

CS FOR SENATE BILL NO. 56(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/9/95
Referred: Finance

Sponsor(s): SENATOR LEMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing the Department of Natural Resources to quitclaim land or
2 interests in land, including submerged or shore land, to a municipality to correct
3 errors or omissions of the municipality when inequitable detriment would result
4 to a person due to that person's reliance upon the errors or omissions of the
5 municipality; relating to conveyance of certain tide and submerged land to
6 municipalities; and providing for an effective date."

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

8 * **Section 1.** AS 38.05.035(b) is amended to read:

9 (b) The director may

10 (1) delegate the administrative duties, functions or powers imposed
11 upon the director to a responsible employee in the division;

12 (2) grant preference rights for the lease or purchase of state land
13 without competitive bid in order to correct errors or omissions of a state or federal

1 administrative agency when inequitable detriment would otherwise result to a diligent
2 claimant or applicant due to situations over which the claimant or applicant had no
3 control; the exercise of this discretionary power operates only to divest the state of its
4 title to or interests in land and may be exercised only

5 (A) with the express approval of the commissioner; and

6 (B) if the application for the preference right is filed with the
7 director within three years from

8 (i) the occurrence of the error or omission;

9 (ii) the date of acquisition by the state of the land; or

10 (iii) the date of a court decision or settlement nullifying
11 a disposal of state land;

12 (3) grant a preference right to a claimant who shows bona fide
13 improvement of state land or of federal land subsequently acquired by the state and
14 who has in good faith sought to obtain title to the land but who, through error or
15 omission of others occurring within the three years before (A) the application for the
16 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
17 a court decision or settlement nullifying a disposal of state land, has been denied title
18 to it; upon a showing satisfactory to the commissioner, the claimant may lease or
19 purchase the land at the price set on the date of original entry on the land or, if a price
20 was not set at that time at a price determined by the director to fairly represent the
21 value of unimproved land at the time the claim was established, but in no event less
22 than the cost of administration including survey; the error or omission of a predecessor
23 in interest or an agent, administrator, or executor which has clearly prejudiced the
24 claimant may be the basis for granting a preference right;

25 (4) sell land by lottery for less than the appraised value when, in the
26 judgment of the director, past scarcity of land suitable for private ownership in any
27 particular area has resulted in unrealistic land values;

28 (5) when the director determines it is in the best interest of the state
29 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
30 land, by direct negotiation to that person who presently uses and who used and made
31 improvements to that land before January 3, 1959, or to the heirs or devisees of the

1 person; the amount paid for the land shall be its fair market value on the date that the
2 person first entered the land, as determined by the director; a parcel of land disposed
3 of under this paragraph shall be of a size consistent with the person's prior use, but
4 may not exceed five acres;

5 (6) dispose of an interest in land limited to use for agricultural purposes
6 by lottery;

7 (7) convey to an adjoining landowner for its fair market value a
8 remnant of land that the director considers unmanageable or a parcel of land created
9 by a highway right-of-way alignment or realignment, or a parcel created by the
10 vacation of a state-owned right-of-way if

11 (A) the director determines that it is in the best interests of the
12 state;

13 (B) the parcel does not exceed the minimum lot size under an
14 applicable zoning code; and

15 (C) the director and the platting authority having land use
16 planning jurisdiction agree that conveyance of the parcel to the adjoining
17 landowner will result in boundaries that are convenient for the use of the land
18 by the landowner and compatible with municipal land use plans;

19 (8) for good cause extend for up to 90 days the time for rental or
20 installment payments by a lessee or purchaser of state land under this chapter if
21 reasonable penalties and interest set by the director are paid;

22 (9) quitclaim land or an interest in land to the federal government on
23 a determination that the land or the interest in land was wrongfully or erroneously
24 conveyed by the federal government to the state;

25 (10) negotiate the sale or lease of state land at fair market value to a
26 person who acquired by contract, purchase, or lease rights to improvements on the land
27 from another state agency or who leased the land from another state agency;

28 **(11) quitclaim land or an interest in land, including submerged or**
29 **shore land, to a municipality to correct errors or omissions of the municipality**
30 **when inequitable detriment would result to a person due to that person's reliance**
31 **on the errors or omissions of the municipality, the quitclaim shall be made on**

1 such terms and conditions as the director considers appropriate except that, if the
2 municipality has a remaining entitlement to land under AS 29.65, the land or
3 interest quitclaimed is counted against the municipality's remaining entitlement.

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

5 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO
6 MUNICIPALITIES. (a) The commissioner shall convey to a municipality tide or
7 submerged land requested by the municipality that is occupied or suitable for
8 occupation and development if the

9 (1) use of the land would not unreasonably interfere with navigation
10 or public access;

11 (2) municipality has applied to the commissioner for conveyance of the
12 land under this section;

13 (3) land is classified for waterfront development or for another use that
14 is consistent or compatible with the use proposed by the municipality, or the proposed
15 use of the land is consistent or compatible with a land use plan adopted by the
16 municipality, the department, or the Alaska Coastal Policy Council; and

17 (4) land

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

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

21 or

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

23 (b) The commissioner may not convey land under this section that has been
24 designated by statute unless the commissioner determines that the proposed use is
25 consistent or compatible with the purpose of the statutory designation. If land
26 designated by statute is conveyed, uses of the land after conveyance are restricted to
27 those uses determined by the commissioner to be consistent or compatible with the
28 purpose of the designation.

29 (c) Upon receipt of an application, the commissioner shall determine whether
30 the requested conveyance meets the requirements of this section and issue a written
31 decision regarding that determination. Upon a determination that the requirements

1 have been met, the commissioner shall approve the conveyance of the land to the
2 municipality. After conveyance to the municipality is approved, the municipality has
3 management authority of the land and may convey the land by lease or sale. The cost
4 of the survey and all subdivision or other platting required for conveyance shall be
5 borne by the municipality.

6 (d) A conveyance under this section may contain only those restrictions
7 required by law, including AS 38.05.127 and (b) of this section. Land conveyed is
8 subject to the public trust doctrine that may be enforced by the state in a court of
9 competent jurisdiction. The municipality shall be required to ensure that reasonable
10 access to public waters is provided. Title to land conveyed under this section that is
11 retained by the municipality reverts to the state upon the dissolution of the
12 municipality.

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

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