

CS FOR HOUSE BILL NO. 330(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/15/18

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the commissioner of natural resources to disclose confidential**
2 **information during a royalty or net profit share audit or appeal and issue a protective**
3 **order limiting the persons who have access to the confidential information."**

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

5 *** Section 1.** AS 38.05.020(b) is amended to read:

6 (b) The commissioner may

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

13 (2) enter into agreements considered necessary to carry out the
14 purposes of this chapter, including agreements with federal and state agencies;

- 1 (3) review any order or action of the director;
- 2 (4) exercise the powers and do the acts necessary to carry out the
- 3 provisions and objectives of this chapter;
- 4 (5) notwithstanding the provisions of any other section of this chapter,
- 5 grant an extension of the time within which payments due on any exploration license,
- 6 lease, or sale of state land, minerals, or materials may be made, including payment of
- 7 rental and royalties, on a finding that compliance with the requirements is or was
- 8 prevented by reason of war, riots, or acts of God;
- 9 (6) classify tracts for agricultural uses;
- 10 (7) after consulting with the Board of Agriculture and Conservation
- 11 (AS 03.09.010), waive, postpone, or otherwise modify the development requirements
- 12 of a contract for the sale of agricultural land if
- 13 (A) the land is inaccessible by road; or
- 14 (B) transportation, marketing, and development costs render
- 15 the required development uneconomic;
- 16 (8) reconvey or relinquish land or an interest in land to the federal
- 17 government if
- 18 (A) the land is described in an amended application for an
- 19 allotment under 43 U.S.C. 1617; and
- 20 (B) the reconveyance or relinquishment is
- 21 (i) for the purposes provided in 43 U.S.C. 1617; and
- 22 (ii) in the best interests of the state;
- 23 (9) lead and coordinate all matters relating to the state's review and
- 24 authorization of resource development projects;
- 25 (10) enter into commercial agreements with a duration of not more
- 26 than two years for project services related to a North Slope natural gas project;
- 27 (11) in consultation with the commissioner of revenue, participate in
- 28 the negotiation of agreements that include balancing, marketing, disposition of natural
- 29 gas, and offtake and contracts and development of terms for inclusion in those
- 30 proposed agreements and contracts associated with a North Slope natural gas project;
- 31 an agreement or contract negotiated under this paragraph to which the state is a party

1 is not effective unless the legislature authorizes the governor to execute the agreement
2 or contract;

3 (12) enter into confidentiality agreements to maintain the
4 confidentiality of information related to contract negotiations and contract
5 implementation associated with a North Slope natural gas project; information under
6 those confidentiality agreements is not subject to AS 40.25.100 - 40.25.295 (Alaska
7 Public Records Act), except that

8 (A) the terms of a proposed contract that the commissioner
9 presents to the legislature for the purpose of obtaining authorization for the
10 governor to execute are not confidential and must be made available to the
11 public at least 90 days before the proposed effective date for the terms; and

12 (B) the commissioner may share confidential information
13 obtained under this paragraph with members of the legislature, their agents,
14 and contractors on request under confidentiality agreements, either in
15 committees held in executive session or individually;

16 (13) consult with the Alaska Gasline Development Corporation in the
17 development of agreements or contracts under (10) or (11) of this subsection for
18 project services related to a gas treatment plant, pipeline, liquefaction facility, marine
19 terminal, or marine transportation services necessary to transport natural gas to
20 market;

21 (14) in consultation with the commissioner of revenue, take custody of
22 gas delivered to the state under AS 43.55.014(b) and manage the project services and
23 disposition and sale of that gas;

24 (15) during a royalty or net profit share audit or appeal relating to
25 oil and gas, disclose confidential information, including information under
26 AS 38.05.035(a)(8) and 38.05.036, to the parties if the royalty or net profit share
27 audit or appeal requires disclosure or, in the commissioner's discretion, the
28 commissioner determines that the disclosure is necessary; before disclosing
29 confidential information, the commissioner shall

30 (A) provide notice and an opportunity to be heard to all
31 parties to the royalty or net profit share audit or appeal and any third

party whose information will be disclosed under a protective order; and

(B) issue a protective order limiting the

(i) persons who may access the information to legal counsel, consultants, employees, officers, or agents of a party; the protective order may only allow a person to access the information under this sub-subparagraph if it is necessary for the person to know the information in connection with the royalty or net profit share audit or appeal; and

(ii) use of the information to matters related to the royalty or net profit share audit or appeal;

(16) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter.

* **Sec. 2.** AS 38.05.035(a) is amended to read:

(a) The director shall

(1) have general charge and supervision of the division and may exercise the powers specifically delegated to the director; the director may employ and fix the compensation of assistants and employees necessary for the operations of the division; the director is the certifying officer of the division, with the consent of the commissioner, and may approve vouchers for disbursements of money appropriated to the division;

(2) manage, inspect, and control state land and improvements on it belonging to the state and under the jurisdiction of the division;

(3) execute laws, rules, regulations, and orders adopted by the commissioner;

(4) prescribe application procedures and practices for the sale, lease, or other disposition of available land, resources, property, or interest in them;

(5) prescribe fees or service charges, with the consent of the commissioner, for any public service rendered;

(6) under the conditions and limitations imposed by law and the commissioner, issue deeds, leases, or other conveyances disposing of available land, resources, property, or any interests in them;

1 (7) have jurisdiction over state land, except that land acquired by the
2 Alaska World War II Veterans Board and the Agricultural Loan Board or the
3 departments or agencies succeeding to their respective functions through foreclosure
4 or default; to this end, the director possesses the powers and, with the approval of the
5 commissioner, shall perform the duties necessary to protect the state's rights and
6 interest in state land, including the taking of all necessary action to protect and enforce
7 the state's contractual or other property rights;

8 (8) maintain the records the commissioner considers necessary,
9 administer oaths, and do all things incidental to the authority imposed; the following
10 records and files shall be kept confidential upon request of the person supplying the
11 information:

12 (A) the name of the person nominating or applying for the sale,
13 lease, or other disposal of land by competitive bidding;

14 (B) before the announced time of opening, the names of the
15 bidders and the amounts of the bids;

16 (C) all geological, geophysical, and engineering data supplied,
17 whether or not concerned with the extraction or development of natural
18 resources;

19 (D) except as provided in AS 38.05.020 and 38.05.036
20 [AS 38.05.036], cost data and financial information submitted in support of
21 applications, bonds, leases, and similar items;

22 (E) applications for rights-of-way or easements;

23 (F) requests for information or applications by public agencies
24 for land that is being considered for use for a public purpose;

25 (9) account for the fees, licenses, taxes, or other money received in the
26 administration of this chapter including the sale or leasing of land, identify their
27 source, and promptly transmit them to the proper fiscal department after crediting
28 them to the proper fund; receipts from land application filing fees and charges for
29 copies of maps and records shall be deposited immediately in the general fund of the
30 state by the director;

31 (10) select and employ or obtain at reasonable compensation cadastral,

1 appraisal, or other professional personnel the director considers necessary for the
2 proper operation of the division;

3 (11) be the certifying agent of the state to select, accept, and secure by
4 whatever action is necessary in the name of the state, by deed, sale, gift, devise,
5 judgment, operation of law, or other means any land, of whatever nature or interest,
6 available to the state; and be the certifying agent of the state, to select, accept, or
7 secure by whatever action is necessary in the name of the state any land, or title or
8 interest to land available, granted, or subject to being transferred to the state for any
9 purpose;

10 (12) on request, furnish records, files, and other information related to
11 the administration of AS 38.05.180 to the Department of Revenue for use in
12 forecasting state revenue under or administering AS 43.55, whether or not those
13 records, files, and other information are required to be kept confidential under (8) of
14 this subsection; in the case of records, files, or other information required to be kept
15 confidential under (8) of this subsection, the Department of Revenue shall maintain
16 the confidentiality that the Department of Natural Resources is required to extend to
17 records, files, and other information under (8) of this subsection;

18 (13) when reasonably possible, give priority to and expedite the
19 processing of an application for a lease or assignment of a lease of state land for
20 development and operation of a gas storage facility, for a right-of-way to a gas storage
21 facility, for a change to the allocation of production within a unit, and for a permit
22 necessary for the operation of a gas storage facility; in this paragraph, "gas storage
23 facility" has the meaning given in AS 31.05.032.

24 * **Sec. 3.** AS 38.05.036(f) is amended to read:

25 (f) Except as otherwise provided in this section, as authorized under
26 AS 38.05.020, or in connection with official investigations, including royalty or net
27 profit share audits, appeals, or proceedings of the department, it is unlawful for a
28 current or former officer, employee, or agent of the state to divulge information
29 obtained by the department as a result of an audit under this section that is required by
30 an agreement with the department or by AS 38.05.035(a)(8) to be kept confidential.