

Alaska State Legislature

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Senate Bill 92 Sectional Analysis

"An Act relating to state ownership of submerged land underlying navigable water within the boundaries of and adjacent to federal areas; and providing for an effective date."

Section 1 – Amends law by adding a new section to state the purpose of the act.

The purpose is to assert the state's ownership interest in all submerged land underlying navigable water since the date of statehood. The statement of purpose specifically calls out state-owned submerged land within the boundaries of and adjacent to federal areas.

Section 2 – Amends AS 38.04.062(a)

Clarifies that the state owns all submerged lands underlying navigable water from the date of statehood through the equal footing doctrine, including those within the boundaries and adjacent to federal lands.

Section 3 – Amends AS 38.04.062(b)

Adds the additional obligation for the Department of Natural Resources commissioner to conduct ongoing research to identify submerged lands within and adjacent to federal areas to make state title determinations.

Section 4 – Amends AS 38.04.062(c) to change a reference from the time of statehood to the date of statehood.

Creates the obligation for the commissioner to maintain a list of all water in the state for which the commissioner determines are non-navigable.

Section 5 – Amends AS 38.04.062(d) to insert a citation to proposed new section of statute under this bill.

Clarifies that water not included on lists of navigable or non-navigable, is not considered either until the commissioner has made a determination of navigability. Added citation to refer to lists and determinations under AS 38.04.063 as well as existing those in (b) and (c).

Section 6 – Amends AS 38.04.062(e)

Amended section serves as a disclaimer for commissioner determinations made under (b) or (c) in that they may not be representative of final action, may not be recorded and does not create new property.

Section 7 – Amends AS 38.04.062(g)(2)

This section clarifies the language defining the date of statehood in regard to the definition of “non-navigable water”.

Section 8 – Amends and adds new subsections under AS 38.04.062, (h)-(j), that create new obligations for the commissioner.

Subsection (h) creates an added obligation for the commissioner, requiring him to submit an annual report to the legislature. The report shall identify navigable waters within or adjacent to federal areas not listed in AS 38.04.063(b), as well as changes to previously identified navigable water.

Subsection (i) clarifies that failure to include or identify navigable waters does not relinquish the states’ rights regarding those submerged lands.

Subsection (j) clarifies that determinations of navigability will be consistent with the definition of navigability and be based on corroborating evidence. Subsection (j) also outlines criteria for navigability.

Section 9 – Amends AS 38.04 and adds a new section AS 38.04.063 concerning state ownership of submerged lands within federal areas.

This section makes clear that since statehood, that Alaska owns, claims, occupies, possesses, manages, and controls all submerged lands underlying navigable waters. In subsection (b) it creates a list of navigable waters within and adjacent to federal areas.

Section 10 – Amends AS 38.04.910 by adding a definition section.

The following terms are defined in section 10: federal area, mean high water line, navigable water, ordinary high-water mark, and submerged land.

Section 11 – Repeals AS 38.04.062(g)(1), the previous definition of “navigable water”.

Section 12 – Amends the law to make it retroactive to January 3, 1959, the date of statehood.

This bill will require a special vote of two-thirds of the members of each house because the proposed retroactive effective date for this section varies from the standard language providing for an effective date 90 days after enactment.

Section 13 – This section provides for an immediate effective date under AS 01.10.070(c).