

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1222 SCOMM 46: HOUSE SPEC. COMMITTEE ON OIL AND GAS 1985-86



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DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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January 30, 1986

The Honorable Mike Davis, Chairman
House Special Committee on Oil & Gas
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Subject: Comments on HB 495

Dear Representative Davis:

This letter summarizes the department's comments on HB 495, an Act relating to state oil and gas interests, which is scheduled for a hearing today before the House Special Committee on Oil and Gas.

Generally, we commend your efforts to streamline and clarify royalty oil and gas policy and procedures.

We believe the following suggestions would help further clarify the provisions of these statutes. Our comments are organized on a section by section basis.

I. Section 1.

- A. The new section 38.16.020 would require that royalty oil be taken in kind unless the commissioner determined that taking in value would be in the best interest of the state. We recommend that this section be modified by substituting "makes a written determination" for the word "determines" on page 1, line 29 of the Bill.
- B. Section 38.16.040 would consolidate and revise the criteria for making noncompetitive dispositions. In order to make this section consistent with the primary objective of maximizing state revenue, we suggest that the "or" on page 2, line 23 be changed to an "and".

Section 38.16.040 would require in item (7) that the commissioner consider "the ability, intent and degree of certainty of the prospective purchaser to provide refined products or by products for distribution and sale in the state with significant price and supply benefits for the

citizens of the state." This language is problematical since it will be difficult to assess "the intent and degree of certainty" with regard to future actions by long-term contract purchasers.

- C. Section 38.16.050(a) requires legislative approval for amendments to contracts that appreciably reduce the consideration received by the state. This provision could be clarified with respect to prices negotiated under price reopeners by inserting the following after the word "state" on line 23, page 3: ", including a reduction in price negotiated under a price reopener provision,".

Section 38.16.050(b) would restrict assignments of unrefined royalty oil. We believe this subsection appropriately should apply only to sales to instate refiners. We suggest insertion of the words "to an instate refiner" after the word "disposition" on line 25, page 3.

Section 38.16.050(b)(1)(A) would require the commissioner to be satisfied that an assignment of a royalty oil contract "will result in a significant increase of direct monetary benefit to energy consumers of the state." It is not clear whether the commissioner must be satisfied that the assignment will result in an increase of benefit compared to no royalty oil contract at all, or compared to a royalty contract without the assignment being made. This language would be particularly problematical in a situation like the one encountered in the GVEA contract approved last year, where the assignment and the contract are contemporaneous.

- D. Section 38.16.060 would add a needed clarification to the export restriction. We strongly support this change.
- E. Section 38.16.070 would require legislative approval of long-term contracts. The Department of Law has frequently has asserted the unconstitutionality of this type of provision under the principles of separation of powers.

Section 38.16.070(d) refers to dispositions under (c)(2), requiring that they not be continued after the end of one year. Since subsection (c)(2) provides for two-year competitive sales, the words "or (c)(2)" on line 7, page 5 should be deleted.

- F. Section 38.16.080 requires a royalty oil and gas status report to be submitted to the legislature. With regard to item (1), we suggest that the reporting of royalty status

The Honorable Mike Davis, Chairman

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should be either by unit or by lease. We suggest the Bill be amended on lines 16 and 17, page 5 to read "(1) the royalty status of all producing oil and gas units or leases;".

In item (3), the commissioner would have to provide the "findings of the commissioner" for each noncompetitive sale. It is not clear if these findings must be provided only for contracts entered into in the previous year, only for contracts proposed for consideration by the legislature that year, or for every existing noncompetitive contract. It is also unclear whether the commissioner can just restate the findings made at the time the contract was entered into, or whether a new finding must be prepared indicating the current status of compliance with applicable disposal criteria. If the intent is that we submit findings only for new proposals, this could be accomplished by inserting the word "proposed" after the word "each" on line 19, page 5. We also suggest that the phrase "noncompetitively bid disposition" be replaced by "noncompetitive disposition."

Item (4) of this section would require "an evaluation of the economic consumer benefits resulting from in-state refiners and processors currently receiving royalty oil or gas." This evaluation will entail a number of interpretative and cost considerations. This requirement is the basis for the department's estimated fiscal impact of HB 495.

Assuming that "consumer benefits" refers to price benefits and does not include benefit categories such as employment or revenue, it would be the department's task to estimate the difference between current product prices and the hypothetical product prices which would prevail in the absence of royalty oil contracts for the state's four local refineries. However, the pricing behavior of these refineries in the absence of royalty oil contracts would be difficult to ascertain.

Given the difficulty of the task and the staff resources available, the department is certain that this requirement would require the services of professional consultants. Preliminary discussions with the university's Institute of Social and Economic Research, which is a representative candidate for this undertaking, indicate an initial cost of \$50,000 and \$25,000 each year thereafter. This cost is based on the above described methodology, which the department believes necessary to a meaningful examination of consumer benefits. The department also believes that a imprecise

treatment of this issue could lead to legal objections from affected instate refiners and utilities. Needless to say, these estimates would increase somewhat if any subsequent royalty oil contracts were awarded to instate refiners.

Section 38.16.080(5)(D) refers to oil and gas sold on a "competitive and noncompetitive bid basis." We suggest that the word "bid" on line 1, page 6 be deleted.

Section 38.16.080(5)(E) refers to purchases "by foreign nations." As we are seeing in the Cook Inlet export situation, it is unlikely that a foreign nation itself would purchase oil. More appropriate language is "purchased for export to foreign nations."

II. Section 3.

- A. Section 38.05.035 would be amended to provide that subsection (e) of that section does not apply to "royalty on oil or gas." We suggest that this provision be modified by substituting "to dispositions of royalty oil or gas" for the words "to royalty on oil or gas" on lines 1 and 2, page 8.

III. Section 9.

- A. AS 38.05.180(1) would be amended to require the commissioner to make a written finding that the state "receives back" its stored or traded royalty share. Since the underlift recovery would occur in the future, the language could more appropriately require that the state "will receive back" its stored or traded royalty share (line 29, page 9).

IV. Section 11 and Section 13.

- A. The new language added as subsection (aa) in Section 13 of the Bill could logically be placed at the beginning of the existing subsection (r). If this change were adopted, corresponding changes would be needed in sections 10 and 12 of the Bill (lines 12 and 27, page 10).

V. Section 20.

- A. In order to make section 38.06.010 consistent with the proposed sections 38.16.010 and 38.16.040, we suggest that the words "maximize revenue, to" be inserted after the words "calculated to" on line 26, page 12.

VI. Section 22.

- A. Section 38.06.040(a)(1) would still require the royalty board to "develop a plan for the wise development of the state's royalty oil and gas interests." The royalty board lacks the resources to prepare this type of plan.
- B. Section 38.06.040(a)(2) would require the royalty board to hold hearings to determine whether a disposition complies with the criteria in "AS 38.16.040." The current statute, AS 38.06.040(a)(2), references the criteria in AS 38.06.070. Since section .070 states the criteria for sales requiring legislative approval, we believe that the royalty board now need hold hearings only on sales requiring legislative approval. The proposed language would refer to the criteria in the new section 38.16.040, which are the criteria the commissioner must consider in any negotiated disposal; thus, the new language would seem to require royalty board hearings on any negotiated disposal, whether or not legislative approval was required.

VII. Section 24.

- A. The items in this revised section 38.06.070, criteria, could appropriately be combined with the powers and duties of the board listed in the new section 38.06.040. The items listed here technically are not criteria but rather possible recommendations that the board may make to the commissioner and a report that the board must make for proposed sales requiring legislative approval. It would seem to be consistent with the intent of the bill to consolidate all "criteria" in a single section. Adoption of this change would require corresponding changes in other sections.
- B. Section 38.06.070(2) would require the board to "report fully" for dispositions requiring legislative approval. The royalty board lacks the resources to prepare a full report on proposed dispositions.

VIII. Section 27.

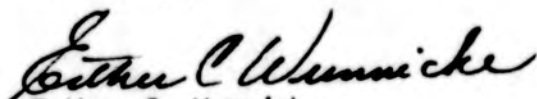
- A. This section would amend AS 44.62.175(a) to include additional items that must be published in the Alaska Administrative Journal. It is apparently an oversight that all proposed disposals under AS 38.05 were not previously

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included. We suggest that the changes proposed on lines 2, 19, 20 and 21 of page 16 be deleted and replaced with a provision that reads: "(10) a notice of disposal required by AS 38.05.945 or AS 38.16."

Thank you for the opportunity to comment.

Sincerely,


Esther C. Wunnicke
Commissioner

1935K

STATE OF ALASKA 1986 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 495
 Title : An Act relating to State Oil and Gas interests and providing for effective date
 Sponsor : Oil and Gas Committee
 Requestor : Governor
 Date of Request : 1-24-86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Petroleum Management
 Components : Petroleum Management

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	50.0	25.0	25.0	25.0	25.0	25.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.0	25.0	25.0	25.0	25.0	25.0

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND	50.0	25.0	25.0	25.0	25.0	25.0
FEDERAL FUNDS						
OTHER						
TOTAL	50.0	25.0	25.0	25.0	25.0	25.0

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

See attached analysis.

Prepared by : Jim Eason Phone : 762-4246
 Division : Division of Oil and Gas Date : 1-30-86
 Approved by Commissioner : Mark D. Amodeo, Deputy Date : 1-30-86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Analysis for HB 495

The department believes that the implementation of item 4 of Section 38.16.080 will entail a number of interpretive and cost considerations. This subsection calls for "an evaluation of the economic consumer benefits resulting from in-state refiners and processors currently receiving royalty oil and gas...". Assuming that "consumer benefits" refers to price benefits and does not include benefit categories such as employment or revenue, it would be the department's task to estimate the difference between current product prices and the hypothetical product prices which would prevail in the absence of royalty oil contracts for the State's four local refineries. However, the pricing behavior of these refineries in the absence of royalty oil contracts would be difficult to ascertain.

Given the difficulty of the task and the staff resources available, the department is certain that this requirement will entail the services of professional consultants. Preliminary discussions with ISER, which is a representative candidate for this undertaking, indicate an initial cost of \$50,000 and \$25,000 each year thereafter. This cost is based on the above described methodology, which the department believes necessary to a meaningful examination of consumer benefits. The department also feels that an imprecise treatment of this issue could lead to legal objections from affected in-state refiners and utilities. Needless to say, these estimates would increase somewhat if any subsequent royalty oil contracts were awarded to in-state refiners.

HB 495
Question and Answer Overview

What does HB 495 seek to accomplish?

HB 495 attempts to clarify state policy and administrative procedures regarding the taking and disposition of royalty oil and gas. This clarification is intended to facilitate the procurement of royalty oil and gas by eligible purchasers, while also improving the working relationship between industry, the legislature, and the administration.

In order to effect these changes, HB 495 isolates oil and gas royalties from other royalty resources in AS 38. A new chapter comprised in part of sections of AS 38.05 and AS 38.06 would deal exclusively with the taking and disposition of royalty oil and gas. This new chapter, AS 38.16, would also consolidate criteria regarding the sale of royalty oil and gas into a single section.

The revisor of statutes has also been asked to consider rearranging certain sections of AS 38.05 in order to further clarify the requirements and procedures set forth in this chapter.

What are the major policy and procedural issues addressed in the bill?

HB 495 focuses on several issues of consequence to the state. Following is a brief outline of the policy changes proposed in the bill.

1. Clear direction is given to the commissioner of DNR regarding the taking and disposition of royalty oil and gas. Central to this policy is the maximization of state revenues, with secondary goals being to expand foreign markets and to supply existing and new in-state refineries and utilities with royalty oil at current market value.
2. The commissioner of DNR must submit an annual report to the legislature delineating the status of all state-owned royalty oil and gas production and disposition. The report must be submitted no later than the 15th day of each regular session.

3. The state reserves the right to purchase residual oil from in-state refiners.

4. Language is deleted that allowed royalty oil or gas taken in kind to be exported from the state only after the commissioner made a determination that "the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs" of the state.

5. The term of a competitively-bid disposition of royalty oil or gas which may take place without legislative approval is extended to two years from the current one year limitation.

6. The commissioner of DNR must make public written findings and conclusions relating to non-competitive dispositions of royalty oil and gas.

7. The Alaska Royalty Oil and Gas Development Advisory Board is transferred to the Department of Natural Resources from the Department of Commerce and Economic Development.

8. All oil and gas exploration incentives are retained, with the exception that royalties on oil and gas cannot be reduced below 12.5 percent.

9. An assignment of unrefined royalty oil purchased from the state is prohibited unless certain minimum benefits to citizens of the state are met.

10. Prior to disposing of royalty oil or gas, consideration must be given not only to a prospective purchaser's ability to provide significant price and supply benefits to citizens of the state, but also to the degree of certainty and intent of the prospective purchaser that these benefits will be provided.

11. Prior to disposing of royalty oil or gas, consideration must also be given to the local or regional desirability of the disposition.

12. DNR may provide by regulation for the confidentiality of documents and records in the same manner that this is presently done by the royalty board. In neither case should these confidentiality provisions preclude proper legislative review of proposed sales of royalty oil or gas.

HB 495
Sectional Analysis

* Section 1.

Chapter 16. Taking and Disposition of Royalty Oil and Gas.

HB 495 isolates oil and gas royalties from other royalties in AS 38, and clarifies state policy for the taking and disposition of royalty oil and gas. Chapter 16 is a new chapter comprised, in part, of sections of AS 38.05 and AS 38.06.

Sec. 38.16.010. Directs the state to maximize revenues related to the taking and disposition of royalty oil and gas. Secondary goals are to supply existing in-state refineries and utilities with royalty oil or gas at current market value, supply new in-state refineries and utilities with royalty oil at current market value, and expand foreign markets for royalty resources.

Sec. 38.16.020. Rewording, without substantive change, of the provision that the state give preference to taking its royalty in kind. [AS 38.05.182(a)]

Sec. 38.16.030. (a) Rewording, without substantive change, of the provision that the state give preference to disposing of its royalty by competitive bid to the highest bidder. [AS 38.05.183(a)]

(b) Rewording to clarify that a single competitive bid may be rejected. [AS 38.05.183(b)]

(c) The commissioner must make public written findings and conclusions relating to dispositions of oil or gas which are to be made other than by competitive bid.

Sec. 38.16.040. This section consolidates criteria for the commissioner and the board to consider when reviewing proposals to dispose of royalty oil or gas non-competitively. Changes to these criteria are:

(1) Cash value for the oil or gas shall not be below current market value. [AS 38.05.183(e)]

(2) No substantive change. [AS 38.05.183(e) and AS 38.06.070(a)]

(3) Consideration of projected local and regional economic benefits of refining or processing oil or gas in state. [AS 38.05.183(e) and AS 38.06.070(a)]

Sec. 38.16.040. (Continued)

(4) No substantive change. [AS 38.06.070(a)]

(5) No substantive change. [AS 38.06.070(a)]

(6) No substantive change. [AS 38.06.070(a)]

(7) Consideration must be given not only to a prospective purchaser's ability to provide significant price and supply benefits to citizens of the state, but also to the intent and degree of certainty that these benefits will be provided.

Sec. 38.16.050. (a) No substantive change. [AS38.05.183(f)]

(b)(1) Prohibits an assignment of unrefined royalty oil purchased from the state unless certain minimum benefits to citizens of the state are met.

(b)(2) Reserves to the state the right to purchase residual oil from in-state refiners.

Sec. 38.16.060. Deletes language allowing royalty oil or gas taken in kind to be exported from the state only after the commissioner has made a determination that "the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs" of the state. [AS 38.05.183(d)]

Sec. 38.16.070. Subsection (c)(2) of this section extends the term of a competitively-bid disposition of royalty oil or gas which may take place without legislative approval to two years from one year. [AS 38.06.055]

Sec. 38.16.080. Requires the commissioner to submit a royalty oil and gas report to the legislature no later than the 15th day of each regular legislative session.

Sec. 38.16.090. The department may provide by regulation for the confidentiality of documents and records. Similar provisions remain in effect for the board under AS 38.06. [AS 38.06.060]

Sec. 38.16.900. Definitions.

* Section 2.

Sec. 38.05.020. (b) Technical change, referencing AS 38.16.

* Section 3.

Sec. 38.05.035. Technical change, reflecting Ch. 64 SLA 85 (HB 103).

* Section 4.

Sec. 38.05.036. (a) Technical change, referencing AS 38.16.

* Section 5.

Sec. 38.05.036. (b) Technical change, referencing AS 38.06.060 and AS 38.16.090.

* Section 6.

Sec. 38.05.069. (f) Technical change, referencing AS 38.16.

* Section 7.

Sec. 38.05.135. (a) Retains all exploration incentives, with the exception that royalties on oil and gas cannot be reduced below 12.5 percent.

* Section 8.

Sec. 38.05.140. (c) Technical change, deleting language relating to oil and gas lease acreage. This language is transferred to the new subsection AS 38.05.180(aa).

* Section 9.

Sec. 38.05.180. (l) Technical changes regarding the state's ability to store or trade its royalty share. Also adds a provision requiring the commissioner to make written findings prior to storing or trading the state's royalty share.

* Section 10.

Sec. 38.05.180. (q) Technical change, referencing the new subsection AS 38.05.180(aa).

* Section 11.

Sec. 38.05.180. (r) Technical change, referencing the new subsection AS 38.05.180(aa).

* Section 12.

Sec. 38.05.180. (t) Technical change, referencing the new subsection AS 38.05.180(aa).

* Section 13.

Sec. 38.05.180. Technical change, adding the new subsection (aa).

*** Section 14.**

Sec. 38.05.182. (a) References to oil and gas are deleted from this subsection relating to the taking of royalty.

*** Section 15.**

Sec. 38.05.182. The new subsection (c) is added, stating this section does not apply to royalty oil or gas.

*** Section 16.**

Sec. 38.05.183. (a) The commissioner is not required to provide written notice to the royalty board regarding the non-competitive sale of non-oil or -gas royalty.

*** Section 17.**

Sec. 38.05.183. (b) The commissioner is not required to provide written notice to the royalty board regarding the rejection of a competitive bid for non-oil or -gas royalty. Language is changed to clarify that a single bid may be rejected without necessitating the rejection of all bids involved in the sale.

*** Section 18.**

Sec. 38.05.183. (c) The commission is not required to provide written notice to the royalty board regarding the determination upon which the decision was based to sell non-oil or -gas royalty non-competitively.

*** Section 19.**

Sec. 38.05.183. A new subsection (h) is added, stating this section does not apply to royalty oil or gas. Disposition of royalty oil and gas, including requirements that the commissioner provide written notice to the royalty board, is addressed in AS 38.16.030 and AS 38.16.040.

*** Section 20.**

Sec. 38.06.010. The purpose of AS 38.06 is expanded to include local or regional desirability as a major consideration for the disposition of royalty oil or gas. Also included is a technical change referencing AS 38.16.

*** Section 21.**

Sec. 38.06.020. The Alaska Royalty Oil and Gas Development Advisory Board is transferred to the Department of Natural Resources from the Department of Commerce and Economic Development.

*** Section 22.**

Sec. 38.06.040. Technical changes, referencing AS 38.16.

*** Section 23.**

Sec. 38.06.050. Technical changes, referencing AS 38.16.

*** Section 24.**

Sec. 38.06.070. Subsection (a) is deleted, and the substance of this subsection is transferred to AS 38.16.040. The board may recommend that refiners proposing to distribute and sell refined products and by-products in-state provide significant price and supply benefits to the citizens of the state.

*** Section 25.**

Sec. 38.06.080. Definitions.

*** Section 26.**

Sec. 43.05.010. (16) Technical change referencing AS 38.16.

*** Section 27.**

Sec. 44.62.175. (a) Technical change referencing AS 38.16.030. Also requires that notice of findings required to be made public by the commissioner be published in the Alaska Administrative Journal.

*** Section 28.**

Sec. 38.05.183. Subsections (d), (e), (f) and (g) are repealed in order that this section exclusively address the sale of non-oil and -gas royalty. The sale of oil and gas royalty is addressed in AS 38.16.030 and AS 38.16.040.

Sec. 38.06.055. This section is repealed, and provisions regarding legislative approval of royalty oil and gas contracts are transferred to AS 38.16.070.

*** Section 29.**

Sec. 01.10.070. (c) Provides for an immediate effective date.

CSHB 495
Sectional Analysis

* Section 1.

Chapter 16. Taking and Disposition of Royalty Oil and Gas.

HB 495 isolates oil and gas royalties from other royalties in AS 38, and clarifies state policy for the taking and disposition of royalty oil and gas. Chapter 16 is a new chapter comprised, in part, of sections of AS 38.05 and AS 38.06.

Sec. 38.16.010. Directs the state to maximize citizen benefits related to the taking and disposition of royalty oil and gas. Secondary goals are to supply existing in-state refineries and utilities with royalty oil or gas at current market value, supply new in-state refineries and utilities with royalty oil at current market value, and expand foreign markets for royalty resources.

Sec. 38.16.020. Rewording of the provision that the state give preference to taking its royalty in kind. The commissioner may take royalty oil or gas in value upon making a written determination that this action would be in the best interest of the state. [AS 38.05.182(a)]

Sec. 38.16.030. (a) Rewording, without substantive change, of the provision that the state give preference to disposing of its royalty by competitive bid to the highest bidder. [AS 38.05.183(a)]

(b) Rewording to clarify that a single competitive bid may be rejected. [AS 38.05.183(b)]

(c) The commissioner must make public written findings and conclusions relating to dispositions of oil or gas which are to be made other than by competitive bid.

Sec. 38.16.040. This section consolidates criteria for the commissioner and the board to consider when reviewing proposals to dispose of royalty oil or gas non-competitively. Changes to these criteria are:

(1) Cash value for the oil or gas shall not be below current market value. [AS 38.05.183(e)]

(2) No substantive change. [AS 38.05.183(e) and AS 38.06.070(a)]

Sec. 38.16.040. (Continued)

(3) Consideration of projected local and regional economic benefits of refining or processing oil or gas in state. [AS 38.05.183(e) and AS 38.06.070(a)]

(4) No substantive change. [AS 38.06.070(a)]

(5) No substantive change. [AS 38.06.070(a)]

(6) No substantive change. [AS 38.06.070(a)]

(7) No substantive change. [AS 38.05.183(e)]

Sec. 38.16.050. (a) Clarification that an amendment of a contract that appreciably reduces the consideration received by the state includes a reduction in price negotiated under a reopener clause. [AS 38.05.183(f)]

(b)(1) Prohibits an assignment of unrefined royalty oil purchased from the state to an in-state refiner unless certain minimum benefits to citizens of the state are met.

(b)(2) Reserves to the state the right to purchase residual oil from in-state refiners.

Sec. 38.16.060. Deletes language allowing royalty oil or gas taken in kind to be exported from the state only after the commissioner has made a determination that "the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs" of the state. [AS 38.05.183(d)]

Sec. 38.16.070. No substantive change. [AS 38.06.055]

Sec. 38.16.080. Requires the commissioner to submit a royalty oil and gas report to the legislature no later than the 15th day of each regular legislative session.

Sec. 38.16.090. The department may provide by regulation for the confidentiality of documents and records. Similar provisions remain in effect for the board under AS 38.06. [AS 38.06.060]

Sec. 38.16.900. Definitions.

* Section 2.

Sec. 38.05.020. (b) Technical change, referencing AS 38.16.

* Section 3.

Sec. 38.05.035. Technical change, reflecting Ch. 64 SLA 85 (HB 103).

* Section 4.

Sec. 38.05.036. (a) Technical change, referencing AS 38.16.

* Section 5.

Sec. 38.05.036. (b) Technical change, referencing AS 38.06.060 and AS 38.16.090.

* Section 6.

Sec. 38.05.069. (f) Technical change, referencing AS 38.16.

* Section 7.

Sec. 38.05.135. (a) Retains all exploration incentives, with the exception that royalties on oil and gas cannot be reduced below 12.5 percent.

* Section 8.

Sec. 38.05.140. (c) Technical change, deleting language relating to oil and gas lease acreage. This language is transferred to AS 38.05.180(r).

* Section 9.

Sec. 38.05.180. (l) Technical changes regarding the state's ability to store or trade its royalty share. Also adds a provision requiring the commissioner to make written findings prior to storing or trading the state's royalty share.

* Section 10.

Sec. 38.05.180. (q) Technical change, referencing AS 38.05.180(r).

* Section 11.

Sec. 38.05.180. (r) This subsection is repealed and reenacted to reflect the transfer of language to this subsection from AS 38.05.140(c).

* Section 12.

Sec. 38.05.180. (t) Technical change, referencing AS 38.05.180(r).

* Section 13.

Sec. 38.05.182. (a) References to oil and gas are deleted from this subsection relating to the taking of royalty.

* Section 14.

Sec. 38.05.182. The new subsection (c) is added, stating this section does not apply to royalty oil or gas.

* Section 15.

Sec. 38.05.183. (a) The commissioner is not required to provide written notice to the royalty board regarding the non-competitive sale of non-oil or -gas royalty.

* Section 16.

Sec. 38.05.183. (b) The commissioner is not required to provide written notice to the royalty board regarding the rejection of a competitive bid for non-oil or -gas royalty. Language is changed to clarify that a single bid may be rejected without necessitating the rejection of all bids involved in the sale.

* Section 17.

Sec. 38.05.183. (c) The commission is not required to provide written notice to the royalty board regarding the determination upon which the decision was based to sell non-oil or -gas royalty non-competitively.

* Section 18.

Sec. 38.05.183. A new subsection (h) is added, stating this section does not apply to royalty oil or gas. Disposition of royalty oil and gas, including requirements that the commissioner provide written notice to the royalty board, is addressed in AS 38.16.030 and AS 38.16.040.

* Section 19.

Sec. 38.06.010. The purpose of AS 38.06 is expanded to include providing maximum benefits for the citizens of the state as a major consideration for the disposition of royalty oil or gas. Also included is a technical change referencing AS 38.16.

* Section 20.

Sec. 38.06.020. The Alaska Royalty Oil and Gas Development Advisory Board is transferred to the Department of Natural Resources from the Department of Commerce and Economic Development.

*** Section 21.**

Sec. 38.06.040. This section is repealed and reenacted in order to incorporate language regarding powers and duties of the board in AS 38.06.070. The board may recommend that refiners proposing to distribute and sell refined products and by-products in-state provide significant price and supply benefits to the citizens of the state. Technical changes, referencing AS 38.16.

*** Section 22.**

Sec. 38.06.050. Technical changes, referencing AS 38.16.

*** Section 23.**

Sec. 38.06.080. Definitions.

*** Section 24.**

Sec. 43.05.010. (16) Technical change referencing AS 38.16.

*** Section 25.**

Sec. 44.62.175. (a) Requires that notice of disposal required by AS 38.16 be published in the Alaska Administrative Journal.

*** Section 26.**

Sec. 38.05.183. Subsections (d), (e), (f) and (g) are repealed in order that this section exclusively address the sale of non-oil and -gas royalty. The sale of oil and gas royalty is addressed in AS 38.16.030 and AS 38.16.040.

Sec. 38.06.055. This section is repealed, and provisions regarding legislative approval of royalty oil and gas contracts are transferred to AS 38.16.070.

Sec. 38.06.070. This section is repealed, and the substance of subsection (a) is transferred to AS 38.16.040. The remainder of the section is transferred to AS 38.06.040.

*** Section 27.**

Sec. 01.10.070. (c) Provides for an immediate effective date.

Original sponsor: House Special Committee
on Oil and Gas

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON OIL AND GAS

2 CS FOR HOUSE BILL NO. 495 (Oil and Gas)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state oil and gas interests; and
7 providing for an effective date."

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

9 * Section 1. AS 38 is amended by adding a new chapter to read:

10 CHAPTER 16. TAKING AND DISPOSITION OF ROYALTY OIL AND GAS.

11 Sec. 38.16.010. LEGISLATIVE FINDINGS RELATING TO ROYALTY OIL AND
12 GAS. (a) The legislature finds that it is in the best interest of
13 the state to take and dispose of royalty oil and gas in a manner that
14 provides the maximum benefits for the citizens of the state.

15 (b) To the extent consistent with the primary goal of providing
16 the maximum benefits for the citizens of the state, the secondary
17 goals of the state in the taking and disposition of royalty oil and
18 gas are to

19 (1) supply existing in-state refineries and oil- or gas-
20 based utilities with oil or gas at the current market value for the
21 oil or gas;

22 (2) promote new in-state refineries and oil- or gas-based
23 utilities that are economically feasible at the current market value
24 for oil or gas without the new refineries or utilities relying on
25 royalty oil or gas contracts;

26 (3) expand the foreign market for the resources of the
27 state.

28 Sec. 38.16.020. TAKING OF ROYALTY IN KIND. The state shall take
29 an oil or gas royalty in kind unless the commissioner makes a written

1 determination that taking the royalty in value would be in the best
2 interest of the state.

3 Sec. 38.16.030. METHOD OF DISPOSITION OF ROYALTY. (a) The
4 commissioner shall make a disposition of royalty oil or gas by compet-
5 itive bid to the highest responsible bidder, unless the commissioner
6 determines, after prior written notice to the board, that competitive
7 bidding is not in the best interest of the state or that no competi-
8 tion exists.

9 (b) When competitive bids are required, the commissioner may,
10 after prior written notice to the board, reject a bid if the commis-
11 sioner determines that acceptance of a bid would not be in the best
12 interest of the state due to the amount of the bid, the lack of res-
13 ponsibility of the bidder, or other reasons consistent with the cri-
14 teria set out in AS 38.16.040.

15 (c) If the commissioner determines that a disposition of oil or
16 gas is to be made other than by competitive bid, the commissioner
17 shall make public in writing the specific findings and conclusions
18 that are the basis for the determination.

19 Sec. 38.16.040. CRITERIA FOR DISPOSITION OF NONCOMPETITIVELY BID
20 ROYALTY OIL OR GAS TAKEN IN KIND. When the state does not use compet-
21 itive bidding to dispose of royalty oil or gas taken in kind, the
22 commissioner shall make the disposition of royalty oil or gas to the
23 prospective purchaser whose proposal offers the maximum revenue or
24 other benefits to citizens of the state. When making an award under
25 this subsection, the commissioner shall consider the following cri-
26 teria:

27 (1) the cash value offered, which, notwithstanding AS 38.-
28 05.810(a), may not be less than the current market value of the royal-
29 ty oil or gas;

1 (2) the projected effects of the disposition of royalty oil
2 or gas on the revenue needs and projected fiscal condition of the
3 state;

4 (3) the projected benefits to local and regional economies
5 of the state of refining or processing the oil or gas in the state;

6 (4) the projected additional costs and responsibilities
7 that the state and affected political subdivisions of the state may
8 suffer due to the development related to the disposition of royalty
9 oil or gas;

10 (5) the projected social effects of the disposition of
11 royalty oil or gas;

12 (6) the projected environmental effects of the disposition
13 of royalty oil or gas;

14 (7) the ability of the prospective purchaser to provide
15 refined products or by-products for distribution and sale in the state
16 with significant price and supply benefits for the citizens of the
17 state.

18 Sec. 38.16.050. CONTRACT PROVISIONS. (a) The commissioner may
19 not enter into a contract for a disposition of royalty oil or gas
20 unless the contract provides that an amendment of the contract that
21 appreciably reduces the consideration received by the state requires
22 the prior approval of the legislature. In this subsection, an
23 "amendment" includes a reduction in price negotiated under a
24 contractual provision allowing price to be changed during the
25 contract.

26 (b) A disposition of royalty oil to an in-state refiner must

27 (1) prohibit an assignment of unrefined royalty oil pur-
28 chased from the state unless the assignor or assignee demonstrates to
29 the satisfaction of the commissioner that

1 (A) the assignment will result in a significant in-
2 crease of direct monetary benefit to energy consumers in the
3 state; and

4 (B) the total direct monetary benefit to energy con-
5 sumers in the state from the assignment will outweigh the mone-
6 tary benefit to the assignor and assignee; and

7 (2) reserve to the state the right to purchase residual oil
8 from the in-state refiner when the residual oil is a by-product of a
9 disposition of royalty oil by the state.

10 Sec. 38.16.060. DISPOSITION OF ROYALTY OIL OR GAS FOR EXPORT. A
11 disposition of royalty oil or gas taken in kind by the state under
12 AS 38.16.020 may not be made for export from the state unless the
13 commissioner determines that the disposition of royalty oil or gas is
14 in the best interest of the state and makes public in writing the
15 specific findings and reasons that are the basis for the determina-
16 tion.

17 Sec. 38.16.070. LEGISLATIVE APPROVAL. (a) In addition to the
18 recommendation by the board required under AS 38.06.050, the commis-
19 sioner may not enter into a disposition of royalty oil or gas without
20 the prior approval of the legislature by enactment of legislation.

21 (b) The commissioner shall notify the board in writing of a
22 determination by the commissioner that a disposition of royalty oil or
23 gas requires legislative approval.

24 (c) The provisions of (a) of this section do not apply to

25 (1) the disposition of royalty oil or gas for one year or
26 less if the disposition is entered into to relieve storage or market
27 conditions;

28 (2) the disposition of royalty oil or gas for one year or
29 less if the disposition is bid competitively; or

1 (3) contracts for the disposition of royalty oil or gas
2 that specify the sale and delivery of not more than

3 (A) 400 barrels of crude oil per day;

4 (B) 460 barrels of natural gas liquids per day; or

5 (C) 2,400 Mcf of natural gas per day.

6 (d) A disposition of royalty oil or gas under (c)(1) or (c)(2)
7 of this section may not be continued after the end of one year or
8 renewed with the same party without the prior approval of the legisla-
9 ture under (a) of this section. This subsection does not apply to a
10 sequential competitively bid disposition of royalty oil or gas made
11 with the same party under (c)(1) of this section.

12 Sec. 38.16.080. REPORT BY COMMISSIONER. The commissioner shall
13 submit to the legislature between the first and the 15th day of each
14 regular legislative session a royalty oil and gas report that includes

15 (1) the royalty status of all producing royalty oil and gas
16 units or leases;

17 (2) proposed dispositions of royalty oil and gas;

18 (3) for each proposed noncompetitive disposition of royalty
19 oil or gas the findings of the commissioner on the criteria in AS 38.-
20 16.040;

21 (4) an evaluation of the consumer price benefits resulting
22 from in-state refiners and processors currently receiving royalty oil
23 or gas; and

24 (5) the volume, percentage, and reported value of royalty
25 oil and gas

26 (A) being taken in kind and in value;

27 (B) purchased by in-state refiners and processors;

28 (C) actually refined or processed in the state;

29 (D) sold on a competitive and noncompetitive basis;

1 and

2 (E) purchased for export to foreign nations.

3 Sec. 38.16.090. CONFIDENTIALITY. Notwithstanding AS 09.25.-
4 110 - 09.25.120, the department may provide by regulation for the
5 confidentiality of those documents and records in the possession or
6 control of the department that contain confidential business or mar-
7 keting information when the protection of the information is essential
8 to the person who has submitted the information to the department, or
9 when the department determines that protection of the information is
10 essential to the best interest of the state. Confidentiality under
11 this section does not preclude proper review by the legislature.

12 Sec. 38.16.900. DEFINITIONS. In this chapter

13 (1) "board" means the Alaska Royalty Oil and Gas Develop-
14 ment Advisory Board;

15 (2) "commissioner" means the commissioner of natural re-
16 sources;

17 (3) "department" means the Department of Natural Resources;

18 (4) "dispose of" or "disposition of" royalty oil or gas
19 means the sale, exchange, or other alienation by the state of royalty
20 oil or gas or of an interest in royalty oil or gas, and includes the
21 waiver of a present or future right to take future production of oil
22 or gas as a royalty; and

23 (5) "interest" in oil or gas includes the right to take
24 future production of the oil or gas;

25 (6) "royalty gas" means gas, or an interest in gas,
26 obtained by the state under a lease issued under AS 38.05.180;

27 (7) "royalty oil" means oil, or an interest in oil,
28 obtained by the state under a lease issued under AS 38.05.180.

29 * Sec. 2. AS 38.05.020(b) is amended to read:

1 (b) The commissioner may

2 (1) establish reasonable procedures and adopt reasonable
3 regulations necessary to carry out this chapter and AS 38.16 and,
4 whenever necessary, issue directives or orders to the director to
5 carry out specific functions and duties; regulations adopted by the
6 commissioner shall be adopted under the Administrative Procedure Act
7 (AS 44.62); orders by the commissioner classifying land, issued after
8 January 3, 1959, are not required to be adopted under the Administra-
9 tive Procedure Act (AS 44.62);

10 (2) enter into agreements considered necessary to carry out
11 the purposes of this chapter and AS 38.16, including agreements with
12 federal and state agencies;

13 (3) review an [ANY] order or action of the director;

14 (4) exercise the powers and do the acts necessary to carry
15 out the provisions and objectives of this chapter and AS 38.16;

16 (5) notwithstanding the provisions of another [ANY OTHER]
17 section of this chapter, grant an extension of the time within which
18 payments due on a [ANY] lease or sale of state land, minerals, or
19 materials may be made, including payment of rental and royalties, on a
20 finding that compliance with the requirements is or was prevented by
21 reason of war, riots, or acts of God;

22 (6) classify tracts for agricultural uses and require the
23 prequalification, including the submission of conservation plans,
24 development plans, or other plans, schedules, or programs, of persons
25 who apply to participate in an agricultural development project under
26 AS 44.33.475;

27 (7) waive, postpone, or otherwise modify the development
28 requirements of a contract for the sale of agricultural land if

29 (A) the land is inaccessible by road; and

(B) transportation, marketing, and development costs render the required development uneconomic.

* Sec. 3. AS 38.05.035 is amended by adding a new subsection to read:

(g) The provisions of (e) of this section do not apply to a disposition of royalty oil or gas obtained by the state under AS 38.05.180.

* Sec. 4. AS 38.05.036(a) is amended to read:

(a) The Department of Revenue shall audit reports, payments, and payments due relating to royalty and net profits under oil and gas contracts, agreements, or leases under this chapter and AS 38.16.

* Sec. 5. AS 38.05.036(b) is amended to read:

(b) The Department of Revenue may inspect all reports and other information filed in support of or relating to royalty and net profits payments, whether or not the [THAT] information is confidential, and shall hold the [THAT] information confidential to the extent required under oil and gas agreements, contracts, or leases, or by this chapter, AS 38.06.060, AS 38.16.090, or AS 43.05.230.

* Sec. 6. AS 38.05.069(f) is amended to read:

(f) Nothing in (c) of this section affects the disposal of minerals under AS 38.05.135 - 38.05.183 or AS 38.16.

* Sec. 7. AS 38.05.135(a) is amended to read:

(a) Except as otherwise provided, valuable mineral deposits in land belonging to the state are [SHALL BE] open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title [TO] or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease application on a first-come,

1 first-served basis, and offered only on a competitive bid basis when
2 determined by the commissioner to be in the best interests of the
3 state. In unproven areas the commissioner may offer additional incen-
4 tives [, INCLUDING A REDUCTION OF ROYALTY TO A MINIMUM OF FIVE PERCENT
5 IN THE CASE OF OIL AND GAS,] and other terms in and granting a permit
6 or lease for exploration and development whenever it appears to be in
7 the best interests of the state to do so.

8 * Sec. 8. AS 38.05.140(c) is amended to read:

9 (c) A person may not take or hold at one time phosphate leases
10 on state land exceeding in the aggregate 10,240 acres. A person may
11 not take or hold sodium leases or permits during the life of sodium
12 leases on state land exceeding in the aggregate acreage 5,120 acres,
13 except that the commissioner may, where it is necessary in order to
14 secure the economic mining of sodium compounds, permit a person to
15 take or hold sodium leases or permits for up to 15,360 acres. [A
16 PERSON MAY NOT TAKE OR HOLD AT ANY ONE TIME OIL OR GAS LEASES EXCEED-
17 ING IN THE AGGREGATE 500,000 ACRES GRANTED ON TIDE AND SUBMERGED LAND
18 AND 500,000 ACRES ON ALL LAND OTHER THAN TIDE AND SUBMERGED LAND,
19 INCLUDING LEASES HELD BOTH AS LESSEE AND UNDER OPTION OR OPERATING
20 AGREEMENT FROM OTHERS. WHERE MORE THAN A SINGLE PERSON HOLDS AN
21 INTEREST IN AN OIL OR GAS LEASE, EACH PERSON SHALL BE CHARGED ONLY
22 WITH THAT PERCENTAGE OF THE TOTAL ACREAGE WHICH CORRESPONDS TO ITS
23 PERCENTAGE SHARE OF THE TOTAL BENEFICIAL INTEREST IN THE LEASE.]

24 * Sec. 9. AS 38.05.180(1) is amended to read:

25 (1) Subject to the provisions of AS 31.05, the commissioner has
26 discretion to enter into an agreement whereby, with the consent of the
27 lessee, all or part of the state's royalty share of oil and gas pro-
28 duction may be stored or retained in storage by the lessee, or the
29 commissioner may enter into an agreement with one or more of the

1 affected field lease holders to trade all or part of the current
2 royalty production from a field for a like amount, kind, and quality
3 of future production, if the commissioner makes a written finding [ON
4 THE CONDITION] that the state will receive [RECEIVES] back its stored
5 or traded royalty share before 80 percent of the estimated life of the
6 field is depleted, considering the engineering constraints and other
7 relevant factors [DURING THE FIRST HALF OF THE ESTIMATED FIELD LIFE OR
8 NO LATER THAN 15 YEARS AFTER START OF PRODUCTION, WHICHEVER IS
9 SOONER].

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

11 (q) A plan authorized by (p) of this section that [, WHICH]
12 includes land owned by the state, may contain a provision vesting the
13 commissioner, or a person, committee, or state agency, with authority
14 to modify from time to time the rate of prospecting and development
15 and the quantity and rate of production under the plan. All leases
16 operated under a plan approved or prescribed by the commissioner are
17 excepted in determining holdings or control under (r) of this section
18 [AS 38.05.140]. The provisions of this section concerning cooperative
19 or unit plans are in addition to and do not affect AS 31.05.

20 * Sec. 11. AS 38.05.180(r) is repealed and reenacted to read:

21 (r) A person may not take or hold at one time oil or gas leases
22 exceeding in the aggregate 500,000 acres granted on tide and submerged
23 land and 500,000 acres on all land other than tide and submerged land,
24 including leases held both as lessee and under option or operating
25 agreement from others. Where more than one person holds an interest
26 in an oil or gas lease, each person shall be charged only with that
27 percentage of the acreage that corresponds to the person's share of
28 the total beneficial interest in the lease. Producing acreage on a
29 known geologic structure of a producing oil or gas field is excluded

1 from chargeability against the acreage limitation provisions of this
2 subsection.

3 * Sec. 12. AS 38.05.180(t) is amended to read:

4 (t) The commissioner may prescribe conditions and approve, on
5 conditions, drilling, or development contracts made by one or more
6 lessees of oil or gas leases, with one or more persons, when, in the
7 discretion of the commissioner, the conservation of natural resources
8 or the public convenience or necessity requires it or the interests of
9 the state are best served. All leases operated under approved drill-
10 ing or development contracts and interests under them, are excepted in
11 determining holding or control under (r) of this section [AS 38.05.-
12 140].

13 * Sec. 13. AS 38.05.182(a) is amended to read:

14 (a) A [ANY] royalty provided for in AS 38.05.135 - 38.05.181 may
15 be taken in kind rather than in money if the commissioner determines
16 that the taking in kind would be in the best interest of the state.
17 [HOWEVER, ROYALTIES ON OIL AND GAS SHALL BE TAKEN IN KIND UNLESS THE
18 COMMISSIONER DETERMINES THAT THE TAKING IN MONEY WOULD BE IN THE BEST
19 INTEREST OF THE STATE.]

20 * Sec. 14. AS 38.05.182 is amended by adding a new subsection to read:

21 (c) This section does not apply to a royalty on oil or gas
22 obtained by the state under AS 38.05.180.

23 * Sec. 15. AS 38.05.183(a) is amended to read:

24 (a) The sale, exchange, or other disposal of a mineral obtained
25 by the state as a royalty under this chapter [AS 38.05.182], or the
26 sale, exchange or other disposal in whole or in part of a right to
27 receive future mineral production under a state lease under this
28 chapter, shall be by competitive bid and the sale, exchange or other
29 disposal made to the highest responsible bidder, except that

1 competitive bidding is not required when the commissioner [, AFTER
2 PRIOR WRITTEN NOTICE TO THE ALASKA ROYALTY OIL AND GAS DEVELOPMENT
3 ADVISORY BOARD UNDER AS 38.06.050,] determines that the best interest
4 of the state does not require it or that no competition exists.

5 * Sec. 16. AS 38.05.183(b) is amended to read:

6 (b) When competitive bids are required, the commissioner [,
7 AFTER PRIOR WRITTEN NOTICE TO THE ALASKA ROYALTY OIL AND GAS DEVELOP-
8 MENT ADVISORY BOARD,] may reject a bid [ALL BIDS] on a determination
9 that because of the amount of the bid or [BIDS,] the lack of respon-
10 sibility on the part of the bidder, [BIDDERS, OR FOR REASONS CONSIS-
11 TENT WITH THE CRITERIA SET OUT IN AS 38.06.070,] the acceptance of the
12 bid [BIDS] would not be in the best interest of the state.

13 * Sec. 17. AS 38.05.183(c) is amended to read:

14 (c) If the commissioner determines that a sale, exchange, or
15 other disposal of a mineral obtained by the state as a royalty under
16 this chapter [AS 38.05.182] or of a right to receive future mineral
17 production under a state lease under this chapter shall be made other
18 [OTHERWISE] than by competitive bid, [AND THE ALASKA ROYALTY OIL AND
19 GAS DEVELOPMENT ADVISORY BOARD HAS BEEN NOTIFIED IN WRITING OF THAT
20 DETERMINATION,] the commissioner shall make public in writing the
21 specific findings and conclusions on [UPON] which the [THAT] deter-
22 mination is based.

23 * Sec. 18. AS 38.05.183 is amended by adding a new subsection to read:

24 (h) This section does not apply to a royalty on oil or gas
25 obtained by the state under AS 38.05.180.

26 * Sec. 19. AS 38.06.010 is amended to read:

27 Sec. 38.06.010. PURPOSE. It is the purpose of this chapter to
28 facilitate the wise development of Alaska's oil and gas royalty inter-
29 ests by providing means and procedures for [SALES, EXCHANGES OR OTHER]

1 disposition of those interests in ways calculated to maximize the
2 benefits for the citizens of the state and to promote private economic
3 growth consistent with applicable environmental standards and public
4 fiscal stability, and in accordance with AS 38.16 [AS 38.05.183].

5 * Sec. 20. AS 38.06.020 is amended to read:

6 Sec. 38.06.020. ESTABLISHMENT. There is established in the
7 Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT]
8 the Alaska Royalty Oil and Gas Development Advisory Board.

9 * Sec. 21. AS 38.06.040 is repealed and reenacted to read:

10 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. (a) The board
11 shall

12 (1) in accordance with the criteria set out in (c) of this
13 section and AS 38.16.040, develop a plan for the wise development of
14 the state's royalty oil and gas interests; the plan of development
15 must be consistent with

16 (A) growth of the private sector of the economy;

17 (B) environmental standards required by law; and

18 (C) public fiscal stability;

19 (2) hold public hearings to determine whether a proposed
20 disposition of royalty oil or gas complies with the criteria in
21 AS 38.16.040;

22 (3) examine a proposed disposition of royalty oil or gas
23 and recommend that the legislature approve or disapprove the proposed
24 disposition of royalty oil or gas; and

25 (4) recommend to the commissioner conditions for the dispo-
26 sition, delivery, transportation, refining, or processing of the
27 royalty oil or gas.

28 (b) The board may

29 (1) direct the commissioner to solicit development plans or

1 bids consistent with the criteria set out in (c) of this section and
2 AS 38.16.040 for the disposition of royalty oil or gas obtained by the
3 state under AS 38.05.180;

4 (2) employ an executive director, and contract for the
5 services of professionals, persons with knowledge of economics and
6 other disciplines, and persons with technical skills who may be neces-
7 sary to assist the board in the exercise of its powers and duties; and

8 (3) adopt regulations under the Administrative Procedure
9 Act (AS 44.62) that are necessary to exercise its powers and duties.

10 (c) In the exercise of the powers of the board under (a) of this
11 section and AS 38.06.050, the board

12 (1) may, when it is economically feasible and in the public
13 interest, recommend to the commissioner as a condition of the disposi-
14 tion of royalty oil or gas that

15 (A) the oil or gas be refined or processed in the
16 state;

17 (B) the purchaser be a refiner who provides refined
18 products or by-products for distribution and sale in the state
19 with significant price and supply benefits to the citizens of the
20 state; or

21 (C) the purchaser construct a processing or refining
22 facility in the state;

23 (2) shall report fully to the department on each criterion
24 in AS 38.16.040 and in (1) of this subsection for each disposition of
25 royalty oil or gas that requires legislative approval under AS 38.16.-
26 070; the report shall be submitted to the legislature for review when
27 the legislation approving the proposed disposition of royalty oil or
28 gas is introduced in the legislature.

29 * Sec. 22. AS 38.06.050 is repealed and reenacted to read:

1 Sec. 38.06.050. BOARD REVIEW AND RECOMMENDATION REQUIRED. If
2 legislative approval is required by AS 38.16.070, the commissioner may
3 not dispose of royalty oil or gas without prior review of the proposed
4 disposition of royalty oil or gas by the board. The written recommen-
5 dation of the board on the proposed disposition of royalty oil or gas
6 shall be submitted to the legislature at the time the legislation
7 approving the proposed disposition of royalty oil or gas is introduced
8 in the legislature.

9 * Sec. 23. AS 38.06.080 is amended by adding new paragraphs to read:

10 (3) "commissioner" means the commissioner of natural re-
11 sources;

12 (4) "department" means the Department of Natural Resources;

13 (5) "dispose of" or "disposition of" royalty oil or gas
14 means the sale, exchange, or other alienation by the state of royalty
15 oil or gas or of an interest in royalty oil or gas, and includes the
16 waiver of a present or future right to take future production of oil
17 or gas as a royalty;

18 (6) "interest" in royalty oil or gas includes the right to
19 take future production of oil or gas as a royalty.

20 * Sec. 24. AS 43.05.010(16) is amended to read:

21 (16) audit reports, payments, and payments due relating to
22 royalty and net profits under oil and gas contracts, agreements, or
23 leases under AS 38.05 and AS 38.16;

24 * Sec. 25. AS 44.62.175(a) is amended to read:

25 (a) The lieutenant governor shall publish or contract for the
26 publication of the Alaska Administrative Journal. The journal shall
27 be published weekly. The journal must include

28 (1) notices of proposed actions given under AS 44.62.-
29 190(a);

1 (2) notices of state agency meetings required under AS 44.-
2 62.310(e), even if the meeting has been held;

3 (3) notices of solicitations to bid issued under AS 37.-
4 05.230;

5 (4) notices of state agency requests for proposals issued
6 under AS 18.55.255, 18.55.320; AS 19.10.190; AS 19.40.020; AS 35.15.-
7 030; AS 36.98.030; AS 37.05.230, 37.05.315(d); AS 38.05.120; and
8 AS 43.40.010;

9 (5) executive orders and administrative orders issued by
10 the governor;

11 (6) written delegations of authority made by the governor
12 or the head of a principal department under AS 44.17.010;

13 (7) the text or a summary of the text of a regulation or
14 order of repeal of a regulation for which notice is given under
15 AS 44.62.190(a), including an emergency regulation or repeal whether
16 or not it has taken effect;

17 (8) a summary of the text of recently issued formal opin-
18 ions and memoranda of advice of the attorney general; [AND]

19 (9) a list of vacancies on boards, commissions, and other
20 bodies whose members are appointed by the governor;

21 (10) a notice of disposal required by AS 38.16.

22 * Sec. 26. AS 38.05.183(d), (e), (f), and (g); AS 38.06.055 and 38.06.-
23 070 are repealed.

24 * Sec. 27. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).
26
27
28
29

Side by Side Analysis

1.

HB 495

Statute

CHAPTER 16. TAKING AND DISPOSITION OF ROYALTY OIL AND GAS.

Sec. 38.16.010. LEGISLATIVE FINDINGS RELATING TO ROYALTY OIL AND GAS. (a) The legislature finds that it is in the best interest of the state and the citizens of the state that the state take and dispose of royalty oil and gas in a manner that maximizes state revenue.

(b) To the extent consistent with the primary goal of maximizing state revenue, the secondary goals for the state in the taking and disposition of royalty oil and gas are to

(1) supply existing in-state refineries and oil- or gas-based utilities with oil or gas at the current market value for the oil or gas;

(2) promote new in-state refineries and oil- or gas-based utilities that are economically feasible at the current market value for oil or gas without the new refineries or utilities relying on royalty oil or gas contracts;

(3) expand the foreign market for the resources of the state.

Sec. 38.16.020. TAKING OF ROYALTY IN KIND. The state shall take in kind an oil or gas royalty provided for in AS 38.05.180, unless the commissioner determines that taking the royalty in value would be in the best interest of the state.

No equivalent

Sec. 38.05.182. Royalty on natural resources. (a) Any royalty provided for in AS 38.05.135 — 38.05.181 may be taken in kind rather than in money if the commissioner determines that the taking in kind would be in the best interest of the state. However, royalties on oil and gas shall be taken in kind unless the commissioner determines that the taking in money would be in the best interest of the state.

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Statute

Sec. 38.16.030. METHOD OF DISPOSITION OF ROYALTY. (a) The commissioner shall make a disposition of royalty oil or gas obtained by the state under AS 38.05.180 by competitive bid to the highest responsible bidder, unless the commissioner determines, after prior written notice to the board, that competitive bidding is not in the best interest of the state or that no competition exists.

(b) When competitive bids are required, the commissioner may, after prior written notice to the board, reject a bid if the commissioner determines that acceptance of a bid would not be in the best interest of the state due to the amount of the bid, the lack of responsibility of the bidder, or other reasons consistent with the criteria set out in AS 38.16.040.

(c) If the commissioner determines that a disposition of oil or gas is to be made other than by competitive bid, the commissioner shall make public in writing the specific findings and conclusions that are the basis for the determination.

Sec. 38.05.183. Sale of royalty. (a) The sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange or other disposal in whole or in part of a right to receive future mineral production under a state lease under this chapter, shall be by competitive bid and the sale, exchange or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board, may reject all bids on a determination that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182 or of a right to receive future mineral production under a state lease under this chapter shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

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Sec. 38.16.040. CRITERIA FOR DISPOSITION OF NONCOMPETITIVELY BID ROYALTY OIL OR GAS TAKEN IN KIND. When the state does not use competitive bidding to dispose of royalty oil or gas taken in kind by the state under AS 38.16.020, the commissioner shall make the disposition of royalty oil or gas to the prospective purchaser whose proposal offers the maximum revenue or other benefits to citizens of the state. When making an award under this subsection, the commissioner shall consider the following criteria:

(1) the cash value offered, which, notwithstanding AS 38.05.810(a), may not be less than the current market value of the royalty oil or gas;

(2) the projected effects of the disposition of royalty oil or gas on the revenue needs and projected fiscal condition of the state;

Statute

Sec. 38.05.183

(e) When a sale, exchange or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

Sec. 38.05.183 (e)

(1) the cash value offered;

Sec. 38.05.183 (e)

(2) the projected effects of the sale, exchange or other disposal on the economy of the state;

Sec. 38.06.070 (a)

(1) the revenue needs and projected fiscal condition of the state;

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Sec. 38.16.040

(3) the projected benefits to local and regional economies of the state of refining or processing the oil or gas in the state;

(4) the projected additional costs and responsibilities that the state and affected political subdivisions of the state may suffer due to the development related to the disposition of royalty oil or gas;

Statute

Sec. 38.06.070 (a)

(2) the existence and extent of present and projected local and regional needs for oil and gas products and by-products, the effect of state or federal commodity allocation requirements which might be applicable to those products and by-products, and the priorities among competing needs;

(3) the desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale, exchange or other disposition of oil and gas or both;

(6) the existence of specific local or regional labor or consumption markets or both which should be met by the transaction;

Sec. 38.05.183 (e)

(3) the projected benefits of refining or processing the oil or gas in the state;

Sec. 38.06.070 (a)

(5) the projected additional costs and responsibilities which could be imposed upon the state and affected political subdivisions by development related to the transaction;

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Sec. 38.16.040

(5) the projected social effects of the disposition of royalty oil or gas;

(6) the projected environmental effects of the disposition of royalty oil or gas;

(7) the ability, intent and degree of certainty of the prospective purchaser to provide refined products or by-products for distribution and sale in the state with significant price and supply benefits for the citizens of the state;

(8) the local or regional desirability of the disposition of royalty oil or gas.

No equivalent

Statute

Sec. 38.06.070 (a)

(4) the projected social impacts of the transaction;

(7) the projected positive and negative environmental effects related to the transaction;

Sec. 38.05.183 (e)

(4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state;

No equivalent.

Sec. 38.06.070 (a)

(8) the projected effects of the proposed transaction upon existing private commercial enterprise and patterns of investments.

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6.

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Statute

Sec. 38.16.050. CONTRACT PROVISIONS. (a) The commissioner may not enter into a contract for a disposition of royalty oil or gas obtained by the state under AS 38.05.180 unless the contract provides that an amendment of the contract that appreciably reduces the consideration received by the state requires the prior approval of the legislature.

(b) A disposition of royalty oil obtained by the state under AS 38.05.180 must

(1) prohibit an assignment of unrefined royalty oil purchased from the state unless the assignor or assignee demonstrates to the satisfaction of the commissioner that

(A) the assignment will result in a significant increase of direct monetary benefit to energy consumers in the state; and

(B) the total direct monetary benefit to energy consumers in the state from the assignment will outweigh the monetary benefit to the assignor and assignee; and

(2) reserve to the state the right to purchase residual oil from in-state refiners when the residual oil is a by-product of a disposition of royalty oil by the state.

Sec. 38.05.183 (e)

(f) The commissioner may not enter into a contract for the sale of royalty oil unless the contract provides that any material amendment to the contract that appreciably reduces the consideration received by the state requires prior approval of the legislature.

No equivalent

No equivalent

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7.

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Sec. 38.16.060. DISPOSITION OF ROYALTY OIL OR GAS FOR EXPORT. A disposition of royalty oil or gas taken in kind by the state under AS 38.16.020 may not be made for export from the state unless the commissioner determines that the disposition of royalty oil or gas is in the best interest of the state and makes public in writing the specific findings and reasons that are the basis for the determination.

Sec. 38.16.070. LEGISLATIVE APPROVAL. (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner may not enter into a disposition of royalty oil or gas obtained by the state under AS 38.05.180 without the prior approval of the legislature by enactment of legislation.

(b) The commissioner shall notify the board in writing of a determination by the commissioner that a disposition of royalty oil or gas requires legislative approval.

Statute

Sec. 38.05.183

(d) Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which the determination is based and shall, within 10 days of the convening of a regular session of the legislature, submit a report showing the immediate and long-range domestic and industrial needs of the state for oil and gas and an analysis of how these needs are to be met.

Sec. 38.06.055. Legislative approval. (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

No equivalent

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8.

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Sec. 38.16.070

(c) The provisions of (a) of this section do not apply to

(1) the disposition of royalty oil or gas for one year or less if the disposition is entered into to relieve storage or market conditions;

(2) the disposition of royalty oil or gas for two years or less if the disposition is bid competitively; or

(3) contracts for the disposition of royalty oil or gas that specify the sale and delivery of not more than

- (A) 400 barrels of crude oil per day;
- (B) 460 barrels of natural gas liquids per day; or
- (C) 2,400 Mcf of natural gas per day.

(d) A disposition of royalty oil or gas under (c)(1) or (c)(2) of this section may not be continued after the end of one year or renewed with the same party without the prior approval of the legislature under (a) of this section. This subsection does not apply to a sequential competitively bid disposition of royalty oil or gas made with the same party under (c)(1) of this section.

Statute

Sec 38.06.055

(b) The provisions of (a) of this section do not apply to

(1) the sale, exchange, or other disposition of oil or gas for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions;

No equivalent

(2) contracts for the sale of state-owned royalty gas or oil that specify the sale and delivery of not more than

- (A) 400 barrels of crude oil per day;
- (B) 460 barrels of natural gas liquids per day; and
- (C) 2,400 Mcf of natural gas per day.

(c) A sale, exchange, or other disposition of oil or gas [MADE] under (b)(1) of this section may not be continued after the end of one year or renewed with the same party [TO PROVIDE RELIEF FOR MARKET OR STORAGE CONDITIONS] without the prior approval of the legislature under (a) of this section. This subsection does not apply to a sequential competitively bid sale of oil or gas made with the same party under (b)(1) of this section.

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Statute

Sec. 38.16.080. REPORT BY COMMISSIONER. The commissioner shall submit to the legislature between the first and the 15th day of each regular legislative session a royalty oil and gas report that includes

(1) the royalty status of all producing royalty oil and gas leases;

(2) proposed dispositions of royalty oil and gas;

(3) for each noncompetitively bid disposition of royalty oil or gas the findings of the commissioner on the criteria in AS 38.16.040;

(4) an evaluation of the economic consumer benefits resulting from in-state refiners and processors currently receiving royalty oil or gas; and

(5) the volume, percentage, and reported value of royalty oil and gas

(A) being taken in kind and in value;

(B) purchased by in-state refiners and processors;

(C) actually refined or processed in the state;

(D) sold on a competitive and noncompetitive bid basis; and

(E) purchased by foreign nations.

No equivalent

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10.

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Statute

Sec. 38.16.090. **CONFIDENTIALITY.** Notwithstanding AS 09.25.-110 - 09.25.120, the department may provide by regulation for the confidentiality of those documents and records in the possession or control of the department that contain confidential business or marketing information when the protection of the information is essential to the person who has submitted the information to the department, or when the department determines that protection of the information is essential to the best interest of the state. Confidentiality under this section does not preclude proper review by the legislature.

No equivalent

Sec. 38.16.900. **DEFINITIONS.** In this chapter

- (1) "board" means the Alaska Royalty Oil and Gas Development Advisory Board;
- (2) "commissioner" means the commissioner of natural resources;
- (3) "department" means the Department of Natural Resources;
- (4) "dispose of" or "disposition of" royalty oil or gas means the sale, exchange, or other alienation by the state of royalty oil or gas or of an interest in royalty oil or gas, and includes the waiver of a present or future right to take future production of oil or gas as a royalty; and
- (5) "interest" in royalty oil or gas includes the right to take future production of oil or gas as a royalty.

Sec. 38.05.965. **Definitions.** In this chapter, unless the context otherwise requires,

- (3) "commissioner" means the commissioner of natural resources;
- (4) "department" means the Department of Natural Resources;

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Sec. 38.05.135

(a) Except as otherwise provided, valuable mineral deposits in land belonging to the state are [SHALL BE] open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title [TO] or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by AS 38.05.135 - 38.05.181, land may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state. In unproven areas the commissioner may offer additional incentives [, INCLUDING A REDUCTION OF ROYALTY TO A MINIMUM OF FIVE PERCENT IN THE CASE OF OIL AND GAS,] and other terms in and granting a permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so.

Sec. 38.05.140

(c) A person may not take or hold at one time phosphate leases on state land exceeding in the aggregate 10,240 acres. A person may not take or hold sodium leases or permits during the life of sodium leases on state land exceeding in the aggregate acreage 5,120 acres, except that the commissioner may, where it is necessary in order to secure the economic mining of sodium compounds, permit a person to take or hold sodium leases or permits for up to 15,360 acres. [A PERSON MAY NOT TAKE OR HOLD AT ANY ONE TIME OIL OR GAS LEASES EXCEEDING IN THE AGGREGATE 500,000 ACRES GRANTED ON TIDE AND SUBMERGED LAND AND 500,000 ACRES ON ALL LAND OTHER THAN TIDE AND SUBMERGED LAND, INCLUDING LEASES HELD BOTH AS LESSEE AND UNDER OPTION OR OPERATING AGREEMENT FROM OTHERS. WHERE MORE THAN A SINGLE PERSON HOLDS AN INTEREST IN AN OIL OR GAS LEASE, EACH PERSON SHALL BE CHARGED ONLY WITH THAT PERCENTAGE OF THE TOTAL ACREAGE WHICH CORRESPONDS TO ITS

Statute

Note: Bracketed language is transferred to Sec. 38.05.180(aa)

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12.

HB 495

Sec. 38.05.180

(1) Subject to the provisions of AS 31.05, the commissioner has discretion to enter into an agreement whereby, with the consent of the lessee, all or part of the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade all or part of the current royalty production from a field for a like amount, kind, and quality of future production, if the commissioner makes a written finding [ON THE CONDITION] that the state receives back its stored or traded royalty share before 80 percent of the estimated life of the field is depleted, considering the engineering constraints and other relevant factors [DURING THE FIRST HALF OF THE ESTIMATED FIELD LIFE OR NO LATER THAN 15 YEARS AFTER START OF PRODUCTION, WHICHEVER IS SOONER].

Sec. 38.05.182

(c) This section does not apply to a royalty on oil or gas obtained by the state under AS 38.05.180.

Sec. 38.05.183

(h) This section does not apply to a royalty on oil or gas obtained by the state under AS 38.05.180.

Statute

Note: References to oil and gas and the royalty board are deleted from this section.

Note: References to oil and gas and the royalty board are deleted from this section.

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Sec. 38.06.010. **PURPOSE.** It is the purpose of this chapter to facilitate the wise development of Alaska's oil and gas royalty interests by providing means and procedures for [SALES, EXCHANGES OR OTHER] disposition of those interests in ways calculated to promote private economic growth consistent with applicable environmental standards, local or regional desirability, and public fiscal stability, and in accordance with AS 38.16 [AS 38.05.183].

Sec. 38.06.020. **ESTABLISHMENT.** There is established in the Department of Natural Resources [COMMERCE AND ECONOMIC DEVELOPMENT] the Alaska Royalty Oil and Gas Development Advisory Board.

Sec. 38.06.040. **POWERS AND DUTIES OF THE BOARD.** (a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070 and AS 38.16.040, develop a plan for the wise development of the state's royalty oil and gas interests; the plan of development must be consistent with

- (A) growth of the private sector of the economy;
- (B) environmental standards required by law; and
- (C) public fiscal stability;

(2) hold public hearings to determine whether a proposed disposition of royalty oil or gas complies with the criteria in AS 38.16.040;

(3) examine a proposed disposition of royalty oil or gas and recommend that the legislature approve or disapprove the proposed disposition of royalty oil or gas; and

Statute

Sec. 38.06.040. Powers and duties of the board. (a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070, develop a plan for the wise development of the state's oil and gas royalty interests; the plan of development shall be consistent with

- (A) growth of the private sector of the economy;
- (B) environmental standards required by law; and
- (C) public fiscal stability;

(2) hold public hearings on proposed sales, exchanges, or other disposals of royalty oil or gas to determine whether the proposals comply with AS 38.06.070;

(3) examine proposed sales, exchanges or other disposal of, and recommend to the legislature that it approve or disapprove a proposed sale, exchange or other disposal of

(A) the oil or gas that is obtained by the state as royalty under AS 38.05.182; or

(B) the rights to receive future oil or gas production under state leases; and

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Sec. 38.06.040

(4) recommend to the commissioner conditions for the disposition, delivery, transportation, refining, or processing of the royalty oil or gas.

(b) The board may

(1) direct the commissioner to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 and AS 38.16.040 for the disposition of royalty oil or gas obtained by the state under AS 38.05.180;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary to exercise its powers and duties.

Sec. 38.06.050. BOARD REVIEW AND RECOMMENDATION REQUIRED. If legislative approval is required by AS 38.16.070, the commissioner may not dispose of royalty oil or gas without prior review of the proposed disposition of royalty oil or gas by the board. The written recommendation of the board on the proposed disposition of royalty oil or gas shall be submitted to the legislature at the time the legislation approving the proposed disposition of royalty oil or gas is introduced in the legislature.

Statute

Sec. 38.06.040

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining or processing of oil or gas which the commissioner may include in the offer and sale of oil or gas obtained by the state as royalty under AS 38.05.182.

(b) The board may

(1) direct the commissioner of natural resources to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 for

(A) the sale, exchange or other disposal of oil or gas obtained by the state as royalty under AS 38.05.182; or

(B) the sale, exchange or other disposal of all or a portion of the rights to receive future oil or gas production under a state lease;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary for the exercise of its powers and duties. (§ 2 ch 9 SSSLA 1974; am § 4 ch 112 SLA 1980)

Sec. 38.06.050. Board review and recommendation required. (a) If legislative approval is required by AS 38.06.055, a sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas may not be made by the commissioner of natural resources under AS 38.05.183 without prior review of the proposed sale, exchange, encumbrance or other disposition by the board. A written recommendation of the board on the proposed sale, exchange, encumbrance or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas shall be submitted to the legislature at the time a resolution approving the proposed sale, exchange, encumbrance or other disposition is introduced in the legislature.

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Sec. 38.16.030

(b) When competitive bids are required, the commissioner may, after prior written notice to the board, reject a bid if the commissioner determines that acceptance of a bid would not be in the best interest of the state due to the amount of the bid, the lack of responsibility of the bidder, or other reasons consistent with the criteria set out in AS 38.16.040.

(c) If the commissioner determines that a disposition of oil or gas is to be made other than by competitive bid, the commissioner shall make public in writing the specific findings and conclusions that are the basis for the determination.

Sec. 38.06.070. CRITERIA. In the exercise of the powers of the board under AS 38.06.040(a) and 38.06.050, the board

(1) may, when it is economically feasible and in the public interest, recommend to the commissioner as a condition of the disposition of royalty oil or gas that

(A) the oil or gas be refined or processed in the state;

(B) the purchaser be a refiner who provides refined products or by-products for distribution and sale in the state with significant price and supply benefits to the citizens of the state; or

(C) the purchaser construct a processing or refining

Statute

Sec. 38.06.050

(b) Bids or applications for the purchase of royalty oil or gas may be rejected by the commissioner of natural resources if prior written notice of the proposed disapproval is given to the board.

(c) Competitive bidding in a sale, exchange or other disposition described in (a) of this section may not be waived by the commissioner of natural resources under AS 38.05.183 unless prior written notice of proposed waiver is given to the board.

Sec. 38.06.070. Criteria. (a) In the exercise of its powers under AS 38.06.040(a) and 38.06.050 the board shall consider

Note: Criteria listed under (a) of this section have been transferred to Sec. 38.16.040.

(b) When it is economically feasible and in the public interest, the board may recommend to the commissioner of natural resources, as a condition of the sale of oil or gas obtained by the state as royalty, that

- (1) the oil or gas be refined or processed in the state;
- (2) the purchaser be a refiner who supplies products to the Alaska market with price or supply benefits to state citizens; or
- (3) the purchaser construct a processing or refining facility in the state.

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HB 495

Sec. 38.06.070

(2) shall report fully to the department on each criterion in AS 38.16.040 and in (1) of this section for each disposition of royalty oil or gas that requires legislative approval under AS 38.16.-070; the report shall be submitted to the legislature for review when the legislation approving the proposed disposition of royalty oil or gas is introduced in the legislature.

AS 38.06.080 is amended by adding new paragraphs to read:

(3) "commissioner" means the commissioner of natural resources;

(4) "department" means the Department of Natural Resources;

(5) "dispose of" or "disposition of" royalty oil or gas means the sale, exchange, or other alienation by the state of royalty oil or gas or of an interest in royalty oil or gas, and includes the waiver of a present or future right to take future production of oil or gas as a royalty;

(6) "interest" in royalty oil or gas includes the right to take future production of oil or gas as a royalty.

Sec. 44.62.175

(a) The lieutenant governor shall publish or contract for the publication of the Alaska Administrative Journal. The journal shall be published weekly. The journal must include

(10) a notice of the findings required to be made public by the commissioner of natural resources under AS 38.16.030 and 38.16.-060.

Statute

Sec. 38.06.070

(c) The board shall make a full report to the legislature on each criterion specified in (a) or (b) of this section for any disposition of royalty oil or gas which requires legislative approval. The board's report shall be submitted for legislative review at the time a resolution for legislative approval of a proposed disposition of royalty oil or gas is introduced in the legislature. (§ 2 ch 9 SSSLA 1974; am § 2 ch 131 SLA 1978; am § 7 ch 112 SLA 1980; am § 103 ch 6 SLA 1984)

Proposed amendments to HB 495

Page 1, Line 12

Sec. 38.16.010(a) is amended to read:

(a) The legislature finds that it is in the best interest of the state [and the citizens of the state] that the state take and dispose of royalty oil and gas in a manner that [maximizes state revenue] provides maximum benefit to its people.

Page 1, Line 15

Sec. 38.16.010(b) is amended to read:

(b) To the extent consistent with the primary goal of [maximizing state revenue] providing maximum citizen benefits, the secondary goals for the state in the taking and disposition of royalty oil and gas are to

Page 1, Line 27

Sec. 38.16.020 is amended to read:

Sec. 38.16.020. TAKING OF ROYALTY IN KIND. The state shall take in kind an oil or gas royalty [provided for in AS 38.05.180], unless the commissioner [determines] makes a written determination that taking the royalty in value would be in the best interest of the state.

Page 2, Line 2

Sec. 38.16.030(a) is amended to read:

(a) The commissioner shall make a disposition of royalty oil or gas [obtained by the state under AS 38.05.180] by competitive bid to the highest responsible bidder, unless the commissioner determines, after prior written notice to the board, that competitive bidding is not in the best interest of the state or that no competition exists.

Page 2, Line 18

Sec. 38.16.040 is amended to read:

Sec. 38.16.040. CRITERIA FOR DISPOSITION OF NONCOMPETITIVELY BID ROYALTY OIL OR GAS TAKEN IN KIND. When the state does not use competitive bidding to dispose of royalty oil or gas taken in kind [by the state under AS 38.16.020], the commissioner shall make the disposition of royalty oil or gas to the prospective purchaser whose proposal offers the maximum [revenue or other] benefits to citizens of the state. When making an award under this subsection, the commissioner shall consider the following criteria:

Page 2, Line 26

Sec. 38.16.040(1) is amended to read:

(1) the cash value offered, which [,notwithstanding AS 38.05.810(a),] may not be less than the current market value of the royalty oil or gas;

Page 3, Line 13

Sec. 38.16.040(7) is amended to read:

(7) the ability [, intent and degree of certainty] of the prospective purchaser to provide refined products or by-products for distribution and sale in the state with significant price and supply benefits for the citizens of the state;

Page 3, Line 19

Sec. 38.16.050(a) is amended to read:

(a) The commissioner may not enter into a contract for a disposition of royalty oil or gas [obtained by the state under AS 38.05.180] unless the contract provides that an amendment of the contract that appreciably reduces the consideration received by the state, including a reduction in price negotiated under a price reopener provision, requires the prior approval of the legislature.

Page 3, Line 25

Sec. 38.16.050(b) is amended to read:

(b) A disposition to an in-state refiner of royalty oil [obtained by the state under AS 38.05.180] must

Page 4, Line 17

Sec. 38.16.070(a) is amended to read:

(a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner may not enter into a disposition of royalty oil or gas [obtained by the state under AS 38.05.180] without the prior approval of the legislature by enactment of legislation.

Page 4, Line 29

Sec. 38.16.070(c)(2) is amended to read:

(2) the disposition of royalty oil or gas for [two] one year[s] or less if the disposition is bid competitively; or

Page 5, Line 4

Sec. 38.16.080(4) is amended to read:

(4) an evaluation of the [economic] consumer price benefits resulting from in-state refiners and processors currently receiving royalty oil or gas; and

Page 5, Line 16

Sec. 38.16.080(1) is amended to read:

(1) the royalty status of all producing [royalty] oil and gas units or leases;

Page 5, Line 19

Sec. 38.16.080(3) is amended to read:

(3) for each [noncompetitively bid] proposed noncompetitive disposition of royalty oil or gas the findings of the commissioner on the criteria in AS 38.16.040;

Page 6, Line 1

Sec. 38.16.080(5)(D) is amended to read:

(D) sold on a competitive and noncompetitive [bid] basis; and

Page 6, Line 3

Sec. 38.16.080(5)(E) is amended to read:

(E) purchased [by] for export to foreign nations.

Page 6, Line 4

Delete Sec. 38.16.090.

Page 6, Line 26

Sec. 38.16.900 is amended by adding paragraphs (6) and (7) to read:

(6) "royalty gas" means the state's interest in gas obtained under AS 38.05.180.

(7) "royalty oil" means the state's interest in oil obtained under AS 38.05.180.

Page 8, Line 1

Sec. 38.05.035(g) is amended to read:

(g) The provisions of (e) of this section do not apply to dispositions of royalty [on] oil or gas obtained by the state under AS 38.05.180.

Page 9, Line 20

Sec. 38.05.180 (1) is amended to read:

(1) Subject to the provisions of AS 31.05, the commissioner had discretion to enter into an agreement whereby, with the consent of the lessee, all or part of the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade all or part of the current royalty production from a field for a like amount, kind, and quality of future production, if the commissioner makes a written finding [on the condition] that the state will receive[s] back its stored or traded royalty share before 80 percent of the estimated life of the field is depleted, considering the engineering constraints and other relevant factors [during the first half of the estimated field life or no later than 15 years after start of production, whichever is sooner].

Page 10, Line 29

Transfer Sec. 38.05.180(aa) to Sec. 38.05.180(r), and make corresponding changes.

Page 12, Line 22

Sec. 38.06.010 is amended to read:

Sec. 38.06.010. PURPOSE. It is the purpose of this chapter to facilitate the wise development of Alaska's oil and gas royalty interests by providing means and procedures for [sales, exchanges or other] disposition of those interests in ways calculated to maximize citizen benefits, and to promote private economic growth consistent with applicable environmental standards [, local or regional desirability,] and public fiscal stability, and in accordance with AS 38.16 [AS 38.05.183].

Page 14, Line 16

Incorporate Sec. 38.06.070 as the section appears in HB 495 to Sec. 38.06.040, and make corresponding changes.

Page 16, Line 1

Sec. 44.62.175(a)(3) is amended to read:

(3) notices of solicitations to bid issued under AS 37.05.230 [and AS 38.16.030];

Page 16, Line 19

Sec. 44.62.175(a)(10) is amended to read:

(10) a notice of [the findings] disposal required [to be made public] by [the commissioner of natural resources under AS 38.16.030 and 38.16.060] AS 38.05.945 or AS 38.16.

Proposed Amendments to HB 495

Page 1, Line 15:

Sec. 38.16.010(b) is amended to read:

(b) To the extent consistent with [the primary goal of maximizing state revenue] (a) of this section, the secondary goals for the state in the taking and disposition of royalty oil and gas are [to] , in order of priority, the promotion of in-state utilization and the maximization of state revenue.

OMIT (1), (2), (3), and their respective texts

Page 2, Line 2:

Sec. 38.16.030(a) is amended to read:

Sec. 38.16.030. METHOD OF DISPOSITION OF ROYALTY. (a) The commissioner shall make a disposition of royalty oil or gas obtained by the state under AS 38.05.180 by competitive bid to the highest responsible bidder, unless the commissioner determines, after prior written notice to the board, that competitive bidding is not [in the best interest of the state or that no competition exists] consistent with providing maximum benefit to the people of the state.

Page 2, Line 18:

Sec. 38.16.030(d) is added to this section:

(d) When the commissioner has competitively bid a disposition of royalty oil or gas for one year or less, the commissioner shall, before awarding the contract to an out-of-state refiner who submitted the highest competitive bid, allow in-state refiners to submit bids to match or exceed the bid of the out-of-state refiner. The commissioner shall award the contract in the following order of priority:

(1) to the in-state refiner whose bid exceeds the bid of each other bidding in-state refiner and the bid of the out-of-state refiner;

(2) to the in-state refiner whose bid exceeds the bid of each other bidding in-state refiner and matches the bid of the out-of-state refiner;

(3) to the in-state refiner whose bid

(A) matches the bid of the other bidding in-state refiners and the bid of the out-of-state refiner; and

(B) is received before the other matching bids of the in-state refiners;

(4) to the out-of-state refiner, if the bid of an in-state refiner does not match or exceed the bid of the out-of-state refiner.

Page 2, Line 18:

Sec. 38.16.040 is amended to read:

Sec. 38.16.040. CRITERIA FOR DISPOSITION OF NONCOMPETITIVELY BID ROYALTY OIL OR GAS TAKEN IN KIND. When the state does not use competitive bidding to dispose of royalty oil or gas taken in kind by the state [under AS 38.16.020], the [commissioner] board shall make the disposition of royalty oil or gas to the prospective purchaser whose proposal offers the maximum [revenue or other] consumer benefits through lower product prices or other benefits to the citizens of the state. When making an award under this subsection, the [commissioner] board shall consider the following criteria:

Page 2, Line 26:

Sec. 38.16.040(1) is amended to read:

(1) the cash value offered [, which, notwithstanding AS 38.05.810(a), may not be less than the current market value of the royalty oil or gas];

Page 3, Line 3:

Sec. 38.16.040(3) is amended to read:

(3) the projected benefits to local and regional economies of the state of refining, or processing the oil or gas in the state , including the projected effects of the sale upon existing and perspective private, commercial investment ;

Page 3, Line 13:

Sec. 38.16.020(7) is amended to read:

(7) the ability, [intent and degree of certainty] of the prospective purchaser to provide refined products or by-products for distribution and sale in the state with [significant] competitive price and supply benefits for the citizens of the state;

Page 3, Line 17:

Sec. 38.16.020(8) is omitted.

[(8) the local or regional desirability of the disposition of royalty oil or gas.]

Page 3, Line 19:

Sec. 38.16.050 is amended to read:

Sec. 38.16.050. CONTRACT PROVISIONS. (a) The commissioner may not enter into a contract for a disposition of royalty oil or gas obtained by the state under AS 38.05.180 unless the contract provides that an amendment of the contract that appreciably reduces the consideration received by the state requires the prior approval , in the following order of the board, the governor, and the legislature.

Page 4, Line 1:

Sec. 38.16.050(b)(1)(A) is amended to read:

(A) the assignment will result in a [significant] verifiable increase of direct monetary benefit to energy consumers in the state; and

Page 4, Line 4:

Sec. 38.16.050(b)(1)(B) is omitted.

[(B) the total direct monetary benefit to energy consumers in the state from the assignment will outweigh the monetary benefit to the assignor and assignee; and]

Page 4, Line 7:

Sec. 38.16.050(b)(2) is amended to read:

(2) reserve to the state the right to purchase residual oil from in-state refiners when the residual oil is a by-product of a disposition of royalty oil by the state , only when the residual oil is reinjected into the Trans-Alaska Pipeline; and at the alternate market price.

(c) The commissioner may not enter into a contract for the sale of state royalty oil or gas to an in-state refiner unless the refiner agrees to provide information to, and assist or allow the collection of information by, the Department of Commerce and Economic Development on a monthly regional basis to determine the average monthly wholesale

price, market exchange sales price, and refinery gate sales price of its in-state refined fuel products.

(d) A person who purchases royalty oil from the state under this section shall provide to the commissioner, during the period that the purchaser takes, refines, transports, or otherwise deals with the purchased royalty oil, a report for the preceding month that indicates for the purchased royalty oil

(1) the volume of oil taken;

(2) the products, including residual oil, produced from the oil;

(3) the volume of each product sold in the state; and

(4) the volume of each product exported from the state.

Page 4, Line 17:

Sec. 38.16.070 is amended to read:

Sec. 38.16.070 APPROVAL BY THE GOVERNOR AND THE LEGISLATURE. [LEGISLATIVE APPROVAL.] In addition to the recommendation by the board required under AS 38.06.050, the commissioner may not enter into a disposition of royalty oil or gas obtained by the state under AS 38.05.180 without [the prior approval of the] first obtaining the approval of the governor and then the approval of the legislature by enactment of legislation.

Page 5, Line 7:

Sec. 38.16.070(d) is amended to read:

(d) A disposition of royalty oil or gas under (c)(1) or (a)(2) of this section may not be continued after the end of one year or renewed with the same party without first obtaining the [prior] approval of the governor and then the approval of the legislature under (a) of this section. This subsection does not apply to a sequential competitively bid disposition of royalty oil or gas made with the same party under (c)(1) of this section.

Page 5, Line 13:

Sec. 38.16.080 is amended to read:

Sec. 38.16.080 REPORT BY THE COMMISSIONER. The commissioner shall submit to the legislature between the first and the 15th day of each regular legislative session a royalty oil and gas report that includes a monthly analysis of:

Page 5, Line 22:

Sec. 38.16.080(4) is amended to read:

(4) an evaluation of the economic consumer benefits resulting from in-state refiners and processors currently receiving royalty oil or gas, which must include

(A) price paid for state royalty oil and gas by the purchaser;

(B) retail price of in-state refined fuel products;

(C) refinery gate sales price of in-state refined fuel products; and

(D) wholesale or market exchange sales price of in-state refined fuel products ;and

Page 6, Line 25:

The following section is added to HB 495:

AS 31.05.030 is amended by adding a new subsection to read:

(i) The commission shall provide research assistance to the Alaska Royalty Oil and Gas Development Advisory Board on request.

Page 11, Line 26:

As 38.05.183(a) is amended to keep:

, after prior written notice to the Alaska Royalty Oil and Gas Advisory Board under AS 38. 06.050,

Page 11, Line 21:

AS 38. 05.183(b) is amended to keep:

, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board,

Page 13, Line 1:

A new section is added to HB 495 to read:

AS 38.06.025(a) is amended to read:

(a) The board consists of the commissioner of commerce and economic development; the commissioner of revenue; the commissioner of natural resources, who is a nonvoting member; one legislator, who is a nonvoting member appointed by the

governor, the chair of the Alaska Oil and Gas Conservation Commission, who is a nonvoting member; and five [three] public members.

Page 13, Line 2:

A new section is added to HB 495 to read:

AS 38.06.035(a) is amended to read;

(a) The board shall prescribe its own rules of procedure. It shall meet at a time and place determined by the chair [chairman], and at other times and places as the chair [chairman], or a majority of the board members, considers necessary. [A quorum is a majority of the voting members of the board.] The votes of the board members shall be recorded. Effective action to carry out the powers granted under this chapter requires the affirmative vote of a majority of the board members. A board member may not, with respect to a matter before the board, vote for or on behalf of another member of the board.

Page 13, Line 18:

Sec. 38.06.040 (a)(3) is amended to read:

(3) examine a proposed disposition of royalty oil or gas and recommend that the [legislature] governor approve or disapprove the proposed disposition of royalty oil or gas; and

Page 13, Line 24:

Sec. 38.06.040 (a) is amended to add sections (5) and (6):

(5) employ an executive director, and a full-time staff of persons experienced in international crude oil refining, trading, and marketing;

(6) adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary to exercise its powers and duties.

Page 13, Line 29:

Sec. 38.06.040(b)(2) is amended to read:

(2) [employ an executive director, and] contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who

may be necessary to assist the board in the exercise of its powers and duties; and

Page 14, Line 5:

Sec. 38.06.040(b)(3) is amended to read:

(3) [adopt regulations under the Administrative Procedure Act (AS 44. 62) that are necessary to exercise its powers and duties] obtain research assistance from the department and the Alaska Oil and Gas Conservation Commission.

Chugach Electric Association, Inc.

Proposed amendments to H.B. 495

Page 1, Line 12

Sec. 38.16.010(a) is amended to read:

(a) The legislature finds that it is in the best interest of the state and the citizens of the state that the state take and dispose of royalty oil and gas in a manner that maximizes [state revenue] benefits for Alaska's residents.

Page 1, Line 15

Sec. 38.16.010(b) is amended to read:

(b) To the extent consistent with the primary goal of maximizing [state revenue] benefits, the secondary goals for the state in the taking and disposition of royalty oil and gas are to

Page 2, Line 26

Sec. 38.16.040(1) is amended to read:

(1) the cash value offer, which[, notwithstanding AS 38.05.810(a),] may not be less than the current market value of the royalty oil or gas, except that sales at less than market value may be made to utilities owned and operated by a government agency or organized as a cooperative under AS 10.25 providing service within the state;

Page 3, Line 9

Sec. 38.16.040(5) is amended to read:

(5) the projected social effects, including consumer benefits, of the disposition of royalty oil or gas;

Page 4, Line 10

Sec. 38.16.060 is amended to read:

DISPOSITION OF ROYALTY OIL OR GAS FOR EXPORT. A disposition of royalty oil or gas taken in kind by the state under AS 38.16.020 may not be made for export from the state unless the commissioner determines that the disposition of royalty oil or gas is surplus to the present and projected intra-state, domestic and industrial needs and is in the best interest of the state [and makes]. The commissioner shall make public in writing the specific findings and reasons that are the basis for the determination.

Page 5, Line 22

Sec. 38.16.080(4) is amended to read:

(4) an evaluation of the economic consumer benefits resulting from in-state refiners and processors currently receiving royalty oil or gas; [and]

Page 5, Line 25

Sec. 38.16.080(5) is amended by inserting a new paragraph (5) to read:

(5) an evaluation of the economic consumer benefits resulting from oil- and gas-based utilities providing service within the state currently receiving royalty oil or gas; and

Page 5, Line 25

Sec. 38.16.080(5) is renumbered as paragraph (6) and amended to read:

(6) the volume, percentage, and reported value of royalty oil and gas

(A) being taken in kind and in value;

(B) purchased by in-state refiners and processors;

(C) purchased by oil- and gas-based utilities providing service within the state;

[(C)] (D) actually refined or processed in state;

[(D)] (E) sold on a competitive and noncompetitive bid basis; and

[(E)] (F) purchased by foreign nations.

Page 6, Line 19

Sec. 38.16.900(4) is amended to read:

(4) "dispose of" or "disposition of" royalty oil or gas means the sale, exchange, or other alienation by the state of royalty oil or gas or of an interest in royalty oil or gas, and includes the waiver of a present or future right to take future production of oil or gas as a royalty; [and]

Page 6, Line 24

Sec. 38.16.900(5) is amended to read:

(5) "interest" in royalty oil or gas includes the right to take future production of oil or gas as a royalty[.]; and

Page 6, Line 26

Sec. 38.16.900 is amended by adding paragraph (6) to read:

(6) "current market value" for royalty gas taken in value and sold pursuant to a long-term contract means that contract price unless the commissioner determines, by clear and convincing evidence, that the contract price was unreasonably low at the time the contract was entered into.

Page 14, Line 24

Sec. 38.06.070(B) is amended to read:

(B) the purchaser be a refiner who provides refined products or by-products for distribution and sale in the state with significant price and supply benefits to the citizens of the state; [or]

Page 14, Line 28

Sec. 38.06.070(C) is amended to read:

(C) the purchaser construct a processing or refining facility in the state; or

Page 15, Line 1

Sec. 38.06.070 is amended by adding paragraph (D) to read:

(D) the purchaser be an oil- or gas-based utility providing benefits to the citizens of the state;

Page 16, Line 19

Sec. 44.62.175(a)(10) is amended to read:

(10) a notice of the findings required to be made public by the commissioner of natural resources under AS 38.16.030 and 38.16.060[.]; and

Page 16, Line 22

Sec. 44.62.175(a) is amended by adding paragraph (11) to read:

(11) all Notice to Lessees issued by the state.

:hb495
cb

CASES ON ROYALTY VALUATION

(These cases are interpreting a variety of royalty valuation clauses. Both the actual lease terms and the facts of the particular case have an impact on the court's rulings.)

1. Tara Petroleum Corp. v. Hughey, 630 P.2d 1269 (Okla. 1981)

The courts following Tara have reasoned that since the lessee has an obligation to develop the lease and market the gas, long-term contracts are essential to resource development. Establishing a royalty value higher than an arms-length contract price penalizes the parties to those contracts. States following Tara:

- a. Oklahoma: Tara (1981)
- b. Louisiana: Henry v. Ballard & Cordell Corp.
418 So.2d 1334 (La. 1982)
- c. Arkansas: Hillard v. Stephens
637 S.W.2d 581 (Ark. 1982)

2. Texas Oil & Gas Corp. v. Vela, 429 S.W.2d 866 (Tex. 1968)

In this line of cases, courts have held that the market value of royalty gas is to be established by reference to comparable sales of gas. States following Vela:

- a. Texas: Vela (1968)
- b. Montana: Montana Power Co. v. Kravik
586 P.2d 298 (Mont. 1978)
- c. North Dakota: West v. Alpar Resources, Inc.
298 N.W.2d 484 (N.D. 1980)
- d. Kansas: Lightcap v. Mobil Oil
562 P.2d 1 (Kan. 1977)

3. Does an NGPA ceiling price establish "market value?"

The question addressed here is whether or not market value can exceed a price ceiling established by government regulation.

NGPA sets ceiling price: Texas: First National Bank v. Exxon Corp.
622 S.W.2d 80 (Tex. 1981)
Bowers v. Phillips Petroleum
692 F.2d 1015 (5th Cir. 1982)

NGPA does not set ceiling price: Kansas: Lightcap v. Mobil Oil
586 P.2d 1 (Kan. 1977)