

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 118
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB118-DNR-MLW-2-22-2016
Title: DNR LAND DISPOSAL SURVEYS; PEER REVIEW
Sponsor: COSTELLO
Requester: (S) L&C Then RES

Department: Department of Natural Resources
Appropriation: Fire Suppression, Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services	119.2		119.2	119.2	119.2	119.2	119.2
Travel	2.0						
Services	3.0						
Commodities	5.0		5.0	5.0	5.0	5.0	5.0
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	129.2	0.0	124.2	124.2	124.2	124.2	124.2

Fund Source (Operating Only)

1004 Gen Fund	129.2		124.2	124.2	124.2	124.2	124.2
Total	129.2	0.0	124.2	124.2	124.2	124.2	124.2

Positions

Full-time	1.0		1.0	1.0	1.0	1.0	1.0
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12-31-17

Why this fiscal note differs from previous version:

Initial Version

Prepared By: Brent Goodrum, Director
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Approved By: Mark Myers, Commissioner
Agency: Department of Natural Resources

Phone: (907)269-8625
Date: 02/22/2016 12:00 AM
Date: 02/22/16

FISCAL NOTE ANALYSIS

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2016 LEGISLATIVE SESSION

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Analysis

DNR anticipates that there will be a fiscal impact to the department from this legislation.

Ambiguities in the proposed legislation require that two assumptions be applied in the preparation of this fiscal note. These will be individually addressed in the analysis below.

Section 1 of the bill proposes to revise AS 08.01.065(f) to require the Board of Architects, Engineers, and Land Surveyors (AELS board) to set fees for peer review of a land survey under proposed amendments to AS 08.48.101 in section 3 of the bill, and requires a person submitting the survey for review to pay the fee.

Section 2 of the bill proposes to revise AS 08.48.071(d) to provide that proprietary information and trade secrets contained in surveys submitted for review under AS 38.05.955 are confidential and not public records.

Section 3 of the bill proposes to amend AS 08.48.101 by adding a new subsection requiring the AELS board to adopt regulations for convening a committee to conduct a peer review of a survey under AS 38.05.955. The committee must include at least three professional surveyors that meet specified eligibility.

While fees will affect persons requesting survey reviews, Sections 1-3 of the bill will have no fiscal effect on DNR.

Section 4 of the bill proposes to amend Title 38 by adding a new section that creates a survey plat peer review option as an alternative to a DNR survey plat review for persons who submit a survey required for the lease, sale or disposal of land to DNR under AS 38.05 or AS 38.35 and provides deadlines for notices and requests of alternate review by the AELS board. This section of the bill would also require DNR to adopt regulations necessary to establish standards for such a survey peer review but restricts such regulations to three areas of criteria. The bill further provides that DNR retains the final authority to render a final decision regarding only the accuracy, not the adequacy, of the survey and is required to complete that review and decision within two weeks. Lastly, this portion of the bill provides a definition of "survey" for use within the proposed new section of Chapter 38.05.

Assumption 1: The existing statute that generally requires surveys of land for a long-term lease or patent issued by the state is AS 38.04.045. The wording of the bill states it will apply to "land leases, sales or other disposals" offered under the statutes cited in the text of the bill and not all surveys required under AS 38.04, other laws, or under administrative or regulatory direction. This analysis will assume that the provisions of this section apply ONLY to leases, sales or disposal of land under AS 38.05 or AS 38.35 as included in the text of the bill.

Under the specific wording of the bill, DNR interprets that this provision would not apply to:

- the land surveys conducted by the department for land sales (as DNR would not request such a review) under AS 38.05.055-65;
- surveys for conveyances of Municipal Entitlement under AS 29;
- surveys or as-builts of easements and rights-of-way issued under AS 38.05.850 (not interpreted as a "sale, lease or disposal" under AS 38); or
- review of surveys of private land under AS 40.15.

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Analysis Continued

DNR estimates that an average of approximately 25 eligible types of surveys are submitted to the department for review each year, and one survey every two years for pipeline rights-of-way under AS 38.35, however many of these projects can be potentially huge in scale (e.g., the proposed AKLNG project or the Donlin Gold right-of-way). While it is unknown as to exactly how many future submitters of applicable surveys will elect a AELS board peer reviews under this section, for this fiscal note DNR will assume that all will elect to do so under proposed narrow review standards of AS 38.05.955(c) in this section. DNR also assumes that, as is typically the case, a single review of a plat will not result in an approved survey either by the AELS board peer review or by DNR, and multiple reviews will result to correct errors. As specified under Section 4 of the bill, each of these AELS board peer reviews will be referred through DNR.

Fiscal impacts to DNR under Section 4:

A peer review under this section will only pertain to whether the survey accurately depicts and describes the surveyed location, satisfies standards for practice under AS 08.48; and satisfies requirements for a survey under AS 38.05.

Assumption 2: The prescribed peer review does not address, but does not explicitly obviate or modify, DNR's responsibility to ensure a survey complies with other state laws, regulations, case law, land use plans, land disposal decisions or other survey requirements or practices applied by DNR. As such, the prescribed survey peer review does not offset these review requirements of DNR and will thus not result in cost savings to the department.

Rather, because of the requirement for a two-week review of an elected AELS board peer review, and the department's current at capacity status of its existing survey staff, DNR will be required to maintain an additional Land Surveyor I position to timely respond to plats submitted under the AELS board peer review option. This is based on 26 surveys/year X 1 week review time/survey = 26 weeks/year.

Land Surveyor I position:

Personal Services: GU Range 21, 12 months = \$119,168/year

Commodities: \$5,000/year

This section will also require DNR to adopt regulations. DNR will likely be able to absorb the staff cost of the effort to draft and adopt these regulations, however, the contractual costs for such an effort including noticing, hearing facilities and travel are estimated to be a one-time FY2017 cost of \$5,000.

Travel: \$2,000

Services: \$3,000

Section 5 of the bill proposes to amend Section AS 38.05.015 by adding a new paragraph to provide the Commissioner the power to provide for a survey peer review submitted under **Section 4** of the bill.