

HB

344

SENATE COMMITTEE REPORT

DATE: 3/10/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3-25-04

Resources Committee considered CS FOR HOUSE BILL NO. 344(RES)

HB 344 MINING FEES/LABOR/ROYALTIES/ABANDONMENT

"An Act relating to annual rental fees, statements of annual labor, and production royalty for mining claims; and providing a cure for abandonment."

and recommends:

- be replaced with S CS HB 344 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
DOR	2/23/04	✓			2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Frank Brown</i>	✓			
<i>Thomas H. Wagner</i>			✓	
<i>Ben Stewart</i>	✓			
<i>Kelvin Jackson</i>	✓			
CHAIR: <i>Scott Brown</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 344(RES)
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Mining Fees, Rentals and Royalties RDU: Resource Development
Component: Claims, Permits and Leases
Sponsor: Rep. Fate
Requester: House Resources Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	11.0	11.0	11.0	11.0	11.0	11.0
Travel						
Contractual	3.5	0.0	0.0	0.0	0.0	0.0
Supplies	0.5	0.0	0.0	0.0	0.0	0.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	15.0	11.0	11.0	11.0	11.0	11.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)	(8.8)

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	11.0	11.0	11.0	11.0	11.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	15.0	11.0	11.0	11.0	11.0	11.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides a discount of 2.5 cents per acre on annual rentals to hard rock and placer mining claimants, who meet standards provided in the bill. The bill also reduces the state royalty from three to one percent of net profits for the first three years of production. Finally, it allows any net operating losses in the first three years of production to be taken as a credit against future royalties.

Prepared by: Bob Loeffler, Director Phone 269-8600
Division: Mining, Land and Water Date/Time 2/4/04
Approved by: Thomas Irwin, Commissioner Date 2/4/04
Agency: Natural Resources

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 344(RES)

ANALYSIS CONTINUATION

Rental Reduction. The bill reduces mining rent differently for owners of "placer mining claims" as opposed to those who hold a "hardrock mining claim." Federal law differentiates between placer and lode (hard-rock) claims. However, state law does not distinguish between the two. Alaskans stake a mining location that gives the rights to both the placer and hard-rock deposits. Therefore, it would not be possible to apply the provisions of this bill exactly as they are written. This fiscal note assumes that this technical issue is resolved, and the fiscal note averages the effect of the placer and hard-rock provisions of the bill. The difference is small. The amount was calculated as follows.

Placer Calculation. This bill provides that the discount may be taken by claimants who own up to 800 acres of "placer mining claims". Staff estimates that roughly 400 owners held claims that totaled less than 800 acres. The average acreage owned by these miners was 400 acres, and approximately half of the claims were owned less than five years. The rental reduction under the placer criteria would be: \$2,000 [(400 miners) x (400 acres) x (.5) x (\$0.025/acre)]

Hardrock Calculation. This bill provides that the discount may be taken by claimants who own up to 2000 acres of "hardrock mining claims". Staff estimates that 600 owners held claims that totaled less than 2000 acres. The average acreage owned by these miners was 1000 acres, and that approximately half of the claims were owned less than five years. The rental reduction under the hardrock criteria would be: \$7,500 [(600 miners) x (1,000 acres) x (.5) x (\$0.025/acre)]

Averaging the hardrock and placer criteria, the rental reduction would be approximately \$4,800. Please note that these estimates are very rough staff estimates. More precise calculations require some computer programming. This is being done by the Department but is not expected to be available for a few weeks.

Royalty Reduction — Placer Mines. From 1997 through 2002, royalty payments have been primarily from the placer industry and the six-year annual average is approximately \$10,700. Staff estimates that this bill could reduce this amount by approximately \$2,000 to \$6,000.

Royalty Reduction — Large, Hardrock Mines. The major producing mines in Alaska are not on state land. In addition, due to the recent few years of poor metal prices, these mines are not making significant profits. For these reasons, hardrock mines have not paid significant royalty. Also the state's Exploration Incentive Credit law allows a company to deduct up to \$20 million from royalty or taxes, though the deduction may not equal more than half of the royalty or taxes owed during a single year.

In the future, as more large mines are permitted on state land and operate at stable metal prices, we expect to see significant royalties. For example, the Department expects that the newly authorized Pogo Gold Mine could eventually pay multi-million dollars in royalties over the coming 10-15 years. However, that royalty will probably not begin until after the term of this fiscal note.

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 344(RES)

ANALYSIS CONTINUATION

Because the state is currently receiving few royalties, this bill will not have a significant fiscal effect. In addition, large mines typically do not pay the state any royalty during the first three years after production due to capitalization and amortization of their mine construction costs. Therefore, the royalty reduction during that time will probably not have significant effect. However, the credit for the operating losses during the three years could eventually reduce the state's royalty by up to millions of dollars. The exact amount cannot be estimated. The decrease would occur after the term of this fiscal note.

Total Revenue Impact. The total revenue impact would be \$8,800 which is made up of the rough estimate of rental reduction, \$4,800, plus the mid-range of the royalty reduction estimate for the placer industry, \$4,000.

Cost to implement. Computer programming changes to the DNR's database system would be necessary to track the mining claimants who would be eligible for the rental discounts (one-time cost of \$3.5). Each year thereafter, rental accounts for claim locators eligible for the discount would have to be audited to be certain claim types, number and acreages are within the legal parameters to receive the discount. It is anticipated that this would require the equivalent of a quarter-time clerk-level position (\$11.0 personal services).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 344(RES)
(H) Publish Date: 3/3/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Mining Fees, Rentals and Royalties RDU Resource Development
Component Claims, Permits and Leases
Sponsor Rep. Fate
Requester House Resources Component No. 2460

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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						
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CHANGE IN REVENUES (GF 1004)	1.0	1.0	1.0	1.0	1.0	1.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides a mechanism for mining claim holders to avoid accidental or inadvertent abandonment of their claims due to errors or delays in properly recording or filing of certificates of location, statements of annual labor or claim rental payments. This provides a much needed option to the existing statutes that will create a benefit to the overall mining industry and primarily to the small miners.

Current mining statutes provide a very strict framework of filing deadlines. If a deadline for filing the required information or delivering payments on rentals or royalties is missed, the claims are automatically abandoned and the miner must wait a full year until he can restake the claims. During this time they are open to staking by others. It is unfortunate that, despite the best intentions of the miners, inadvertent

Prepared by: Bob Loeffler, Director
Mining, Land and Water

Phone 269-8600
Date/Time 2/23/04

Approved by: Thomas Irwin, Commissioner
Agency Natural Resources

Date 2/23/04

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 344(RES)

ANALYSIS CONTINUATION

delays to filing do occur. This has resulted in small family operations that have been active for generations sometimes losing their claims and, in some cases, their livelihood.

This bill provides an effective option to cure abandonment by paying all accrued rents due and/or filing delinquent documents, plus paying a fine equal to the annual rent.

Total Revenue Impact. The revenue impact would be minimal, but positive, as rentals on claims that would have been abandoned would be allowed to continue and fines would be collected in an amount equal to those rentals. An approximate total \$1,000 per year is estimated.

Cost to Implement. There is essentially no cost to implementing this mechanism as it would be handled by existing staff and the additional work load would be minimal.



SENATOR SCOTT OGAN 23RD Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop

Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 * (907) 465-3878 * 1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogans

FACSIMILE TRANSMITTAL SHEET

TO: Leg Legal FROM: Linda Hay - Sen Res
 COMPANY: DATE: 3-25-04
 FAX NUMBER: TOTAL NO. OF PAGES INCLUDING COVER: 4
 PHONE NUMBER: RE: CS for HB 344

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

please prepare a Senate Resources
 + deliver
 Committee CS for CS HB 344 (RES).
 a copy of the proposed amend.
 that was adopted is attached -
 please call if there are
 questions -

Proposed Amendment to CSHB 344 (RES)

Page 2, Lines 10-13

10 (b)... mining claim, or leasehold location[, *or*
11 *prospecting site*] that includes all or part of the mining claim, or leasehold location [, *or*
12 *prospecting site*] abandoned under (a) of this section, or the area is closed to mineral
location under AS 38.05.185 -38.05.275. a person may cure....

The revised subsection would read as follows:

* **Sec. 2.** AS 38.05.265 is amended by adding a new subsection to read:

(b) Unless another person has located a mining claim, or leasehold location that includes all or part of the mining claim, or leasehold location abandoned under (a) of this section, or the area is closed to mineral location under AS 38.05.185 -38.05.275. a person may cure the failure to record or pay that constituted the abandonment and cure the abandonment by

(1) properly recording a certificate of location or a statement of annual labor, paying any required annual rental, and paying any required production royalty; and

(2) paying a penalty equal to the annual rent for the mining claim,⁾
or leasehold location [*or prospecting site*] that was abandoned under (a) of this section.

Why we need and what the Proposed Amendments to CS HB 344 (RES) will do.

Problem 1: The existing language would allow the unusual situation where an individual could use the proposed “cure” for an abandoned location under AS 28.05.265 in a manner that would frustrate a land exchange or a mineral closing order that might be done for economic development purposes. For example, if an area was closed to mineral staking to allow a significant economic development project, an individual could use this method to resurrect a long-abandoned claim to demand compensation.

Problem 2: The existing language includes a “cure” for unintentional abandonment of a prospecting site. However, a prospecting site has a 2-year non-renewable term and is not subject to unintentional abandonment. Therefore, including a prospecting site in the “cure” is an error that creates an unnecessary ambiguity.

Solution: The proposed amendment would eliminate this problem by making the “cure” inapplicable to areas not open to mineral location. It also, eliminates “prospecting site” in the subsection.

Representative
HUGH "BUD" FATE
Finance Committee

Energy Council- Executive Committee
119 N. Cushman St. Suite 213
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096

Alaska State Legislature



While in Session
State Capitol, Room 501
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free: 1 866-465-4976
e-mail:
Rep_Hugh_Fate@legis.state.ak.us
House District 7

House of Representatives

To: Senator Scott Ogan, Chair, Senate Resources Committee
Fm: Jim Pound, Chief of Staff
Cc:
Date: March 10, 2004
Re: CSHB 344 - "Small Miner Incentives"

Please accept this memorandum and attached documents as a request for the Senate Resources Committee to hear CS for HB 344 (RES); "An Act relating to annual rental fees, statements of annual labor, and production royalty for mining claims; and providing a cure for abandonment." By working closely with the Department, and the Alaska Miner's Association this legislation will help Alaska's miners.

Presently mining law requires that all necessary paperwork, rents and royalties be paid on a specific date. If the packet arrives even one day late, the claim or claims are considered abandoned causing the miner to lose his or her investment. Under CSHB 344, the miner can save the claim or claims by submitting the necessary paperwork, and fees, plus a penalty of one years rent on the claim or claims.

Thank you in advance for your consideration of this request.

Attached: Sponsor Statement, CSHB 344, Fiscal Note, HB 344, Fiscal Note, Journal Text History

Representative
HUGH "BUD" FATE
Finance Committee

Energy Council- Executive Committee
119 N. Cushman St. Suite 207
Fairbanks, Alaska 99701
(907) 452-6084
Fax: (907) 452-6096

Alaska State Legislature



While in Session
State Capitol, Room 501
Juneau, Alaska 99801-1182
(907) 465-4976
Fax: 465-3883
Toll Free:
1 866-465-4976

House District 7

House of Representatives CS for HB 344

“An Act relating to annual rental fees, statements of annual labor, and production royalty for mining claims; and providing a cure for abandonment.”

CS for House Bill 344 is designed to keep the small Alaska Mining Industry in business. Since the 1980's Alaska has seen the small miner disappear from the streams and hills in part because of the costs associated with the industry, but also because of a glitch in Alaska's statute. That language causes a miner to automatically lose their claims if the required paperwork is filed just one day late.

CS for HB 344 will fix the language granting an extension to that deadline. It allows a miner to keep the claims by filing the paperwork and paying a penalty equal to one years rent.

Alaska was founded on mining and long before oil was the meat and potatoes industry in the state. Mom and Pop mines brought their poke to the local community and spent it in the local community. HB 344 will be an important first step in reviving an industry that is good for the local community and the state as a whole.