitment;
16 (7) must be conditioned upon payment to the commissioner of a
17 nonrefundable oil and gas exploration license fee of not more than \$1 for each acre of
18 land that is subject to the exploration license; and
19 (8) must be conditioned upon an agreement that exploration
20 expenditures are subject to audit by the commissioner.
21 (d) The area within an exploration license awarded under this section may be
22 relinquished, removed, or deleted from the license. Relinquishment, removal, or
23 deletion of an area from the state land described in the exploration license terminates
24 the licensee's rights under AS 38.05.131 - 38.05.134 in the area that is relinquished,
25 removed, or deleted. A relinquishment, removal, or deletion of a portion of the area
26 described in the exploration license must be in areas that are reasonably compact and
27 contiguous. The areas relinquished from the state land described in the exploration
28 license shall be areas identified by the licensee but, if the licensee fails to identify
29 sufficient area, the commissioner may identify any additional acreage required to be
30 removed or deleted from the area under license to meet the requirements of this
31 subsection. Within the area described in the exploration license issued under (a) - (c)

1 of this section,

2 (1) 25 percent must be relinquished, removed, or deleted not later than
3 the fourth anniversary of the effective date of the issuance of the exploration license;

4 (2) an additional 10 percent of the remaining land must be removed or
5 deleted on each of the succeeding anniversaries of the effective date of the issuance
6 of the exploration license.

7 (e) If, immediately before the beginning of the period for annual renewal of
8 the bond or other security under (c)(5)(A) of this section, the licensee fails to provide
9 or maintain in effect the bond or other security required by (c) of this section for the
10 period covered by the annual renewal and the commissioner revokes the exploration
11 license, the bond or other security then in effect for the licensee's obligations under
12 the exploration license is forfeited to the state.

13 Sec. 38.05.133. LICENSE PROCEDURES. (a) The procedures in this section
14 apply to the issuance of an oil and gas exploration license under AS 38.05.132.

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

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

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

31 (e) The commissioner may make a written request to a prospective licensee for

1 additional information on the prospective licensee's proposal. The commissioner shall
2 keep confidential information described in AS 38.05.035(a)(9) that is voluntarily
3 provided.

4 (f) After considering proposals not rejected under (d) of this section and public
5 comment on those proposals, the commissioner shall issue a written finding addressing
6 all matters set out in AS 38.05.035(e) and (g), except for AS 38.05.035(g)(1)(K). If
7 the finding concludes that the state's best interests would be served by issuing an oil
8 and gas exploration license, the finding must (1) describe the limitations, stipulations,
9 conditions, or changes from the initiating proposal or competing proposals that are
10 required to make the issuance of the exploration license conform to the best interests
11 of the state, and (2) if only one proposal was submitted, identify the prospective
12 licensee whom the commissioner finds should be issued the exploration license. The
13 commissioner shall attach to the finding a copy of the exploration license to be issued
14 and the form of lease that will be used for any portion of the exploration license area
15 subsequently converted to an oil and gas lease under AS 38.05.134. The commissioner
16 shall promptly provide a copy of the finding and required attachments to all
17 prospective licensees whose proposals were considered before the commissioner's
18 issuance of the finding.

19 (g) If only one prospective licensee submits a proposal and the finding under
20 (f) of this section concludes that an exploration license should be issued to that
21 prospective licensee, the prospective licensee has 30 days after issuance of the finding
22 within which to accept or reject the issuance of the exploration license, as limited or
23 conditioned by the terms contained in the finding. The exploration license to be issued
24 and the form of lease that will be used must be attached to that finding. The
25 prospective licensee must accept or reject the issuance of the exploration license in
26 writing.

27 (h) If competing proposals are submitted, and the commissioner's finding
28 under (f) of this section concludes that an oil and gas exploration license should be
29 issued, the commissioner shall issue a request for competitive sealed bids, under
30 procedures adopted by the commissioner by regulation, to determine which prospective
31 licensee should be issued the exploration license. The finding provided to the

1 prospective licensees under (f) of this section must contain notice that (1) the
2 commissioner intends to request competitive sealed bids, (2) a prospective licensee
3 who intends to participate in the bidding must notify the commissioner in writing by
4 the date specified in the notice, and (3) a prospective licensee's notice of intent to
5 participate in the bidding constitutes acceptance of issuance of the exploration license,
6 as limited or conditioned by the terms contained in the finding and by the exploration
7 license to be issued and the form of lease to be used that have been attached to that
8 finding, if the prospective licensee is the successful bidder. The successful bidder is
9 the prospective licensee who submits the highest bid in terms of the minimum work
10 commitment dollar amount.

11 Sec. 38.05.134. CONVERSION TO LEASE. If the licensee requests and the
12 commissioner determines that the minimum work commitment obligation set out in an
13 oil and gas exploration license issued under AS 38.05.132 has been met, the
14 commissioner shall convert to one or more oil and gas leases all or part, as the
15 licensee may indicate, of the area described in the exploration license that remains
16 after the relinquishments, removals, or deletions required by AS 38.05.132(d). A lease
17 issued under this section

18 (1) is subject to the acreage limitations imposed by AS 38.05.140(c);

19 (2) is subject to AS 38.05.180(j) - (m), (o) - (u), and (x) - (z);

20 (3) must be conditioned upon a royalty in amount or value of not less
21 than 12.5 percent of production;

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

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

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

29 (a) Except as otherwise provided, valuable mineral deposits in land belonging
30 to the state shall be open to exploration, development, and the extraction of minerals.

31 All land, together with tide, submerged, or shoreland, to which the state holds title to

1 or to which the state may become entitled, may be obtained by permit or lease for the
2 purpose of exploration, development, and the extraction of minerals. Except as
3 specifically limited by AS 38.05.131 - 38.05.181 [AS 38.05.135 - 38.05.181], land may
4 be withheld from lease application on a first-come, first-served basis, and offered only
5 on a competitive bid basis when determined by the commissioner to be in the best
6 interests of the state. In unproven areas the commissioner may offer additional
7 incentives, including a reduction of royalty to a minimum of five percent in the case
8 of oil and gas, and other terms in and granting permit or lease for exploration and
9 development whenever it appears to be in the best interests of the state to do so.

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

11 (d) The commissioner may issue oil and gas leases in an area that has not been
12 included in a leasing program submitted, in accordance with (b) of this section, to the
13 legislature if the land to be leased

14 (1) [THE LAND TO BE LEASED] was previously subject to a valid
15 state or federal oil and gas lease; [OR]

16 (2) [THE LAND TO BE LEASED] is contiguous to land already under
17 state, federal or private lease and the commissioner makes a written finding, after
18 hearing, that leasing of the land would result in a substantial probability of early
19 evaluation and development of the land to be leased; [OR]

20 (3) [THE LAND TO BE LEASED] is adjacent to land owned or
21 controlled by another party on which a discovery of commercial quantities of oil or
22 gas has been made, and the commissioner finds, after hearing, that there is a
23 reasonable probability that the land to be leased contains oil or gas in communication
24 with the oil or gas discovered on the land of the other party; [OR]

25 (4) [THE LAND TO BE LEASED] is adjacent to land included in the
26 federal five-year Outer Continental Shelf leasing program under 43 U.S.C. 1344, and
27 the commissioner makes a written finding, after hearing, that coordinated or
28 simultaneous leasing with the federal government is in the public interest; or

29 (5) is the subject of an oil and gas exploration license issued under
30 AS 38.05.131 - 38.05.134.

31 * Sec. 4. AS 38.05.180(f) is amended to read:

1 (f) Except as provided by AS 38.05.131 - 38.05.134, the [THE]
2 commissioner may issue oil and gas leases on state land to the highest responsible
3 qualified bidder determined by competitive bidding under regulations adopted by the
4 commissioner. Bidding may be by sealed bid or according to any other bidding
5 procedure the commissioner determines is in the best interests of the state. Whenever,
6 under any of the leasing methods listed in this subsection, a royalty share is reserved
7 to the state, it shall be delivered in pipeline quality and free of all lease or unit
8 expenses, including but not limited to separation, cleaning, dehydration, gathering, salt
9 water disposal, and preparation for transportation off the lease or unit area. Following
10 a pre-sale analysis, the commissioner may choose at least one of the following leasing
11 methods:

12 (1) a cash bonus bid with a fixed royalty share reserved to the state of
13 not less than 12.5 [12 1/2] percent in amount or value of the production removed or
14 sold from the lease;

15 (2) a cash bonus bid with a fixed royalty share reserved to the state of
16 not less than 12.5 [12 1/2] percent in amount or value of the production removed or
17 sold from the lease and a fixed share of the net profit derived from the lease of not
18 less than 30 percent reserved to the state;

19 (3) a fixed cash bonus with a royalty share reserved to the state as the
20 bid variable but no less than 12.5 [12 1/2] percent in amount or value of the
21 production removed or sold from the lease;

22 (4) a fixed cash bonus with the share of the net profit derived from the
23 lease reserved to the state as the bid variable;

24 (5) a fixed cash bonus with a fixed royalty share reserved to the state
25 of not less than 12.5 [12 1/2] percent in amount or value of the production removed
26 or sold from the lease with the share of the net profit derived from the lease reserved
27 to the state as the bid variable;

28 (6) a cash bonus bid with a fixed royalty share reserved to the state
29 based on a sliding scale according to the volume of production or other factor but in
30 no event less than 12.5 [12 1/2] percent in amount or value of the production removed
31 or sold from the lease;

1 (7) a fixed cash bonus with a royalty share reserved to the state based
2 on a sliding scale according to the volume of production or other factor as the bid
3 variable but not less than 12.5 [12 1/2] percent in amount or value of the production
4 removed or sold from the lease.

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

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

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

10 (2) zoning of land under applicable law;

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

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

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

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

18 * Sec. 6. AS 46.04.040(b) is amended to read:

19 (b) A person may not cause or permit the operation of a pipeline or an
20 exploration or production facility in the state unless the person has furnished to the
21 department, and the department has approved, proof of financial ability to respond in
22 damages. Proof of financial responsibility required

23 (1) for a pipeline or an offshore exploration or production facility is
24 \$50,000,000 per incident;

25 (2) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
26 an onshore production facility is

27 (A) \$1,000,000 per incident for a facility that produces not
28 more than 2,500 barrels of crude oil per day;

29 (B) \$5,000,000 per incident for a facility that produces more
30 than 2,500 barrels of crude oil but not more than 5,000 barrels of crude
31 oil per day;

1 (C) \$10,000,000 per incident for a facility that produces
2 more than 5,000 barrels of crude oil but not more than 10,000 barrels of
3 crude oil per day; and

4 (D) \$20,000,000 per incident for a facility that produces more
5 than 10,000 barrels of crude oil per day; and

6 (3) [. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED] for
7 an onshore exploration facility is \$1,000,000 [\$5,000,000] per incident.

8 * Sec. 7. ADDITIONAL EXCLUDED AREA. In addition to the area designated in
9 AS 38.05.131(b), added by sec. 1 of this Act, the provisions of AS 38.05.131 - 38.05.134,
10 added by sec. 1 of this Act, do not apply to land within proposed Competitive Oil and Gas
11 Lease Sales 57, 77, 80, 87, and 88, as the area to be offered in each of those proposed
12 competitive oil and gas lease sales was delineated in the Five-Year Oil and Gas Leasing
13 Program prepared by the Department of Natural Resources and dated January 1993. However,
14 the exclusion of the land in any one of those lease sales that is required by this section ceases
15 on the date the land described in the lease sale is first offered for competitive oil and gas
16 leasing under AS 38.05.180, and that land is thereafter subject to the provisions of
17 AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.

18 * Sec. 8. REGULATIONS. The commissioner of natural resources may proceed to adopt
19 regulations necessary to implement AS 38.05.131 - 38.05.134, added by sec. 1 of this Act.
20 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
21 effective date of secs. 1 - 7 of this Act.

22 * Sec. 9. Section 8 of this Act takes effect immediately under AS 01.10.070(c).