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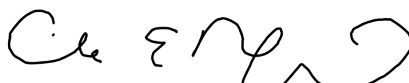
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 9, 2021

SUBJECT: Drafting considerations (SB 97; Work Order No. 32-GS1634\B)

TO: Senator Josh Revak
Attn: Betty Tangeman

FROM: Claire E. Radford
Legislative Counsel 

Attached is the Senate Resources committee substitute for SB 97. This draft makes technical and conforming changes to the underlying governor's bill, as well as the changes in your request. Below are some drafting notes for your consideration.

1. Leases and sales for commercial development. Section 38.05.086(b)(1) contains a cross reference to 26 U.S.C. 45D and 26 C.F.R. 601.601. These statutes do not reference "qualified opportunity zone[s]." These references should be amended or removed.

Section 38.05.086(b)(3) allows the department to identify any land the department considers appropriate for commercial development. With this broad authority, what is the purpose of including the narrower grants of authority under (b)(1) and (2)?

Section 38.05.086(d) requires the commissioner to issue a decision under AS 38.05.035(e) that the lease and sale of the land within the areas opened is in the best interests of the state. However, AS 38.05.035(e) requires that the director issue a written decision with the consent of the commissioner. If you would like to require a written decision under AS 38.05.035(e), sec. 38.05.086(d) should be amended to reflect that it is the director who writes and issues the decision.

Section 38.05.086(m) states that any subsequent application to purchase the land must address reasons the previous application was denied. There is, however, no requirement that the department provide a reason for the denial of an application. Should a provision be added directing the department to provide reasons for denial?

2. Stuffed definition. You requested that AS 38.05.321(j), the definition of "agricultural purposes," be amended to include additional information. This change creates what is referred to as a "stuffed definition." The concern with "stuffed definitions" is that an individual reading the statute who doesn't read the definition is unaware of substantive law that is "stuffed in the definition." I recommend that the committee reconsider adding these provisions in the definition and instead amend an existing substantive provision or

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create a new section that implements the difference between uses for parcels greater than 20 acres and parcels of 20 acres or less.

3. Transition section. Section 21 of the original bill gave the commissioners of natural resources, education and early development, and transportation and public facilities authority to immediately adopt or amend regulations. Typically, this type of transition section is given an immediate effective date and added to a bill when the substantive provisions of the bill have a delayed effective date. This gives the department or commissioner time to adopt regulations before the rest of the bill takes effect. However, sec. 18 of the bill provides that the entire Act takes effect immediately. I have therefore removed the regulation section because there is no ability to adopt regulations before the bill takes effect.

If I may be of further assistance, please advise.

CER:lme

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Attachment