

HOUSE BILL NO. 38

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE BRICE

Introduced: 1/13/97

Referred: Community and Regional Affairs, House Special Committee on World Trade and State/Federal Relations, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to Statehood Act land selection conveyances to boroughs and
2 unified municipalities."

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

4 * **Section 1.** AS 29.60 is amended by adding new sections to read:

5 **Article 9. Statehood Act Land Selection Conveyances.**

6 **Sec. 29.60.700. Selections of state land.** (a) A borough or unified
7 municipality may select 50,000 acres of land conveyed to the state under Sec. 6(b) of
8 the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339). Selections shall be made before
9 January 1, 2012, and, unless the commissioner of natural resources finds it in the best
10 interest of the state to convey a smaller parcel, in parcels of 40 acres or larger. The
11 borough or unified municipality shall bear all costs of selection, platting, surveying,
12 and conveyance of land it selects and shall reimburse the Department of Natural
13 Resources for the reasonable costs incurred by that department relating to the selection,
14 platting, surveying, and conveyance. Land may be selected under this subsection only

1 if it is located within the boundaries of the municipality and, on the date of its
2 selection by the municipality, it

3 (1) has not been

4 (A) conveyed by the state;

5 (B) reserved by law from the public domain; or

6 (C) selected under AS 29.65, unless the land selection is, at a
7 later date, rejected by the commissioner of natural resources or relinquished by
8 the municipality;

9 (2) is not

10 (A) land included in a five-year proposed oil and gas leasing
11 program under AS 38.05.180(b);

12 (B) land leased under, or for which a lease application is
13 pending under AS 38.05.180(d);

14 (C) subject to a possessory interest or encumbrance other than

15 a

16 (i) lease that is not an oil or gas lease;

17 (ii) timber contract;

18 (iii) mining claim, prospecting site, or prospecting
19 permit on tide or submerged land;

20 (iv) sale of materials under AS 38.05.110 - 38.05.123;

21 or

22 (v) land use permit or right-of-way issued by the
23 Department of Natural Resources under AS 38.05;

24 (D) necessary to carry out the purpose of an interagency land
25 management agreement; or

26 (E) subject to conveyance under a land exchange or land
27 settlement agreement.

28 (b) The commissioner of natural resources shall reject a selection of land made
29 under this section if the commissioner

30 (1) reasonably believes the land may be

31 (A) selected by a city under AS 29.65.030, but the

1 commissioner may not withhold under this subparagraph the conveyance of title
2 to the land for more than three years after the date of the city's incorporation;

3 (B) made part of an oil and gas exploration license issued under
4 AS 38.05.131 - 38.05.134, but the commissioner may not withhold under this
5 subparagraph the conveyance of title to the land for more than three years
6 unless it is made part of an exploration license;

7 (2) determines conveyance of the land is not in the best interest of the
8 state.

9 **Sec. 29.60.710. Selected land.** Notwithstanding other provisions of law, on
10 land selected under AS 29.60.700 but not yet conveyed by the state,

11 (1) the state is authorized to enter into contracts and grant leases,
12 licenses, prospecting sites, claims, permits, rights-of-way, or easements, and any
13 interim conveyance or patent shall be subject to the contract, lease, license, prospecting
14 site, claim, permit, right-of-way, or easement, except that the authority granted the
15 state by this paragraph

16 (A) is the authority that the state otherwise would have had
17 under existing laws and regulations had the surface estate of the land not been
18 selected; and

19 (B) may be exercised only if the selecting borough or unified
20 municipality has concurred before the action is taken by the state;

21 (2) 90 percent of the proceeds that are attributable to activity involving
22 the surface estate and are derived from contracts, leases, licenses, prospecting sites,
23 claims, permits, rights-of-way, easements, or trespasses, originating after the date of
24 selection, shall be held by the state until the land has been conveyed, and, upon
25 issuance of a document of conveyance, the state shall pay that amount to the borough
26 or unified municipality;

27 (3) responsibility for management of activities affecting the surface
28 estate arising out of the contracts, leases, licenses, prospecting sites, claims, permits,
29 rights-of-way, or easements vests with the borough or unified municipality upon
30 issuance of a document of conveyance.

31 **Sec. 29.60.720. Conveyance of land.** (a) In conveying land under

1 AS 29.60.700, the commissioner of natural resources shall give public notice under
 2 AS 38.05.945(b) and (c) and provide for access under AS 38.05.127, but other
 3 provisions of AS 38.04 and AS 38.05 do not apply. The borough or unified
 4 municipality takes the land subject to any possessory interest held by another person
 5 on the effective date of the conveyance and, except for oil, gas, or mineral leases, is
 6 entitled to receive the consideration due under that interest for the duration of the
 7 interest.

8 (b) In conveying land selected under AS 29.60.700, the state shall retain the
 9 rights to oil, gas, and minerals. Land conveyed under AS 29.60.700 excludes any
 10 interest transferred to the state by quitclaim deed dated June 30, 1959, under authority
 11 of the Alaska Omnibus Act (P.L. 86-70, 73 Stat. 141). The conveyance is subject to

12 (1) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339);

13 (2) AS 19.10.010;

14 (3) the rights of the state under former 43 U.S.C. 932 (sec. 8 of the Act
 15 of July 26, 1866, 14 Stat. 253).

16 **Sec. 29.60.730. Right to reenter.** When the commissioner of natural
 17 resources issues a document of conveyance for land selected under AS 29.60.700, the
 18 commissioner shall retain the right to reenter the land and recover title to it as
 19 provided in this section. The commissioner of natural resources shall reenter and
 20 recover title if

21 (1) on the 10th anniversary of the execution of the conveyance, the
 22 commissioner of natural resources finds that the borough or unified municipality is not
 23 actively managing the land to provide income; however, if at any time during the 10-
 24 year period, litigation, including any appeal, has prevented the municipality from
 25 actively managing the land to provide income, the date on which the commissioner
 26 shall make the finding required by this paragraph is extended by a period equal to the
 27 period attributable to the litigation; for purposes of this paragraph, "actively managing
 28 the land to provide income" means that the municipality is deriving revenue from the
 29 land selection or has in place a development program to derive income from the land
 30 selection; or

31 (2) before January 1, 2012, the land is conveyed by the borough or

1 unified municipality or by another person to the United States; the reentry and
2 recovery of title under this paragraph terminates the title or ownership interest in all
3 land conveyed to the municipality under AS 29.60.700, and the municipality may not
4 thereafter make any other land selections under that section; this paragraph does not
5 apply to an acre-for-acre land exchange.

6 **Sec. 29.60.740. General grant land selections.** Land conveyed under
7 AS 29.60.700 may not be considered in fulfilling the general grant land entitlement of
8 a municipality under AS 29.65.