

SB

109

HOUSE COMMITTEE REPORT

(9)

Date Referred to Committee: April 19, 2007

FURTHER REFERRALS:

Date of Committee Action: 4/30/07

The RESOURCES Committee considered:

CSSB 109(RES)

CS FOR SENATE BILL NO. 109(RES)

OIL & GAS CONSERVATION COMMISSION

"An Act relating to the regulation and permitting of drilling and other operations by the Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the commission, to reconsideration and appeal of decisions and the allocation of costs in investigations and hearings before the commission, and to information filed with and decisions of the commission; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LWF
 LAW
 LEG
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	1			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Paul K. Seaton</i>	Seaton	✓			
<i>Jane Edgmon</i>	EDGMON	✓			
<i>Bob Rosen</i>	Rosen	✓			
<i>Jessie Wilson</i>	WILSON	✓			
Chair: <i>C. Johnson</i>	Johnson	✓			
Chair: <i>C. Johnson</i>					

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 109(RES)
 (S) Publish Date: 4/16/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title Oil and Gas Conservation Commission RDU AOGCC
 Component AOGCC
 Sponsor Rules / Leg Budget & Audit
 Requester Senate Resources Committee Component No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not anticipated to have any fiscal impact on the AOGCC.

Most of the amendments are technical revisions involving responsibilities that are already under the purview of the Alaska Oil and Gas Conservation Commission. The bill deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well. Since the Commission is fully funded through a regulatory cost charge it is more efficient to collect those costs as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees that might be generated in the coming year and then collecting by individual application. This will also streamline the process for permitting as the Commission moves towards implementing e-permitting.

Prepared by: Jody J. Colombie, Special Assistant I Phone 793-1221
 Division Alaska Oil and Gas Conservation Commission Date/Time 3/7/07 10:00 AM
 Approved by: Rachael Petro, Deputy Commissioner Date 3/7/07 2:00pm
 Agency Department of Administration



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SPONSOR STATEMENT

CS for SENATE BILL 109

"An Act relating to the regulation and permitting of drilling and other operations by the Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the commission, to reconsideration and appeal of decisions and the allocation of costs in investigations and hearings before the commission, and to information filed with and fees of the commission; and providing for an effective date."

The Alaska Oil and Gas Conservation Commission (AOGCC) requested legislation that would make several needed updates and improvements to Title 31, its governing statute.

CS for Senate Bill 109 would accomplish the following:

1. Clarify the Commission's authority to regulate underground storage of natural gas. Gas storage is a way of dealing with seasonal variations in demand. Although the Commission clearly has statutory authority to regulate other types of underground injection related to oil & gas operations, the statute is unclear as to the Commission's authority with respect to gas storage.
2. Clarify that the Commission's existing authority to regulate various types of oil and gas operations, such as drilling and plugging wells and disposing of oil field wastes, may be for public health and safety purposes as well as conservation purposes. Currently, the statute uses the phrase "for conservation purposes." While this is a broad concept, there are aspects of the Commission's mission, such as preventing well blowouts or explosions that clearly impact public health and safety. There should be no question that the latter are appropriate goals of Commission oversight of oil field operations, and the bill would make this explicit.

3. Make a "mid-course correction" in a regulatory program concerning nonconventional gas, in particular, coal bed methane. One of the new requirements is for the operator of a well used for production **or production testing** of coal bed methane "to design and implement a water well testing program to provide baseline data on water quality and quantity." However, production testing is a short-term activity that would not have a significant impact on aquifers. Moreover, production testing often occurs during exploratory activities and is very low risk to the environment, before an operator has any idea whether a prospect may ultimately be developed and put in production. Requiring an operator to design and implement a water well testing program at this early stage is an unnecessary burden that will discourage exploration without providing an offsetting public benefit. The bill would therefore modify this requirement to apply only to regular production of coal bed methane, not production testing.

4. Update the reconsideration and appeals provision. There is a conflict between the judicial appeal provisions of the Alaska Oil and Gas Conservation Act, which date essentially unchanged from a territorial enactment in 1955, and the more modern and streamlined uniform appeal provisions of the judiciary statute. The Commission has taken the position that the judiciary statute superseded the earlier territorial enactment, and the Supreme Court recently upheld that position in *Allen v. Alaska Oil and Gas Conservation Commission*, 139 P3d 564 (Alaska 2006). This bill would eliminate the outmoded territorial provisions and leave appeals from Commission decisions to be governed by the uniform procedures of the judiciary statute and Rules of Appellate Procedure.

5. Deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well in this state. For some years the Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an *estimate* of the fees that might be generated in the coming year.

6. Narrows the data that would be subject to a 24-month period of confidentiality to only the data from "exploratory" and "stratigraphic test" wells; and, to those portions of applications for permits to drill such wells that the commission determines contain proprietary information. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality to well data in established oil and gas fields.

Sponsor Statement

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CSSB 109

7. Adds a new subsection (f) to clarify that information "voluntarily" provided under subsection (d) of this section does not apply to information submitted in connection with a petition for a Commission order or in connection with a hearing. This is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law as one would, for example, for proprietary information or trade secrets.

8. Updates the penalty section by increasing the penalty amounts available to the Commission and adds a specific list of criteria for the Commission to consider in determining the amount of a penalty. The bill would change the maximum amount of a penalty from \$5,000 a day for each day of violation, to provide for a civil penalty of ***no more than \$100,000 for an initial violation, and, no more than \$10,000 a day for each day thereafter on which the violation continues.*** It also increases the civil penalty for natural gas that is flared, vented or otherwise determined to be waste from the fair market value to two times the fair market value. It also adds a new subsection setting out factors to be used in determining the amount of a penalty.

9. Makes a few housekeeping changes like substituting the Commission for an outdated reference to the Department of Natural Resources (the Department of Natural Resources has independent authority in Title 38), updating the classification of wells, and substituting ***for which a permit to drill has been issued by the commission*** where it is more efficient than listing each type of well subject to the Commission's authority.



LEGISLATIVE BUDGET & AUDIT COMMITTEE

Representative Ralph Samuels, Chairman

SECTIONAL ANALYSIS

CS for Senate Bill 109

Section 1. Statement of intent

(a) Confirms that AS 22.10.020(d), or court rules, have superseded inconsistent appeal provisions of AS 31.05.080; and

(b) Confirms that civil penalties may be administratively assessed by the Commission.

Section 2. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well in (d)(2) and substitutes the word commission for an outdated reference to the Department of Natural Resources in (d)(7).

Section 3. Clarifies that the commission may regulate drilling and other oil and gas operations not only for conservation purposes but, as in the case of preventing blowouts or explosions, for public health and safety purposes under (e)(I).

(e)(I)(B) substitutes more precise terminology for the term "shooting."

(e)(I)(G) clarifies the commission's authority to regulate underground natural gas storage.

Section 4. Updates the various classifications of wells regulated by the Commission, to allow the Commission to more precisely classify each well and to reflect the increasing complexity of oil and gas drilling operations.

Section 5. Slightly narrows a requirement enacted in 2004 relating to coal bed methane operations. The 2004 enactment requires a water well testing program whenever a well is drilled for production *or production testing* of coal bed methane. Production testing is a short-term operation that may occur during the exploration phase and presents minimal risk to the environment. Requiring a water well testing program in such circumstances may discourage exploration with no significant offsetting benefit to the public. The bill therefore would modify the requirement to apply only where a well will be used for regular production of coal bed methane.

Section 6. Substitutes the language "for which a permit to drill has been issued by the commission" to capture all wells under the commission's regulatory authority rather than listing each type of well.

Section 7. Narrows the data that would be subject to a 24-month period of confidentiality to only the data from "exploratory" and "stratigraphic test" wells; and, to those portions of applications for permits to drill such wells that the commission determines contain proprietary information. This change is consistent with the regulatory practice in most other oil and gas producing states that does not afford confidentiality to well data in established oil and gas fields.

Section 8. Adds a new subsection (f) to clarify that information "voluntarily" provided under subsection (d) of this section does not apply to information submitted in connection with a petition for a Commission order or in connection with a hearing. This is consistent with Commission practice which requires the applicant to make a showing that the information is entitled to confidentiality under another provision of law as one would, for example, for proprietary information or trade secrets.

Section 9. The current statute uses the term "rehearing" and in accordance with more modern usage, the bill substitutes the term "reconsideration" for "rehearing."

Section 10. Clarifies that a person who has applied for reconsideration and who is dissatisfied with the disposition of the application for reconsideration may appeal to the Superior Court. The questions reviewed on appeal are limited to the questions presented to the Commission by the application for reconsideration. This section and section 15 update the appeal provisions of the existing statute by eliminating outmoded procedures that were enacted before statehood and clarifying that appeals from the Commission decisions are subject to the uniform procedures established in the judiciary statute, AS 22.10.020(d), and the Rules of Appellate Procedure.

Section 11. Allows the Commission to allocate costs of time incurred by Commission staff for investigation or hearings.

Section 12. Deletes the requirement that an applicant pay a \$100 fee for a permit to drill a well in this state. The Commission has been fully funded by the regulated industry through a regulatory cost charge. The costs associated with permitting are more efficiently collected as part of the overall regulatory cost charge rather than by subtracting an estimate of the fees that might be generated in the coming year.

This section also clarifies the types of wells that require a permit from the Commission and requires the Commission to consider the nature and magnitude of violations by an applicant if a permit is denied.

Section 13. Deletes the reference to the \$100 fee for the permit to drill from the regulatory cost charge formula.

Section 14. Updates the penalty section by increasing the penalty amounts available to the Commission. This section would change the penalty from \$5,000 a day for each day of violation to *no more than a \$100,000 for the initial violation, and, no more than \$10,000 a day for each day thereafter on which the violation continues.*

Makes clear that civil penalties may be administratively assessed by the Commission and if not paid are recoverable by a lawsuit filed by the attorney general on behalf of the Commission.

Increases the civil penalties for natural gas that is flared, vented, or otherwise determined to be waste from the fair market value to two times the fair market value.

Adds a new subsection setting out the factors to be used in determining the amount of a penalty.

Section 15. AS 31.05.080(c), and AS 31.05.080(d) are repealed to eliminate outmoded procedures that were enacted before statehood.

Section 16. Adds a revisors' instruction to change the heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

Section 17. Provides for an immediate effective date under AS 01.01.070(c).

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 109(RES)
 (S) Publish Date: 4/16/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title Oil and Gas Conservation Commission RDU AOGCC
 Component AOGCC
 Sponsor Rules / Leg Budget & Audit
 Requester Senate Resources Committee Component No. 2010

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
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ANALYSIS: (Attach a separate page if necessary)

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Prepared by: Jody J. Colombie, Special Assistant I
 Division: Alaska Oil and Gas Conservation Commission
 Approved by: Rachael Petro, Deputy Commissioner
 Agency: Department of Administration

Phone 793-1221
 Date/Time 3/7/07 10:00 AM
 Date 3/7/07 2:00pm



LEGISLATIVE BUDGET & AUDIT COMMITTEE
Representative Ralph Samuels, Chairman

SPONSOR STATEMENT

CS for SENATE BILL 109

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Section 16. Adds a revisors' instruction to change the heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

Section 17. Provides for an immediate effective date under AS 01.01.070(c).

Debra Higgins

From: Cheryl Sutton
Sent: Thursday, April 26, 2007 5:22 PM
To: Debra Higgins; Heath Hilyard
Subject: SB 109

Debra and Heath,

I wanted to let you know that Commissioner John Norman of the Alaska Oil & Gas Conservation Commission will be coming to Juneau to testify before the committee on SB 109 on Monday. In addition, Kara Moriarty from AOGA will testify via teleconference from Anchorage and someone from ConocoPhillips will be testifying either on line or here. ConocoPhillips is no longer a member of AOGA and that is why they will testify separately. All the testimony is in support of the bill.

I will begin the testimony and then defer to Chairman Norman. LB&A introduced the bill through Rules by request of the AOGCC. Thanks.

Cheryl

Cheryl Sutton, Staff
Legislative Budget & Audit Committee
Representative Ralph Samuels, Chairman
907-165-2705 (phone)
907-165-5003 (fax)

#2705