

HOUSE BILL NO. 82

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES TUCK, KAWASAKI, AND GARDNER

Introduced: 1/18/11

Referred: Resources, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing a rebate of the production tax on oil and gas based on the**
2 **employment of resident workers; relating to employee records required to be kept by an**
3 **employer that provides labor the cost of which is a lease expenditure for purposes of the**
4 **production tax on oil and gas; and providing for an effective date."**

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 SHORT TITLE. This Act may be known as the Alaska's Oil, Alaska's Jobs Act.

9 * **Sec. 2.** AS 23.05.080 is amended by adding a new subsection to read:

10 (b) In addition to the records that must be kept under (a) of this section, an
11 employer that provides labor, the cost of which is a lease expenditure under
12 AS 43.55.165(a), shall keep the records required under this subsection. For each
13 employee, an employer subject to this subsection shall keep an accurate record of the
14 name, address, and occupation of the person, the daily and weekly hours worked by

1 the person, and whether the person is a resident worker. The employer shall keep an
 2 accurate record of the total numbers of hours during a calendar year worked by
 3 resident workers, the total number of hours during a calendar year worked by persons
 4 that are not resident workers, and the wages paid each pay period to each person. A
 5 record required under this subsection shall be kept on file for at least three years and
 6 may be provided to the Department of Revenue by request. In this subsection,

7 (1) "hours" means the hours of labor the cost of which is included in an
 8 allowable lease expenditure under AS 43.55.165; and

9 (2) "resident worker" has the meaning given in AS 43.55.900.

10 * **Sec. 3.** AS 23.05.100 is amended to read:

11 **Sec. 23.05.100. Inspections and examination of records.** The department
 12 may

13 (1) enter a place of employment during regular hours of employment
 14 and, in cooperation with the employer, or someone designated by the employer, collect

15 (A) facts and statistics relating to the employment of workers;

16 **and**

17 **(B) information required to be kept under AS 23.05.080(b)**
 18 **for the purpose of verifying whether a person subject to tax under**
 19 **AS 43.55.011(e) is eligible for a rebate under AS 43.55.022;**

20 (2) make inspections for the proper enforcement of all state labor laws;

21 (3) for the purpose of examination, have access to and copy from any
 22 book, account, record, payroll, paper, or document relating to the employment of
 23 workers.

24 * **Sec. 4.** AS 43.55 is amended by adding a new section to read:

25 **Sec. 43.55.022. Tax rebate for employing resident workers.** (a) Subject to
 26 appropriation and the requirements of this section, a taxpayer subject to tax under
 27 AS 43.55.011(e)(1) that incurs labor costs that are allowable lease expenditures under
 28 AS 43.55.165 is entitled to a rebate if 80 percent or more of the labor is done by
 29 resident workers.

30 (b) The amount of the rebate is equal to a percentage of the tax paid under
 31 AS 43.55.011(e)(1) based on the percentage of labor done by resident workers the cost

1 of which is included in an allowable lease expenditure under AS 43.55.165. The
 2 amount of the rebate is equal to the following percentage of the tax paid under
 3 AS 43.55.011(e)(1):

4 (1) one percent if the percentage of labor done by resident workers is
 5 80 percent; or

6 (2) if the percentage of labor done by resident workers is more than 80
 7 percent, one-half of the difference by which the percentage of labor done by resident
 8 workers exceeds 80 percent, except the percentage of the tax paid under
 9 AS 43.55.011(e) determined under this paragraph may not be less than one percent.

10 (c) The percentage of labor done by resident workers is

11 (1) determined on a calendar year basis using the number of hours of
 12 labor the cost of which is a lease expenditure, and includes all hours of labor,
 13 regardless of whether a worker is paid on an hourly or some other basis; and

14 (2) a fraction the numerator of which is the number of hours of labor
 15 done by resident workers the cost of which is a lease expenditure, and the denominator
 16 of which is the number of hours of labor by all workers the cost of which is a lease
 17 expenditure, expressed as a percentage.

18 (d) A person subject to tax under AS 43.55.011(e) shall report employment
 19 information at the time a statement must be filed under AS 43.55.030(a) for each
 20 calendar year. The report must include the following for the calendar year for which a
 21 statement is required under AS 43.55.030(a):

22 (1) the number of hours of labor, the cost of which is a lease
 23 expenditure;

24 (2) the number of hours of labor done by resident workers that are
 25 included in (1) of this subsection;

26 (3) the total cost of labor that is a lease expenditure;

27 (4) the name of each employee providing labor the cost of which is the
 28 basis for a rebate claimed under this section;

29 (5) other information required by the department in a regulation
 30 adopted to administer this section, including the names of the resident workers whose
 31 hours of labor are included in (1) of this subsection.

1 (e) At the same time the report is filed with the department under (d) of this
 2 section, the person shall file a copy of the report with the commissioner of labor and
 3 workforce development. The report must include the information in (d)(1), (2), and (4)
 4 of this section and other information required by the commissioner of labor and
 5 workforce development by regulation. Any amendment to the report in (d) of this
 6 section that changes the information in (d)(1) and (2) of this section must also be filed
 7 with the commissioner of labor and workforce development. At the request of the
 8 commissioner, the Department of Labor and Workforce Development shall audit the
 9 information reported in (d)(1), (2), and (4) of this section and notify the commissioner
 10 of the results of the audit.

11 (f) A person claiming a rebate under this section has the burden of proving
 12 eligibility for the rebate, including a claim that an individual is a resident worker.

13 (g) The department shall report to the legislature the amount of rebates paid
 14 under this section and statistical information relating to the percentage of labor done
 15 by resident workers based on hours worked.

16 * **Sec. 5.** AS 43.55.040 is amended to read:

17 **Sec. 43.55.040. Powers of Department of Revenue.** Except as provided in
 18 AS 43.05.405 - 43.05.499, the department may

19 (1) require a person engaged in production and the agent or employee
 20 of the person, and the purchaser of oil or gas, or the owner of a royalty interest in oil
 21 or gas to furnish, whether by the filing of regular statements or reports or otherwise,
 22 additional information that is considered by the department as necessary to compute
 23 the amount of the tax **or the rebate under AS 43.55.022**; notwithstanding any
 24 contrary provision of law, the disclosure of additional information under this
 25 paragraph to the producer obligated to pay the tax does not violate AS 40.25.100(a) or
 26 AS 43.05.230(a); before disclosing information under this paragraph that is otherwise
 27 required to be held confidential under AS 40.25.100(a) or AS 43.05.230(a), the
 28 department shall

29 (A) provide the person that furnished the information a
 30 reasonable opportunity to be heard regarding the proposed disclosure and the
 31 conditions to be imposed under (B) of this paragraph; and

- 1 (B) impose appropriate conditions limiting
- 2 (i) access to the information to those legal counsel,
- 3 consultants, employees, officers, and agents of the producer who have a
- 4 need to know that information for the purpose of determining or
- 5 contesting the producer's tax obligation; and
- 6 (ii) the use of the information to use for that purpose;
- 7 (2) examine the books, records, and files of the person;
- 8 (3) conduct hearings and compel the attendance of witnesses and the
- 9 production of books, records, and papers of any person;
- 10 (4) make an investigation or hold an inquiry that is considered
- 11 necessary to a disclosure of the facts as to
- 12 (A) the amount of production from any oil or gas location, or of
- 13 a company or other producer of oil or gas; and
- 14 (B) the rendition of the oil and gas for taxing purposes;
- 15 (5) require a producer, an explorer, or an operator of a lease or
- 16 property to file reports and copies of records that the department considers necessary
- 17 to forecast state revenue under this chapter; in the case of reports and copies of records
- 18 relating to proposed, expected, or approved unit expenditures for a unit for which one
- 19 or more working interest owners other than the operator have authority to approve unit
- 20 expenditures, the required reports and copies of records are limited to those reports or
- 21 copies of records that constitute or disclose communications between the operator and
- 22 the working interest owners relating to unit budget matters;
- 23 (6) require a producer that has an average total production in the state
- 24 of more than 100,000 barrels a day for a calendar year to report the gross value at the
- 25 point of production of the producer's taxable oil and gas in the state for a calendar year
- 26 and the total amount of lease expenditures in the state for that calendar year; and
- 27 (7) assess against a person required under this section to file a report,
- 28 statement, or other document a penalty, as determined by the department under
- 29 standards adopted in regulation by the department, of not more than \$1,000 for each
- 30 day the person fails to file the report, statement, or other document after notice by the
- 31 department; the penalty is in addition to any penalties under AS 43.05.220 and

1 43.05.290 and is assessed, collected, and paid in the same manner as a tax deficiency
 2 under this title; the penalty shall bear interest at the rate specified under
 3 AS 43.05.225(1).

4 * **Sec. 6.** AS 43.55.900 is amended by adding new paragraphs to read:

5 (25) "lease expenditure" means an expenditure allowed as a lease
 6 expenditure under AS 43.55.165;

7 (26) "resident worker" means an individual who

8 (A) is physically present in the state with the intent to remain in
 9 the state indefinitely and has a home in the state;

10 (B) demonstrates that intent by maintaining a residence in the
 11 state;

12 (C) possesses a resident fishing, trapping, or hunting license, or
 13 receives a permanent fund dividend; and

14 (D) may be required to state under oath that the individual is
 15 not claiming residency outside of the state or obtaining benefits under a claim
 16 of residency outside of the state.

17 * **Sec. 7.** AS 44.31.020 is amended to read:

18 **Sec. 44.31.020. Duties of department.** The Department of Labor and
 19 Workforce Development shall

20 (1) enforce the laws and adopt regulations under them concerning
 21 employer-employee relationships, including the safety, hours of work, wages, and
 22 conditions of workers, including children;

23 (2) accumulate, analyze, and report labor statistics;

24 (3) operate systems of workers' compensation and unemployment
 25 insurance;

26 (4) gather data reflecting the cost of living in the various election
 27 districts of the state upon request of the director of personnel under AS 39.27.030; in
 28 this paragraph, "election district" has the meaning given in AS 39.27.020(b);

29 (5) operate the federally funded employment and training programs
 30 under 29 U.S.C. 2801 - 2945 (Workforce Investment Act of 1998);

31 (6) administer the state's program of adult basic education and adopt

1 regulations to administer the program; [AND]

2 (7) administer the programs of the Alaska Vocational Technical Center
3 and adopt regulations to administer the programs, including regulations that set rates
4 for student tuition and room and board and fees for the programs and services
5 provided by the department regarding the Alaska Vocational Technical Center; **and**

6 **(8) at the request of the commissioner of revenue, audit**
7 **information described in AS 43.55.022(d)(1), (2), and (4) that is submitted to the**
8 **Department of Revenue by a person subject to tax under AS 43.55.011(e).**

9 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).