CS FOR HOUSE BILL NO. 20(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/20/95
Offered: 3/14/95

Sponsor(s): REPRESENTATIVES MOSES, Kubina
SENATORS Hoffman, Lincoln, Leman, Zharoff

A BILL

FOR AN ACT ENTITLED

"An Act relating to conveyance of certain tide and submerged land to municipalities; and providing for an effective date."

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

* Section 1. AS 38.05.125(a) is amended to read:

(a) Each contract for the sale, lease or grant of state land, and each deed to state land, properties or interest in state land, made under AS 38.05.045 - 38.05.120, 38.05.321, 38.05.810 - 38.05.825 [38.05.810 - 38.05.821], AS 38.08, or AS 38.50 except as provided in AS 38.50.050 is subject to the following reservations: "The party of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said land above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby
expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said land, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other land and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said land or any part thereof for the foregoing purposes and to occupy as much of said land as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

* Sec. 2. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO MUNICIPALITIES. (a) Unless the commissioner finds that the public interest in retaining state ownership of the land clearly outweighs the municipality's interest in obtaining the land, the commissioner shall convey to a municipality tide or submerged land requested by the municipality that is occupied or suitable for occupation and development if the

(1) land is within or contiguous to the boundaries of the municipality;
(2) use of the land would not unreasonably interfere with navigation or public access;
(3) municipality has applied to the commissioner for conveyance of the land under this section;
(4) land is not subject to a shore fisheries lease under AS 38.05.082, or, if the land is subject to a shore fisheries lease, the commissioner determines it is
in the best interests of the state to convey the land;

(5) land is classified for waterfront development or for another use that is consistent or compatible with the use proposed by the municipality, or the proposed use of the land is consistent or compatible with a land use plan adopted by the municipality, the department, or the Alaska Coastal Policy Council; and

(6) land

(A) is required for the accomplishment of a public or private development approved by the municipality;

(B) is the subject of a lease from the state to the municipality;

or

(C) has been approved for lease to the municipality.

(b) The commissioner may not convey land under this section that has been designated by statute unless the commissioner determines that the proposed use is consistent or compatible with the purpose of the statutory designation. Land designated as a state game refuge, game sanctuary, or critical habitat area may not be conveyed unless the commissioner of fish and game also determines that the proposed use is consistent or compatible with the purpose of the designation. If land designated by statute is conveyed, uses of the land after conveyance are restricted to those uses determined by the commissioner of natural resources to be consistent or compatible with the purpose of the designation.

(c) Upon receipt of an application, the commissioner shall determine whether the requested conveyance meets the requirements of this section and issue a written decision regarding that determination. Upon a determination that the requirements have been met, the commissioner shall approve the conveyance of the land to the municipality. After conveyance to the municipality is approved, the municipality has management authority of the land and may lease the land, but may not sell it. The cost of the survey and all subdivision or other platting required for conveyance shall be borne by the municipality.

(d) A conveyance under this section may contain only those restrictions required by law, including AS 38.05.127 and (b) of this section, or required to support a finding that the conveyance is in the best interest of the state. Land conveyed is
subject to the public trust doctrine that may be enforced by the state in a court of
competent jurisdiction. The municipality shall be required to ensure that reasonable
access to public waters and tidelands is provided. The municipality may not lease land
carried under this section for shore fisheries, but after conveyance, the land may be
leased by the state for shore fisheries under AS 38.05.082 if the commissioner
determines that the lease is compatible with the municipality's use of the land. Title
to land carried under this section that is retained by the municipality reverts to the
state upon the dissolution of the municipality.

(e) This section does not enlarge or diminish the general grant land entitlement
of a municipality under AS 29.65, nor is a conveyance under this section counted
against the municipality's general grant land entitlement.

* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).