



Senate Bill 204
State Land Sales; Plats; Rivers
Sectional Analysis 2/25/20

Section 1 amends AS 19.30.080 to exempt the state from municipal or local platting authority or related land use regulation, specifically those dealing with approval of access roads built on state lands.

Section 2 repeals and reenacts AS 29.03.030 to designate DNR as the platting authority for the unorganized borough and as otherwise provided by law.

Section 3 amends AS 29.35.180(a) and (b) to exempt DNR-managed lands as provided by AS 40.15.070 (as repealed and reenacted in Section 30 of this bill) from the platting authority of first-class, second-class, and home rule boroughs.

Section 4 amends AS 29.35.180 by adding a new subsection (c) to state that DNR is the platting authority for state lands managed by DNR as provided in AS 40.15.070, and that DNR is exempt from borough platting authority and land use regulation when DNR exercises its platting authority for state lands located within a borough with the power of land use regulation and platting authority.

Section 5 amends AS 29.40.010(a) and (b). Subsection (a) is amended to state that, except state land managed by DNR as provided in AS 40.15.070 (as repealed and reenacted in Section 30 of this bill), a first- or second-class borough shall provide planning, platting, and land use regulation on an areawide basis. Subsection (b) is made subject to new subsection (c).

Section 6 amends AS 29.40.010 by adding a new subsection (c) to state that DNR is the platting authority for state lands DNR manages as provided in AS 40.15.070 (as repealed and reenacted in Section 30 this bill), and that when DNR exercises the platting authority for state lands located within a borough with the power of land use regulation and platting authority, DNR is exempt from that borough's land use regulation and platting authority. Where a DNR plat or subdivision of state land does not comply with borough planning, platting, or land use regulation, the state is deemed to have received an approved variance that is appurtenant to and runs with the land.

Sections 7 amends AS 29.40.040(a) to state that subsection (a) is subject to a new subsection (c).

Section 8 amends AS 29.40.040 by adding a new subsection (c) to state that DNR is the platting authority for state lands DNR manages as provided in AS 40.15.070 (as repealed and reenacted in Section 30 this bill); and that DNR is exempt from borough land use regulation and platting authority over land it manages that lies within a borough with such authority. Where a DNR plat

or subdivision of state land does not comply with borough planning, platting, or land use regulation, the state is deemed to have received an approved variance that is appurtenant to and runs with the land.

Sections 9 and 10 amend AS 29.40.190 to state that subsection (a) is subject to a new subsection (c). New subsection (c) states that a civil action may not be brought or penalty imposed under (a) for a violation of municipal planning, platting, or land use regulation as to a DNR plat or subdivision of state lands where DNR is exercising platting authority under AS 40.15.070, as repealed and re-enacted in this bill, and where a variance has been approved under AS 29.40.010(c) and 29.40.040(c). This section does not exempt a purchaser or owner of DNR-managed lands from having to comply with environmental requirements in AS 46.03 – AS 46.14 or other state law.

Section 11 amends AS 38.04.020(e) so that feasibility studies, engineering design work, right-of-way acquisition, construction of access roads, and capital improvements on state land need to comply only with state requirements (regulations and statutes), rather than municipal ordinances.

Section 12 amends AS 38.04.022 by increasing the Land Disposal Income Fund's (LDIF) \$5 million deposit limit to \$7.5 million and by granting DNR discretion to request an increase of that deposit limit in its annual statutorily required report to the legislature. This proposed increase to the LDIF cap is critical to expanding state land sales and implementing a program for the leasing and sale of state lands deemed suitable for commercial development as provided for in this bill.

Section 13 amends AS 38.04.045(b) by deleting language requiring plats for state subdivisions to comply with municipal planning, platting, and zoning powers.

Section 14 amends AS 38.04.045 by adding new subsections (c) – (f). Subsection (c) provides that when DNR-managed state land is located within a municipality with planning, platting, and zoning powers, the state's plats and subdivisions under DNR's platting authority in AS 40.15.070 (as repealed and reenacted by this bill) shall comply with local platting and land use regulations to the maximum extent DNR's commissioner determines to be consistent with the state's interests. If the commissioner determines compliance is not consistent with the state's interests, a plat or subdivision shall comply with state platting requirements. New subsection (d) clarifies that, except as provided in (c), state land located within a municipality with planning, platting, and zoning powers and that is exercising platting authority and land use regulations, subdivisions by the state shall comply with local ordinances and regulations in the same manner and to the same extent as subdivisions by other landowners. New subsection (e) requires state subdivisions be filed and recorded in the district recorder's office. Finally, new subsection (f) lists the types of sales and leases not covered by the requirements of AS 38.04.045.

Section 15 amends AS 38.04.050 by removing language requiring the state to comply with municipal platting and zoning requirements on state land within a municipality exercising its platting authority. Other amendments grant the director of the Division of Mining, Land and Water greater discretion in deciding when to develop surface access roads.

Section 16 amends AS 38.05.035(b) to grant the state discretion to determine lot size based on state regulation or municipal regulation, and deletes (c) regarding conveyance of parcels to adjoining landowners.

Sections 17 and 18 amend AS 38.05.055 by clarifying auction sale or sealed bid procedures, and inserting a new subsection (d) to detail the procedures for auction sales and sealed bidding.

Sections 19 - 25 amend AS 38.05.065 by making housekeeping amendments clarifying the bidding process for sale of state lands, requiring an earnest money deposit, increasing the term of a contract for sale, and granting the state greater discretion in determining whether or not to construct access roads. Sections 19 - 20 increase the term of a contract for sale of state land. Sections 21-24 remove confusing foreclosure language. Section 25 adds a new subsection (j) to allow for land sale contracts for land sold by means other than AS 38.05.055, for which it also requires an earnest money deposit of at least 5 percent of the purchase price from a person applying to purchase land. If the applicant fails to enter into a contract to purchase, or defaults in the payment of the bid amount, the earnest money deposit will be forfeited to the state.

Section 26 adds a new subsection AS 38.05.086, to allow leasing of certain state land for commercial or industrial economic development with an option to purchase, in order to stimulate economic development in the state, either those lands within Qualified Opportunity Zones, or other lands DNR may nominate and approve. After proper land use classification and the completion of a best interest finding under AS 38.05.035, the commissioner may request proposals from the public for developing and leasing up to 20-acre parcels of these lands. If only one person requests to lease and develop a specific parcel of land, the commissioner may enter into a negotiated lease. If more than one person requests to lease and develop a specific parcel of land, the commissioner will offer the lease at competitive bid. Successful bidders will then enter a five-year lease, renewable once for up to another five-year term. At any time during the lease term the lessee can purchase the land if they are in good standing, have completed the development proposed requirements, have surveyed and appraised the land at their own cost, and pays any applicable fees. Annual rentals paid during the lease may be applied to the purchase price. This statute includes various provisions to ensure DNR's decisions are not deemed arbitrary and to provide appeal opportunities for aggrieved bidders or lessees. This proposed program requires the increase to the LDIF cap proposed in Section 12 of this bill, or a greater appropriation out of the General Fund.

Section 27 amends AS 38.05.965 by adding a new paragraph (29) to define “public auction.”

Section 28 amends AS 38.09.080(b) to clearly state that homestead entry land is subject to state platting, recording, or subdivision requirements rather than local requirements.

Section 29 amends AS 40.15.020 to exempt DNR from the requirement to obtain certificates of acknowledgment from a local tax authority to certify that taxes and assessments have been paid, when the DNR is exercising its platting authority under AS 40.15.070 (as repealed and reenacted in Section 30 of this bill).

Section 30 repeals and reenacts AS 40.15.070 with the following subsections (a) – (d). New subsection (a) makes DNR the platting authority for the unorganized borough, in municipalities that do not have or are not exercising the power of land use regulation or platting authority, and all state land managed by DNR under the listed statutes. New subsection (b) provides that when DNR exercises platting authority in a municipality with the power of land use regulation and platting authority, DNR is exempt but shall still comply to the maximum extent the DNR commissioner determines to be consistent with the state’s interests. Where DNR’s plats or subdivisions do not comply with municipal planning, platting, or land use regulation, the state is deemed to have received a variance that is appurtenant to and runs with the land. New subsection (c) states that, except as provided in (b), a municipality with planning, platting, and zoning powers is the platting authority as provided in AS 29.40. New subsection (d) requires that a subdivision or plat be submitted to the appropriate platting authority.

Section 31 amends AS 40.15.200 to state that, except as provided in new subsection (b) (adopted under Section 32 of the bill), subdivisions of land made by the state, its agencies, instrumentalities, and political subdivisions are subject to the requirements of statutes regarding recording and local platting authority.

Section 32 amends AS 40.15.200 by adding a new subsection (b) to state that all subdivisions of state land managed by DNR, where DNR is exercising platting authority under AS 40.15.070 (as repealed and readopted under Section 30 of this bill), are subject to AS 40.15.010 – .070.

Section 33 amends AS 40.15.305(a) to read that the DNR commissioner shall exercise platting authority for the state and all state land as provided under AS 40.15.070 (as repealed and readopted under Section 30 of this bill).

Section 34 repeals several miscellaneous statutes and subsections to ensure the state is the platting authority for all state lands and to amend state law on contracts for state land:

- AS 29.10.200(54) (limitation of home rule powers)
- AS 29.40.200 (subdivisions of state land)
- AS 38.08.010(b)(1) (classification of land for homesite entry)

This section also repeals all recreation rivers statutes, allowing those lands to be regulated and disposed of consistent with other statutes:

- AS 41.23.400 (purposes)
- AS 41.23.410 (compatible activities)
- AS 41.23.420 (general management of recreation rivers and corridors)
- AS 41.23.430 (advisory board)
- AS 41.23.440 (management plan)
- AS 41.23.450 (management of municipal land)
- AS 41.23.460 (acquisition of additional land)
- AS 41.23.470 (application of public land laws)
- AS 41.23.480 (cooperative management agreements)
- AS 41.23.490 (limitation on establishment)
- AS 41.23.500 (establishment of recreation rivers and recreation river corridors (Alexander Creek State Recreation River, Kroto Creek and Moose Creek State

Recreation River, Lake Creek State Recreation River, Little Susitna State Recreation River, Talachulitna State Recreation River, and Talkeetna State Recreation River)).

- AS 41.23.510 (definition)

Section 35 repeals an uncodified section of the recreation rivers statutes, Section 1, ch. 122, SLA 1988.

Section 36 adds a section to the uncodified law to read: “TRANSITION: REGULATIONS. The commissioner may adopt or amend regulations as necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulations.

Section 37 states the act takes effect immediately.