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Bullard
5/7/26

CS FOR SENATE BILL NO. 208()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATOR BJORKMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the sale and lease of state land for agricultural uses; and providing**
2 **for an effective date."**

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

4 *** Section 1.** AS 38.04.020(i) is amended to read:

5 (i) Nothing in this section prevents the disposal of other land by the
6 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.059, 38.05.070, the
7 issuance of remote recreational cabin site leases or sales under AS 38.05.600,
8 AS 38.08, AS 38.09, or other law.

9 *** Sec. 2.** AS 38.05.059 is amended to read:

10 **Sec. 38.05.059. Sale of agricultural land.** The commissioner, after consulting
11 with the Board of Agriculture and Conservation (AS 03.09.010), may provide for the
12 sale of land classified under AS 38.05.020 [AS 38.05.020(b)(6)] for agricultural uses
13 in parcels or tracts described by aliquot parts. The parcels or tracts are subject to state
14 subdivision requirements and municipal ordinances. **The commissioner shall publish**

1 **a schedule that provides per-acre prices of land, based on the region within which**
 2 **the land is located. The commissioner shall ensure that the schedule serves the**
 3 **best interest of the state. The commissioner may set land sale prices below the**
 4 **market rate.** Money from a sale of agricultural land shall be **deposited in the state**
 5 **land disposal income fund (AS 38.04.022).** The commissioner may offer land
 6 **classified for agricultural uses for sale at public auction under AS 38.05.057(c),**
 7 **by sealed bid under AS 38.05.055, or as provided in (b) of this section. A parcel or**
 8 **tract sold under this section is subject to AS 38.05.321 and must be used for**
 9 **agricultural uses** [SEPARATELY ACCOUNTED FOR AND MAY BE
 10 APPROPRIATED TO THE AGRICULTURAL REVOLVING LOAN FUND
 11 (AS 03.10.040)].

12 * **Sec. 3.** AS 38.05.059 is amended by adding new subsections to read:

13 (b) The department may solicit applications for the purchase of state
 14 agricultural land under this section after the director issues a written finding under
 15 AS 38.05.035(e) that the sale is in the best interests of the state and the department
 16 provides notice of the sale under AS 38.05.945. A person may apply to purchase a
 17 parcel or tract of land offered for sale under this section by submitting an application
 18 to the department. An application to purchase agricultural land must include

- 19 (1) the specific land the applicant wants to purchase;
- 20 (2) a detailed summary of the proposed agricultural uses the land will
 21 be used for;
- 22 (3) a plan for soil and water conservation;
- 23 (4) information supporting the financial viability of the applicant's
 24 proposed agricultural uses for the land, including any marketing plans;
- 25 (5) the applicant's relevant qualifications, training, and experience; and
- 26 (6) additional information and requirements established by the
 27 department by regulation, including any application fees.

28 (c) The director shall, in consultation with the director of agriculture, evaluate
 29 an application submitted under this section using scoring criteria established in
 30 regulation by the department. Criteria developed under this subsection must be
 31 flexible in application and account for the range of land offered under this subsection

1 and the variety of agricultural uses that the land may accommodate. The department
2 may provide the applicable criteria, and how an application submitted under this
3 section will be scored under those criteria, in a solicitation of interest for a particular
4 parcel or tract. The criteria must include

5 (1) the department's assessment of the feasibility and value of the
6 proposed agricultural use;

7 (2) applicable conservation and stewardship considerations;

8 (3) applicant qualifications and experience; and

9 (4) financial viability of the proposed agricultural use.

10 (d) If the director, in consultation with the director of agriculture, finds, using
11 the scoring criteria established under (c) of this section, that a sale of agricultural land
12 to an applicant under (b) of this section is in the best interests of the state, the
13 commissioner may sell the parcel or tract to the applicant. If the director has received
14 two or more applications for the same parcel or tract, the commissioner may sell the
15 parcel or tract to the applicant whose proposal the director finds, using the scoring
16 criteria established under (c) of this section, and after consulting with the director of
17 agriculture, best serves the interests of the state. An application for the purchase of
18 state land under this section, including supporting documentation submitted to the
19 department for review, is a public record subject to AS 40.25.110 - 40.25.220. The
20 commissioner shall publish all applications received for the purchase of the land,
21 including supporting documentation submitted to the department, and the department's
22 evaluation and scoring of the applications under (c) of this section. An aggrieved
23 applicant may appeal to the commissioner for a review of the director's finding within
24 20 days after receiving notice of the finding.

25 * **Sec. 4.** AS 38.05.069(d) is amended to read:

26 (d) When not in conflict with this section, the provisions of

27 **(1)** AS 38.05.045 - 38.05.105 apply to disposals under this section;

28 **and**

29 **(2)** **AS 38.05.084 apply to leases issued under this section.**

30 * **Sec. 5.** AS 38.05.070(c) is amended to read:

31 (c) A lease may be issued for a period up to 55 years, if the commissioner

1 determines it to be in the best interests of the state. The commissioner shall consider
 2 the useful life of any improvements proposed and approved under AS 38.05.075 in
 3 determining the term of the lease. **The** [IF THE] commissioner **may declare a lease**
 4 **void if the commissioner** determines that

5 **(1)** the land or a part of it which is the subject of a grazing lease is not
 6 being used for the purpose issued; **or**

7 **(2) land leased under AS 38.05.084 is not being used for**
 8 **agricultural uses** [, THE LEASE MAY BE DECLARED VOID].

9 * **Sec. 6.** AS 38.05.070(e) is amended to read:

10 (e) The director may renew a lease issued under this section, AS 38.05.075,
 11 38.05.083, **38.05.084**, or 38.05.810 upon its expiration if the lease is in good standing
 12 and the lease renewal is determined to be in the best interests of the state. A renewal
 13 issued under this subsection is not subject to AS 38.05.035(e). **The director shall**
 14 **provide notice of the lease renewal decision.** A lease under

15 **(1)** this section, AS 38.05.075, or 38.05.810 may be renewed only once
 16 for a term not longer than the initial term of the lease; **and**

17 **(2) AS 38.05.084 may not exceed 20 years under AS 38.05.084(e)** [
 18 THE DIRECTOR SHALL PROVIDE NOTICE OF THE LEASE RENEWAL
 19 DECISION].

20 * **Sec. 7.** AS 38.05.075(a) is amended to read:

21 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.081,
 22 38.05.082, 38.05.083, **38.05.084**, 38.05.087, 38.05.102, 38.05.565, 38.05.600,
 23 38.05.810, and this section, when competitive interest has been demonstrated or the
 24 commissioner determines that it is in the state's best interests, leasing shall be made at
 25 public auction or by sealed bid, at the discretion of the director, to the highest qualified
 26 bidder as determined by the commissioner. A bidder may be represented by an
 27 attorney or agent at a public auction. In the public notice of a lease to be offered at
 28 public auction or by sealed bid, the commissioner shall specify a minimum acceptable
 29 bid and the lease compensation method. The lease compensation method shall be
 30 designed to maximize the return on the lease to the state and shall be a form of
 31 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the

1 commissioner within five days for a review of the determination. The leasing shall be
 2 conducted by the commissioner, and the successful bidder shall deposit at the public
 3 auction or with the sealed bid the first year's rental or other lease compensation as
 4 specified by the commissioner, or that portion of it that the commissioner requires in
 5 accordance with the bid. The commissioner shall require, under AS 38.05.860,
 6 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably
 7 incurred by another qualified bidder acting in accordance with the regulations of the
 8 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If
 9 a bidder making a deposit of survey or appraisal costs is determined by the
 10 commissioner to be the highest qualified bidder under this subsection, the deposit shall
 11 be paid to the unsuccessful bidder who incurred those costs or to the department if the
 12 department incurred the costs. All costs for survey and appraisal shall be approved in
 13 advance in writing by the commissioner. The commissioner shall immediately issue a
 14 receipt containing a description of the land or interest leased, the price bid, and the
 15 terms of the lease to the successful qualified bidder. If the receipt is not accepted in
 16 writing by the bidder under this subsection, the commissioner may offer the land for
 17 lease again under this subsection. A lease, on a form approved by the attorney general,
 18 shall be signed by the successful bidder and by the commissioner.

19 * **Sec. 8.** AS 38.05 is amended by adding a new section to read:

20 **Sec. 38.05.084. Leases of state land for agricultural uses.** (a) The
 21 commissioner may lease state land classified under AS 38.05.020 for agricultural uses.
 22 Money from the lease of agricultural land shall be deposited in the state land disposal
 23 income fund (AS 38.04.022). The commissioner may offer agricultural land for lease
 24 to the public at public auction, by sealed bid under AS 38.05.075, by negotiation under
 25 AS 38.05.070, or as provided in this section. State land that is not classified as
 26 agricultural land under AS 38.05.020 may also be leased for agricultural uses under
 27 this section. A lease issued under this section must include land use restrictions and
 28 authorizations consistent with the agricultural use of the lease. However, the
 29 commissioner shall permit a person leasing land under this section to construct
 30 housing for farmers and farm laborers if the construction accords with the person's
 31 agricultural development plan approved by the director under (c) of this section.

1 (b) A person may apply to lease state land for an agricultural use under this
2 section by submitting an application to the department. An application to lease
3 agricultural land must include

4 (1) the specific location, description, and amount of land the applicant
5 wants to lease;

6 (2) a detailed summary of the proposed agricultural uses the land will
7 be used for;

8 (3) an agricultural development plan that

9 (A) details proposed crop plans or livestock production;

10 (B) includes a timeline for agricultural production and
11 infrastructure development on the land;

12 (C) provides how soil and water will be conserved;

13 (D) describes proposed infrastructure, including housing,
14 support, or other auxiliary infrastructure;

15 (4) information supporting the financial viability of the proposal,
16 including any marketing plans;

17 (5) the applicant's relevant qualifications, training, and experience; and

18 (6) additional information and requirements established by the
19 department by regulation, including any application fees.

20 (c) The director shall, in consultation with the director of agriculture, evaluate
21 an application submitted under this section using scoring criteria established in
22 regulation by the department under AS 38.05.059(c). Upon the director's request, an
23 applicant may amend and resubmit an application provided under this section before
24 the director approves or denies the application.

25 (d) If the director finds that a lease is in the best interests of the state, the
26 department shall, upon receiving an application to lease state land for agricultural uses
27 under this section, solicit competitive interest by issuing a public notice in the manner
28 prescribed in AS 38.05.945. The notice must contain an announcement seeking
29 competitive interest. If, following notice, the director has received only one
30 application and finds, using the scoring criteria established in regulation by the
31 department under AS 38.05.059(c), that the lease is in the best interests of the state,

1 the commissioner may award a lease to the applicant. If, following notice, the director
2 has received two or more applications for the same land, the commissioner may award
3 a lease to the applicant whose proposal the director finds, using the scoring criteria
4 established in regulation by the department under AS 38.05.059(c), best serves the
5 interests of the state, notwithstanding the proposed monetary consideration. An
6 application for the lease of state land under this section, including supporting
7 documentation submitted to the department for review, is a public record subject to
8 AS 40.25.110 - 40.25.220. The commissioner shall publish all applications received
9 for the lease of the land, including supporting documentation submitted to the
10 department, and the department's evaluation and scoring of the applications under (c)
11 of this section. An aggrieved applicant may appeal to the commissioner for a review of
12 the director's finding within 20 days after receiving notice of the finding.

13 (e) Notwithstanding AS 38.05.070(c) and (e), a lease for state land under this
14 section may not exceed 20 years, with an option for renewal terms that may not
15 exceed 20 years each, if the lessee continues to meet the conditions of the lease. The
16 director shall establish by regulation criteria for lease termination, lease renewal, and
17 requirements for returning land to the state. The commissioner may terminate a lease
18 under this section if the lessee fails to use the leased land for agricultural uses or
19 otherwise fails to adhere to the terms and conditions of the agricultural development
20 plan approved by the director under this section. However, the commissioner may
21 modify a lessee's agricultural development plan if the commissioner makes a written
22 finding that the plan should be modified because of economic hardship or other
23 extenuating circumstances.

24 (f) Land leased under this section may be subleased or assigned as provided in
25 AS 38.05.095 if the sublessee or assignee agrees in writing to adhere to the terms and
26 conditions of the agricultural development plan for the land approved by the director
27 under this section, and provides a copy of the agreement to the director.

28 (g) If the commissioner determines that it is in the best interests of the state to
29 sell land leased under this section, the commissioner shall grant a lessee who has used
30 the land for agricultural uses for at least seven years and who is in compliance with the
31 terms and conditions of the lease a first option to purchase the land under

1 AS 38.05.059. Notwithstanding whether the land is classified as agricultural land
2 under AS 38.04.020, land sold under this section is subject to AS 38.05.321. If a
3 lessee does not use the land leased under this section for agricultural uses for at least
4 seven years, the lessee is not eligible for a preference under this subsection.

5 (h) The director shall establish by regulation an agricultural fee schedule for
6 compensation for a lease under this section. Rent may be set below fair market rate.

7 (i) State land leased for agricultural uses under this section is subject to

8 (1) appraisal under AS 38.05.840 only if the commissioner determines
9 in writing that the site is subject to appraisal under AS 38.05.840;

10 (2) survey under AS 38.04.045(b) only if the commissioner determines
11 in writing that the site is subject to survey under AS 38.04.045(b); and

12 (3) inspection by the department under (j) of this section to ascertain
13 and enforce compliance with the terms and conditions of a lease under this section.

14 (j) The department shall inspect land leased under this section at least once
15 biennially. An inspection under this section, at the discretion of the department, may
16 be conducted virtually or employ an unmanned aircraft system. In this subsection,
17 "unmanned aircraft system" has the meaning given in AS 18.65.909.

18 (k) A lessee who violates a provision of this section may be assessed a civil
19 penalty by the director. The director shall establish by regulation a schedule of

20 (1) applicable fines that a person may be required to pay under this
21 section; and

22 (2) administrative and enforcement actions applicable to violation of
23 the terms and conditions of a lease issued under this section.

24 (l) The commissioner shall adopt regulations establishing a lease-purchase
25 program under which, if a lessee purchases leased land under AS 38.05.059, the sale
26 price of the land may be reduced by an amount equal to a portion of the lessee's lease
27 payments made to the state. The regulations must require that the lessee have used the
28 land for agricultural uses during the lessee's tenancy to qualify for the program.

29 (m) In this section, "agricultural uses" means

30 (1) the commercial production of useful plants and animals;

31 (2) the construction of improvements for animals or improvements that

1 are reasonably required for or related to agricultural use;

2 (3) the use of gravel reasonably required or related to agricultural
3 production on the leased land; and

4 (4) the removal and disposal of timber on the leased land to bring the
5 land into agricultural use.

6 * **Sec. 9.** AS 38.05.102 is amended to read:

7 **Sec. 38.05.102. Lessee preference.** Except for a lease under AS 38.05.081,
8 [OR] 38.05.083, or 38.05.084, if land within a leasehold created under AS 38.05.070 -
9 38.05.105 is offered for sale or long-term lease at the termination of the existing
10 leasehold, the director may, upon a finding that it is in the best interest of the state,
11 allow a holder in good standing of the existing leasehold to purchase or lease the land
12 for its appraised fair market value at the time of the sale or long-term lease. **If land**
13 **within a leasehold created under AS 38.05.084 is offered for sale, the director**
14 **may, upon a finding that it is in the best interests of the state, allow a holder of**
15 **the lease to purchase the land under AS 38.05.059.**

16 * **Sec. 10.** AS 38.05.321(g) is amended to read:

17 (g) A perpetual covenant described in (a) of this section may be enforced **by**
18 **the department under (k) of this section or** [ONLY] by a civil action brought by the
19 state, a municipality, or a resident. If a municipality or a resident brings an action
20 under this subsection, the municipality or resident shall also serve a copy of the
21 summons and complaint on the state in the manner prescribed by the Alaska Rules of
22 Civil Procedure for service on the state. An action may be maintained under this
23 subsection only if

24 (1) commenced within six years after the cause of action has accrued;
25 and

26 (2) the plaintiff has first notified in writing the appropriate soil and
27 water conservation district under AS 41.10 of the violation of the covenant at least 90
28 days before the civil action is filed.

29 * **Sec. 11.** AS 38.05.321 is amended by adding a new subsection to read:

30 (k) If a landowner does not cooperate with a soil and water conservation
31 district as required by (d)(1) of this section, fails to prepare and implement a schedule

1 of agricultural development required by the commissioner under (d)(2) of this section,
 2 or violates the covenant described in (a) of this section, the department may assess
 3 civil penalties. In accordance with a schedule adopted in regulation, the department
 4 may assess and collect these and other civil penalties for violations of this section and
 5 regulations adopted under this section.

6 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
 7 read:

8 REGULATIONS. The Department of Natural Resources may adopt regulations
 9 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative
 10 Procedure Act), but not before the effective date of this section.

11 * **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

12 * **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2027.