

Introduced by:
Date:
Action:
Vote:

Martin
11/18/03
Withdrawn by Sponsor

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-123**

**A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125
AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL
RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS
FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, AND REQUESTING
ADDITIONAL PUBLIC NOTICE REQUIREMENTS**

- WHEREAS,** in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and
- WHEREAS,** in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and
- WHEREAS,** while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and
- WHEREAS,** Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Department of Natural Resources ("DNR") Commissioner the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and
- WHEREAS,** delegating such authority to an unelected public official without adopting any other standards or requiring any public notice or hearings flies in the face of the private property rights that are so cherished by Alaska's people; and
- WHEREAS,** the local planning authority, including planning commissions, councils and assemblies are best able to understand and implement the needs of the local community respecting land uses; and
- WHEREAS,** HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and
- WHEREAS,** requiring publication in the local media will provide significantly better notice to members of local communities with local media available; and
- WHEREAS,** when processing a lease application takes more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The Alaska state legislature is strongly encouraged to significantly amend Alaska Statutes 31.05.125 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 2. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

SECTION 3. That copies of this resolution shall be provided to Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 4. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY OF *, 2003.

Pete Sprague, Assembly President

ATTEST:

Linda S. Murphy, Borough Clerk