

CS FOR HOUSE BILL NO. 20(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/14/95

Referred: Rules

Sponsor(s): REPRESENTATIVES MOSES, Kubina

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to conveyance of certain tide and submerged land to
2 municipalities; and providing for an effective date."

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

4 * **Section 1.** AS 38.05.125(a) is amended to read:

5 (a) Each contract for the sale, lease or grant of state land, and each deed to
6 state land, properties or interest in state land, made under AS 38.05.045 - 38.05.120,
7 38.05.321, 38.05.810 - 38.05.825 [38.05.810 - 38.05.821], AS 38.08, or AS 38.50
8 except as provided in AS 38.50.050 is subject to the following reservations: "The party
9 of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant
10 hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases,
11 coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every
12 name, kind or description, and which may be in or upon said land above described, or
13 any part thereof, and the right to explore the same for such oils, gases, coal, ores,
14 minerals, fissionable materials, geothermal resources, and fossils, and it also hereby

1 expressly saves and reserves out of the grant hereby made, unto itself, its lessees,
2 successors, and assigns forever, the right to enter by itself, its or their agents,
3 attorneys, and servants upon said land, or any part or parts thereof, at any and all times
4 for the purpose of opening, developing, drilling, and working mines or wells on these
5 or other land and taking out and removing therefrom all such oils, gases, coal, ores,
6 minerals, fissionable materials, geothermal resources, and fossils, and to that end it
7 further expressly reserves out of the grant hereby made, unto itself, its lessees,
8 successors, and assigns forever, the right by its or their agents, servants and attorneys
9 at any and all times to erect, construct, maintain, and use all such buildings,
10 machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such
11 wells, remove such soil, and to remain on said land or any part thereof for the
12 foregoing purposes and to occupy as much of said land as may be necessary or
13 convenient for such purposes hereby expressly reserving to itself, its lessees,
14 successors, and assigns, as aforesaid, generally all rights and power in, to, and over
15 said land, whether herein expressed or not, reasonably necessary or convenient to
16 render beneficial and efficient the complete enjoyment of the property and rights
17 hereby expressly reserved.

18 * **Sec. 2.** AS 38.05 is amended by adding a new section to read:

19 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO
20 MUNICIPALITIES. (a) Unless the commissioner finds that the public interest in
21 retaining state ownership of the land clearly outweighs the municipality's interest in
22 obtaining the land, the commissioner shall convey to a municipality tide or submerged
23 land requested by the municipality that is occupied or suitable for occupation and
24 development if the

- 25 (1) land is within or contiguous to the boundaries of the municipality;
26 (2) use of the land would not unreasonably interfere with navigation
27 or public access;
28 (3) municipality has applied to the commissioner for conveyance of the
29 land under this section;
30 (4) land is not subject to a shore fisheries lease under AS 38.05.082;
31 (5) land is classified for waterfront development or for another use that

1 is consistent or compatible with the use proposed by the municipality, or the proposed
2 use of the land is consistent or compatible with a land use plan adopted by the
3 municipality, the department, or the Alaska Coastal Policy Council; and

4 (6) land

5 (A) is required for the accomplishment of a public or private
6 development approved by the municipality;

7 (B) is the subject of a lease from the state to the municipality;

8 or

9 (C) has been approved for lease to the municipality.

10 (b) The commissioner may not convey land under this section that has been
11 designated by statute unless the commissioner determines that the proposed use is
12 consistent or compatible with the purpose of the statutory designation. If land
13 designated by statute is conveyed, uses of the land after conveyance are restricted to
14 those uses determined by the commissioner to be consistent or compatible with the
15 purpose of the designation.

16 (c) Upon receipt of an application, the commissioner shall determine whether
17 the requested conveyance meets the requirements of this section and issue a written
18 decision regarding that determination. Upon a determination that the requirements
19 have been met, the commissioner shall approve the conveyance of the land to the
20 municipality. After conveyance to the municipality is approved, the municipality has
21 management authority of the land and may lease the land, but may not sell it. The
22 cost of the survey and all subdivision or other platting required for conveyance shall
23 be borne by the municipality.

24 (d) A conveyance under this section may contain only those restrictions
25 required by law, including AS 38.05.127 and (b) of this section, or required to support
26 a finding that the conveyance is in the best interest of the state. Land conveyed is
27 subject to the public trust doctrine that may be enforced by the state in a court of
28 competent jurisdiction. The municipality shall be required to ensure that reasonable
29 access to public waters and tidelands is provided. Title to land conveyed under this
30 section that is retained by the municipality reverts to the state upon the dissolution of
31 the municipality.

1 (e) This section does not enlarge or diminish the general grant land entitlement
2 of a municipality under AS 29.65, nor is a conveyance under this section counted
3 against the municipality's general grant land entitlement.

4 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).