



Sectional Analysis

House Bill 49 – Carbon Offset Program on State Land (33-GH1372\A)

Section 1: Amends AS 36.30.850(b) to exempt DNR from following the state procurement code when contracting with third parties for purposes related to the carbon offset program, streamlining the process.

Section 2: Amends AS 37.05.146(c) to allow revenue from carbon offset credits to be treated as designated program receipts.

Section 3: exempts the new statute, AS 38.05.081 (leases for carbon management, see Section 4), from the Alaska Land Act's general leasing procedures. This will ensure that leases under AS 38.05.081 do not need to comply with a competitive bid process or auction.

Section 4: enacts a new subsection AS 38.05.081 relating to leases of state land for carbon management purposes. The proposed section AS 38.05.081 authorizes DNR to lease land for carbon management. The proposed section would allow DNR to lease lands to private parties to implement their own carbon offset projects.

Proposed AS 38.05.081(b) specifies the process for how a person may apply to DNR to lease lands for carbon management purposes.

Proposed AS 38.05.081(c): specifies a process for deciding between applications for the same land. If there are two or more applications for the same land, the director of the division of lands within DNR has the discretion to select the lessee by considering the applicant's past carbon management experience, the lease term, and the proposed carbon management use of state land. An aggrieved applicant may appeal the decision within 20 days after receiving notice of the decision.

Proposed AS 38.05.081(d): allows DNR to authorize up to a 55-year lease for a carbon management purpose. This subsection also authorizes the commissioner of DNR to terminate a lease if the land is not being used for the approved carbon management purpose.

Proposed AS 38.05.081(e): specifies a lessee does not receive a preference right to purchase the land.

Proposed AS 38.05.081(f): DNR can consider factors set out in AS 38.05.073(m) in deciding the appropriate lease compensation for a lease under the section, including "the fair market rental value" or the "annual gross receipts" generated by the land.

Proposed AS 38.05.081(g): clarifies that carbon management land leases can be subleased, assigned, renewed, and extended consistent with AS 38.05.070 and 38.05.095.

Proposed AS 38.05.081(h): requires the director of DNR to complete a written best interest finding under AS 38.05.035(e) before leasing lands for carbon management purposes. A best interest finding is required to comply with art. VIII, sec. 10 of the Alaska Constitution and the statutory and case law that implements it.

Proposed AS 38.05.081(i): defines "carbon management" to include greenhouse gas mitigation and non-geologic carbon sequestration projects.

Section 5: of the bill amends AS 38.05.102 by noting that a lessee under the proposed AS 38.05.081 (see Section 4) does not obtain a long-term lease preference right in the land. This is a conforming amendment consistent with language included in the proposed AS 38.05.081(e) (see Section 4).

Section 6: would establish the carbon offset program as a new article within AS 38.95 through enactment of AS 38.95.400 - 38.95.499. The new sections create a process for DNR to implement a project to yield carbon offset credits and create a fund for revenues generated from the carbon offset projects.

Proposed AS 38.95.400: establishes the carbon offset program and creates powers and duties for the commissioner of DNR. It allows DNR to contract with third parties to carry out the purposes of AS 38.95.400 - 38.95.499 and explicitly disclaims application of the carbon offset program to activities of private landowners.

Proposed AS 38.95.410: requires DNR to adopt criteria to evaluate carbon offset projects on state lands. The statute prevents carbon offset projects from being undertaken on legislatively designated lands without approval by the legislature or as provided by law. The statute also requires the director of lands, with the consent of the commissioner of DNR, to find that a carbon offset project is in the best interests of the state before undertaking the project. Additionally, carbon offset projects would be limited to a term of 55 years. Lastly, the statute provides that carbon offset projects cannot restrict public access, fishing, hunting, or other generally allowed uses.

Proposed AS 38.95.420: specifies that after DNR issues a best interest finding, it may then enter an agreement with a registry to validate a carbon offset project and to generate revenue from the sale of carbon offset credits. AS 38.95.420 would also require DNR to maintain records for verified carbon offset projects for the term of the project and any additional time period required by the registry.

Proposed AS 38.95.430: Creates the carbon offset revenue fund. The fund would be outside the general fund, would hold appropriations from the legislature, including program receipts from sale of carbon offset credits, and would allow the commissioner of DNR to spend money appropriated to the fund for carbon offset program purposes. Fund appropriations would not lapse.

Proposed AS 38.95.499 provides definitions for the program.

Sections 7 and 8: allow for designation of state lands within the Haines State Forest Resource Management Area to be available for carbon offset program purposes.

Section 9: amends AS 41.15.315, which requires that the Haines State Forest Resource Management Area be managed under the principles of multiple use and sustained yield, by adding a new subsection to require DNR to amend the management plan required under AS 41.15.320 to identify lands appropriate for carbon offset projects.

Section 10: amends AS 41.17.200 to provide that state forest system lands are eligible for carbon offset projects.

Section 11: amends AS 41.17.220 to provide that in addition to managing state forests under the sustained yield principle, provisions of AS 41.17, and a forest management plan, state forest lands must also be managed in accordance with a carbon offset project.

Sections 12 and 13: require DNR to update existing forest management plans to accommodate carbon offset programs.

Sections 14 and 15: allow DNR to immediately adopt implementing regulations, but the regulations would not take effect until the effective date of the bill.