

SB

257

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 15, 2000

FURTHER REFERRALS:

Date of Committee Action: 4/17/00

The FINANCE Committee considered:

SB 257

SENATE BILL NO. 257

DEPT NAT RES ADMIN APPEALS/ OIL & GAS

"An Act relating to notice requirements for certain final findings concerning the disposal of an interest in state land or resources for oil and gas; relating to administrative appeals and petitions for reconsideration of decisions of the Department of Natural Resources; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Senate DNR 2-9-00

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Gene Theriault</i>			X	
<i>Glenn North</i>			X	
<i>Carl K... ..</i>			✓	
<i>Alan... ..</i>			X	
<i>John... ..</i>	X		X C:W	
<i>Ray... ..</i>			X	
<i>Her... ..</i>			X	
<i>W.D. Williams</i>	X			
<i>Gail Phillips</i>	✓			
<i>[Signature]</i>			X	

CHAIR'S SIGNATURE *Gene Theriault* *Glenn North*

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

No. 1
 Bill Version: SB 257
 (S) Publish Date: 2-9-00

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: Notice Requirements for Oil and Gas Final BRU: Minerals, Land & Water Development
 Findings: Administrative Appeals Component: Director's Office
 Sponsor: Rules Committee
 Requestor: Governor Component No: 2440

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ N/A

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill can be implemented without cost. Secs. 1-3 apply to appeals of decisions by all divisions in DNR, including the Division of Mining, Land and Water. They allow an aggrieved person to ask for the commissioner's review, but only one time (either by appealing to the commissioner, or by requesting the commissioner's reconsideration). Previously some aggrieved parties have appealed to the commissioner, received an adverse decision from the commissioner, then immediately asked him to reconsider that decision. In the meantime, the decision was put on hold. Eliminating the duplicative review might not save appreciable staff time, as the reconsideration decision was usually very similar to the appeal decision, but will shave 30 days off the permit process in controversial cases.

Prepared by: Robert M. Loeffler Phone: 269-8600
 Division: Mining, Land and Water Date: 31-Jan-00
 Approved by Commissioner: _____ Date: _____
 Agency: Natural Resources

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Briefing Paper

SB 257: DNR Appeals & Certain Oil & Gas Notices

Prepared by
Alaska Department of Natural Resources
April 13, 2000

The bill creates a uniform appeals process for DNR and solves a technical problem that requires a meaningless notice for Oil and Gas Lease Sales.

Uniform Appeals Process for DNR: *The Problem.* As a result of laws passed at different times, DNR has different appeals schedules and procedures for different types of decisions. For example, some DNR decisions must be appealed within 30 days, some within 20 days, and others within only 15 days. In addition, some DNR decisions may be appealed only once. Others, two or three times. Specifically, certain decisions may be appealed only to the Commissioner. Others may be appealed to a Division Director, then to the Commissioner, and then the Commissioner *again*. The situation frustrates applicants, the public, and DNR staff.

The Solution: A Uniform Appeals Process. The bill creates a uniform process to appeal DNR decisions: one process with one deadline and without redundant appeals. It requires all appeals to use the appeal process that now exists for DNR Disposal Decisions: The department's final decision may be appealed within 20 days to the Commissioner. However, it may be appealed only once. If the appellant does not like Commissioner's decision on the appeal, he or she may go directly to court.

An Extra (Meaningless) Oil and Gas Lease Sale Notice. DNR is currently required to publish three notices for an oil and gas lease sale:

1. a notice of the preliminary best interest finding;
2. a notice that the next notice (of the final finding) will be published no sooner than 30 days;
and
3. a notice of the final best interest finding

It is the middle notice – a notice of a notice – which has no meaning. The preliminary best interest finding provides for public comment. The final best interest finding starts the appeal period. The final best interest finding is sent directly to everyone who commented (who are the only people with standing to appeal). It is also published in newspapers statewide. The notice of a notice does not create any new rights nor start the time for any rights to begin. The extra notice confuses the public and costs money to publish.

Sectional Analysis

Sections 1 and 2 cross-reference the uniform appeals process within Administrative Procedure Act.

Section 3 provides the uniform appeal process for DNR.

Section 4 eliminates the extra oil and gas notice.

Section 5 provides a starting date for the uniform appeals process.

Section 6 provides an effective date for the bill.

TONY KNOWLES
GOVERNOR
2000
2000

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 2000

AK-257

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

The Department of Natural Resources appeal process is overly complex, confusing, and even frustrating to the public and department staff. Seemingly similar decisions have different appeal tracks with different requirements and timelines. Appellants are sometimes required to make multiple appeals on the same issue. This bill I transmit today simplifies and makes consistent the department's appeal process to better serve the public.

The bill eliminates the redundant process for non-disposal decisions in which a person now must appeal to the director, then the commissioner, then, through reconsideration, to the commissioner again. Instead, appellants would be allowed only one opportunity to make their case to the commissioner. The next step is to go to court. This process was implemented in 1994 disposal legislation and should be extended to all department decisions.

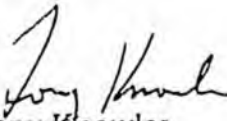
The bill corrects another confusing result of the 1994 law, which set different appeal deadlines based on whether the case was a disposal or non-disposal decision, or a reconsideration request (as opposed to an appeal). The public cannot figure out in which category an action belongs and, therefore, by which deadline to abide. This bill eliminates the confusion by setting a 20-day deadline on all appeals and reconsideration requests. Decisions rendered under the Alaska Right-of-Way Leasing Act and the Alaska Stranded Gas Development Act are specifically exempt from this new provision.

Finally, the bill makes it clear that department decisions may be challenged in court, despite the fact most department decisions are exempt from portions of the Administrative Procedure Act.

The Honorable Drue Pearce
February 8, 2000
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This bill will correct many aspects of the Department of Natural Resources appeal process that are confusing and cumbersome for the public. I urge your support.

Sincerely,


Tony Knowles
Governor

ALASKA STATE LEGISLATURE
SENATE BILL NO. 257

HISTORY IN THE SENATE

2000
2/9 Read first time and referred to:
RES. FIN

3/28 RES RPT() CS 5 DP 1 NR 1 DNP AM
New Title Same Title Previous FN
FN OFN To FIN

4/13 FIN RPT() CS 5 DP 3 NR DNP AM
New Title Same Title Previous FN
FN OFN To Rules

 RPT() CS DP NR DNP AM
New Title Same Title Previous FN
FN OFN To

4/15 Rules Calendar() CS AM Other
New Title Same Title Previous FN
FN OFN

4/15 Read second time

4/15 CS Adopted () New Title
 Amended Advanced

4/15 Read third time

 Letter of Intent adopted
 Return to second for specific amendment

4/15 PASSED EFD Same or
Yeas 20 Yeas
Nays 0 Nays
Excused 0 Excused
Absent 0 Absent

Reconsideration
Reconsideration not taken up

PASSED EFD Same or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

4/15 Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

2000
4/15 Read first time and referred to:
FIN

 RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

 RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

 RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

 Intent adopted

Reconsideration
Reconsideration not taken up

PASSED ON RECON. EFD Same or
Yeas Yeas
Nays Nays
Excused Excused
Absent Absent

 Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House