CS FOR HOUSE BILL NO. 37(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/9/05
Offered: 5/8/05

Sponsor(s): REPRESENTATIVES GARA, Elkins, Foster, Gardner, Guttenberg

A BILL

FOR AN ACT ENTITLED

"An Act relating to voluntary land trades and purchases to enhance public access to fishing streams."

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

* Section 1. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.096. Identification of privately held land along fishing waterways. (a) Before July 1 of each year, the commissioner shall submit to the commissioner of natural resources a list of land along fishing waterways where access to the waterways is impeded by private land ownership.

(b) When identifying land for the list in (a) of this section, the commissioner shall solicit and review input from the public concerning land that may be included on the list.

(c) Factors to be considered by the commissioner when identifying land to be listed under (a) of this section include whether

(1) public access is needed to allow desirable foot, motorized or other
access to and recreational or subsistence use of the fishery resources present in the
waterway;

(2) private land ownership prevents public access to a section of the
waterway that is highly desirable for its fishing or other recreational attributes;

(3) public access to a section of the waterway would significantly
enhance the public's enjoyment of that waterway;

(4) the waterway contains wild sport fish or fish of a species, physical
size, and abundance that may support a commercial, personal use, sport, or subsistence
fishery;

(5) the fish population on the waterway may support a catch and
release sport fishing or other sport, commercial, personal use, or subsistence fishery.

(d) In reviewing land for identification under (a) of this section, the
commissioner shall give priority to land leading to and along fishing waterways that
(1) is reasonably accessible, including by backcountry hiking, from the
state's road system;

(2) is undeveloped and may be acquired by the state through purchase
or trade;

(3) has the greatest potential for public recreational or subsistence use
and enjoyment based on the size and abundance of fish, even if the location may be in
a remote part of the state.

(e) The decision by the commissioner to include or exclude land on the list in
(a) of this section is within the discretion of the commissioner and is not subject to
appeal. The commissioner shall, however, make the list proposed to be submitted to
the commissioner of natural resources publicly available before submission of the list
and may consider public comment before submission of the list.

(f) In this section, "fishing waterway" means a waterway that contains wild
sport fish or fish of a species, physical size, and abundance that may support a sport
commercial, personal use, or subsistence fishery.

* Sec. 2. AS 38.50 is amended by adding a new section to read:

Sec. 38.50.015. Access to fishing waterways. (a) After receiving from the
commissioner of fish and game a list prepared under AS 16.05.096 that identifies land
along fishing waterways where access to the waterways is impeded by private land ownership, the commissioner may proceed to acquire public access to waterways across those lands. The right of eminent domain may not be exercised to acquire land or interest in land under this section.

(b) Public access may be acquired by

1. purchasing or leasing an easement for access across each parcel of land;
2. trading state land for private land; or
3. purchasing or leasing private land.

(c) Before February 1 of each year, the commissioner and the commissioner of fish and game shall submit a plan to acquire public access to fishing waterways through trade or purchase for the following fiscal year. The plan must include a minimum access to not less than a total of two meander miles along fishing waterways. Within 60 days after receiving a written request from a landowner requesting the removal of the landowner's land from the list to be acquired under the plan, the commissioner shall remove the landowner's land from the list, even if the removal leaves less than two meander miles along fishing waterways.

(d) In this section,

1. "fishing waterway" has the meaning in AS 16.05.096;
2. "meander mile" means a distance of one mile measured following the course of a waterway.

*Sec. 3.* The uncodified law of the State of Alaska is amended by adding a new section to read:

**LAND TO BE CONSIDERED FOR FIRST LIST.** Notwithstanding the discretion of the commissioner of fish and game under AS 16.05.096 as enacted in sec. 1 of this Act, the initial list to be submitted to the commissioner of natural resources before July 1 following the effective date of this Act shall include land

1. adjacent to or near Montana Creek and Willow Creek above the Parks Highway on waterways that are open to trout and grayling fishing;
2. along Anchor River and Deep Creek on the Kenai Peninsula where the waterways are open to steelhead, salmon, Dolly Varden, or trout fishing; and
(3) along the Salcha River located off the Richardson Highway where the river is open to grayling fishing.