

**SENATE BILL NO. 31**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR TORGERSON

Introduced: 1/13/97

Referred: CRA, State Affairs, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to supplemental grant land entitlements for municipalities."**

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

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

4 **Article 9. Supplemental Grant Land Entitlements.**

5 **Sec. 29.60.700. Supplemental grant land entitlements.** (a) A municipality  
6 may select and is entitled to receive land conveyed to the state under Sec. 6(b) of the  
7 Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) that, on the date of its selection by  
8 the municipality,

9 (1) is located within the boundaries of the municipality;

10 (2) has not been conveyed by the state;

11 (3) has not been reserved by law from the public domain;

12 (4) is not land

13 (A) included in a five-year proposed oil and gas leasing  
14 program under AS 38.05.180(b); or

15 (B) leased under, or for which a lease application is pending

1 under, AS 38.05.180(d);

2 (5) is not subject to a possessory interest or encumbrance other than a

3 (A) lease that is not an oil or gas lease;

4 (B) timber contract;

5 (C) mining claim;

6 (D) sale of materials under AS 38.05.110 - 38.05.120;

7 (E) land use permit or right-of-way issued by the Department  
8 of Natural Resources under AS 38.05;

9 (6) is not necessary to carry out the purpose of an interagency land  
10 management agreement; and

11 (7) is not subject to conveyance under a land exchange or land  
12 settlement agreement.

13 (b) The amount of the supplemental grant land entitlement for each  
14 municipality is equal to five percent of the acreage the municipality is entitled to  
15 receive under AS 29.65.010 - 29.65.140. A municipality may not make a selection in  
16 fulfillment of its supplemental grant land entitlement under AS 29.65.700 - 29.65.740  
17 after December 31, 2010.

18 (c) Notwithstanding AS 38.05.125(a), the transfer of ownership and  
19 management of supplemental grant land from the Department of Natural Resources to  
20 a municipality includes the interest of the state in the

21 (1) coal, ores, minerals, fissionable materials, geothermal resources, and  
22 fossils that may be in or on the land; and

23 (2) oil and gas that may be in or on the land, but only as to land that  
24 is selected by the municipality on and after the date that is the fifth anniversary of the  
25 effective date of AS 29.60.700 - 29.60.740.

26 (d) When a selection has been made by a municipality, the land selected is  
27 closed to entry until the land selected has been conveyed or the selection has been  
28 rejected by the commissioner of natural resources.

29 **Sec. 29.60.710. Conveyance to a municipality.** (a) When a municipality  
30 selects the supplemental grant land to which it is entitled, unless it is determined under  
31 (b) and (c) of this section that title to the land should not be conveyed, the

1 commissioner of natural resources shall convey, subject to divestiture under (j) of this  
 2 section, a document of interim conveyance under (h) of this section or a patent to land.

3 (b) The commissioner of natural resources may not convey title to any land  
 4 selection made by a municipality if the commissioner determines that the proposed  
 5 selection

6 (1) includes land that, at the time of its selection under this section,

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

10 (B) the commissioner reasonably believes may be selected by  
 11 a municipality under AS 29.65.030, but the commissioner may not withhold  
 12 under this subparagraph the conveyance of title to land selected longer than  
 13 three years after the date of incorporation of the municipality the commissioner  
 14 believes may select the land under AS 29.65.030;

15 (2) includes land that, at the time of its selection under this section,

16 (A) is subject to an oil and gas exploration license; or

17 (B) the commissioner reasonably believes will be made part of  
 18 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the  
 19 commissioner may not refuse to convey title to land under this subparagraph  
 20 for more than three years after its first selection by a municipality;

21 (3) is not in the best interests of the state; in making a determination  
 22 under this paragraph as to whether a selection is in the best interests of the state, the  
 23 commissioner shall consider

24 (A) the interest of the general public in retention of the land in  
 25 state ownership;

26 (B) ensuring an appropriate diversity in the character of land  
 27 owned by the state and by the municipality;

28 (C) the public benefits achieved by conveyance of the land to  
 29 the municipality;

30 (D) the probable potential for the development of the land and  
 31 its resources and the probable income to the municipality from the conveyance

1 of the land;

2 (E) benefits to the municipality from the conveyance of the land  
3 to it; and

4 (F) the efficiency of the management of the land resulting from  
5 the conveyance of the land.

6 (c) If the governing body of a municipality disagrees with a decision of the  
7 commissioner of natural resources under (b) of this section not to convey land selected  
8 by the municipality, the governing body and the commissioner of natural resources  
9 shall submit the matter to the governor, who shall make the decision. The decision  
10 of the governor is final.

11 (d) When land is conveyed in fulfillment of a supplemental grant land  
12 entitlement, the municipality takes the land subject to any possessory interest held by  
13 another person on the effective date of the conveyance. Except as provided in  
14 AS 29.60.730(1), the municipality is entitled to receive the consideration due under  
15 that interest for the duration of the interest.

16 (e) In conveying supplemental grant land, the commissioner of natural  
17 resources shall give public notice under AS 38.05.945(b) and (c) and provide for  
18 access under AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not  
19 apply.

20 (f) Supplemental grant land transferred or conveyed under AS 29.60.700 -  
21 29.60.740

22 (1) is subject to

23 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.  
24 339);

25 (B) art. IX of the state constitution;

26 (C) AS 19.10.010; and

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

29 (2) excludes any interest transferred to the state by quitclaim deed dated  
30 June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat. 141;

31 (3) based on a land selection filed by a municipality on or after the

1 effective date of AS 29.60.700 - 29.60.740 and until the day before the day that is the  
2 fifth anniversary of the effective date of AS 29.60.700 - 29.60.740 is subject to  
3 reservation by the state in perpetuity of all oil and gas that may be in or on the land,  
4 together with the right to explore the land for oil and gas and to remove from the land  
5 all oil and gas located in and on it.

6 (g) A municipality shall bear all costs of selection, platting, surveying, and  
7 conveyance of the land that it selects to fulfill a supplemental land grant entitlement  
8 and shall reimburse the Department of Natural Resources for the reasonable costs  
9 incurred by that department relating to that selection, platting, surveying, and  
10 conveyance. As to land due a municipality under (a) of this section because it has not  
11 been disapproved under (b) and (c) of this section, if the land

12 (1) has been surveyed, the boundaries of the land conveyed must  
13 conform to the public land subdivisions established by the approved survey;

14 (2) is unsurveyed, the commissioner shall survey the exterior  
15 boundaries of the land to be conveyed without interior subdivision, and shall issue  
16 patent in terms of the exterior boundary survey.

17 (h) For land due a municipality under (a) of this section that is unsurveyed,  
18 pending the survey of exterior boundaries and issuance of patent, the commissioner of  
19 natural resources shall prepare and provide to the municipality a document of interim  
20 conveyance for the land to be conveyed.

21 (i) Except as provided in AS 29.60.730(2), management of land conveyed to  
22 a municipality by patent or by a document of interim conveyance vests with the  
23 municipality from the date of execution of the patent or document of interim  
24 conveyance.

25 (j) When the commissioner of natural resources issues a document of interim  
26 conveyance under (h) of this section or a patent for land selected and held by a  
27 municipality, the commissioner of natural resources shall retain the right to reenter the  
28 land conveyed and recover title to it. The commissioner of natural resources shall  
29 reenter and recover title if, on the 10th anniversary of the execution of the conveyance,  
30 the commissioner finds that the municipality has not disposed of or is not actively  
31 managing the land to provide income for the support of its programs. However, if at

1 any time during the 10-year period, litigation, including any appeal, has prevented the  
 2 municipality from actively managing the land to provide income, the date on which  
 3 the commissioner of natural resources shall make the finding required by this  
 4 subsection is extended by a period equal to the period attributable to the litigation  
 5 during which the municipality was prevented from actively managing the land to  
 6 provide income. For purposes of this subsection, "actively managing the land to  
 7 provide income" means that the municipality is deriving revenue from the land  
 8 selection.

9 **Sec. 29.60.720. Management and disposition of supplemental grant land.**

10 (a) The governing body of each municipality that receives supplemental grant land  
 11 shall establish procedures for mineral entry or location and mineral leasing on  
 12 supplemental grant land selections that are substantially similar to mineral entry,  
 13 location, and leasing procedures for state land under AS 38.05.185 - 38.05.275.

14 (b) Notwithstanding other provisions of law, a municipality shall seek public  
 15 comment on proposals for development or sale of supplemental grant land selections.  
 16 The governing body of each municipality that receives supplemental grant land shall  
 17 adopt ordinances that provide that the municipality shall prepare an annual plan for  
 18 management and disposition of the land and shall, not less than 30 days before  
 19 scheduled approval by the governing body of the plan,

20 (1) make copies of the plan available to the public;

21 (2) publish a notice in newspapers of general circulation in the  
 22 municipality that provides the public with information on the locations where the plan  
 23 is available for public inspection;

24 (3) give notice to all other municipalities with jurisdiction over the land  
 25 affected by the proposal; and

26 (4) seek public comment on the annual plan before action by the  
 27 governing body approving the plan.

28 **Sec. 29.60.730. Management and disposition of income from existing**  
 29 **encumbrances.** For the land selected by and conveyed to a municipality that is  
 30 subject to a lease, contract, claim, sale, permit, or right-of-way identified in  
 31 AS 29.60.700(a)(5), the

1 (1) state is entitled to receive the income obtained from the lease,  
2 contract, claim, sale, permit, or right-of-way for the duration of the term of the lease,  
3 contract, claim, sale, permit, or right-of-way, and during any renewal of it that is  
4 authorized by the lease, contract, claim, sale, permit, or right-of-way, or by law;

5 (2) responsibility for the management of the land vests with the  
6 municipality only upon conclusion of the term of the lease, contract, claim, sale,  
7 permit, or right-of-way, and any renewal authorized by the lease, contract, claim, sale,  
8 permit, or right-of-way, by law.

9 **Sec. 29.60.740. Customary and traditional uses to be continued.** The  
10 municipality shall manage or dispose of land it receives in fulfillment of its  
11 supplemental grant land entitlement in a manner that permits customary and traditional  
12 uses of the resources of that land to the maximum extent practicable.

13 \* **Sec. 2. APPLICABILITY OF MUNICIPAL SELECTION RIGHTS UNDER**  
14 **AS 29.60.700 - 29.60.740 TO CERTAIN LAND.** In addition to the land that, under  
15 AS 29.60.710(b), the commissioner of natural resources may not convey, the commissioner  
16 of natural resources may not convey land that, at the time of its selection by a municipality,  
17 is subject to designation for conveyance or conveyance to the Alaska Mental Health Trust  
18 Authority under sec. 40, ch. 5, FSSLA 1994, as amended by secs. 4 and 5, ch. 1, SSSLA  
19 1994.