

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 24, 2006

1:07 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Co-Chair  
Representative Ralph Samuels, Co-Chair  
Representative Jim Elkins  
Representative Gabrielle LeDoux  
Representative Paul Seaton  
Representative Harry Crawford  
Representative Mary Kapsner

**MEMBERS ABSENT**

Representative Carl Gatto  
Representative Kurt Olson

**COMMITTEE CALENDAR**

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 57

"An Act relating to the sale of certain state land to adjacent landowners."

- MOVED SSHB 57 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 55(FIN)

"An Act instructing the commissioner of natural resources to issue a patent for the remaining interest in certain state land to the owner of the agricultural rights to that land."

- MOVED CSSB 55(FIN) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 57

SHORT TITLE: SALE OF STATE LAND TO ADJACENT LANDOWNERS

SPONSOR(s): REPRESENTATIVE(s) WEYHRAUCH

01/10/05	(H)	PREFILE RELEASED 1/7/05
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	RES, FIN
02/10/06	(H)	SPONSOR SUBSTITUTE INTRODUCED
02/10/06	(H)	READ THE FIRST TIME - REFERRALS
02/10/06	(H)	RES, FIN

03/24/06 (H) RES AT 1:00 PM CAPITOL 124

BILL: SB 55

SHORT TITLE: AGRICULTURAL LAND

SPONSOR(s): SENATOR(s) WAGONER

01/14/05 (S) READ THE FIRST TIME - REFERRALS  
01/14/05 (S) RES, FIN  
02/02/05 (S) RES AT 3:30 PM BUTROVICH 205  
02/02/05 (S) Moved SB 55 Out of Committee  
02/02/05 (S) MINUTE(RES)  
02/04/05 (S) RES RPT 5DP  
02/04/05 (S) DP: WAGONER, ELTON, STEVENS B, SEEKINS,  
DYSON  
01/17/06 (S) FIN AT 9:00 AM SENATE FINANCE 532  
01/17/06 (S) Heard & Held  
01/17/06 (S) MINUTE(FIN)  
01/19/06 (S) FIN RPT CS 5DP SAME  
TITLE  
01/19/06 (S) DP: WILKEN, GREEN, OLSON, DYSON,  
STEDMAN  
01/19/06 (S) FIN AT 9:00 AM SENATE FINANCE 532  
01/19/06 (S) Moved CSSB 55(FIN) Out of Committee  
01/19/06 (S) MINUTE(FIN)  
02/08/06 (S) TRANSMITTED TO (H)  
02/08/06 (S) VERSION: CSSB 55(FIN)  
02/10/06 (H) READ THE FIRST TIME - REFERRALS  
02/10/06 (H) RES, FIN  
03/24/06 (H) RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented SSHB 57 as sponsor.

DICK MYLIUS, Director

Division of Mining, Land and Water

Department of Natural Resources

POSITION STATEMENT: Answered questions regarding SSHB 57 and SB 55.

JOHN SCHNABEL, landowner

Haines, Alaska

POSITION STATEMENT: Testified in support of SSHB 57.

AMY SEITZ, Staff  
to Senator Tom Wagoner  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented SB 55 on behalf of Senator Wagoner, sponsor.

FRANK MILLER, landowner  
Hope, Alaska

POSITION STATEMENT: Testified in support of SB 55.

CHUCK GRAHAM, landowner  
Hope, Alaska

POSITION STATEMENT: Speaking on behalf of himself and his wife, Linda Graham, testified in support of SB 55.

ERICA MILLER, landowner  
Hope, Alaska

POSITION STATEMENT: Testified in support of SB 55.

DOUGLAS VOLLMAN  
Copper Center, Alaska

POSITION STATEMENT: Testified in support of the Millers getting the land made available in SB 55, but warned legislators about unintended consequences.

#### **ACTION NARRATIVE**

**CO-CHAIR JAY RAMRAS** called the House Resources Standing Committee meeting to order at [1:07:01 PM](#). Representatives Ramras, Samuels, Elkins, Seaton, and Crawford were present at the call to order. Representatives Kapsner and LeDoux arrived as the meeting was in process. Representative Bill Thomas was also present.

The committee took an at-ease from 1:07 p.m. to 1:09 p.m.

#### **HB 57-SALE OF STATE LAND TO ADJACENT LANDOWNERS**

[1:09:30 PM](#)

CO-CHAIR RAMRAS announced that the first order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 57, "An Act relating to the sale of certain state land to adjacent landowners."

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, sponsor, informed the committee that SSHB 57 was introduced to

spur the State of Alaska to purchase more federal land from the federal government. However, information from the Department of Law and the Department of Natural Resources made moot the purpose of the bill. Still, the legislation came to the attention of Mr. Schnabel who owns a gold mine in the Haines area. Essentially, SSHB 57 will help Mr. Schnabel to proceed with his operation while the state would receive fair market value for the land.

[1:12:47 PM](#)

REPRESENTATIVE ELKINS commented that although SSHB 57 may appear to be special legislation, it might help someone else in the future.

[1:13:14 PM](#)

REPRESENTATIVE CRAWFORD opined that the problem with special interest legislation is that it provides an advantage to someone to the disadvantage of someone else. Although SSHB 57 only applies to one individual at this point, it doesn't disadvantage anyone else. Therefore, Representative Crawford said that he didn't view SSHB 57 as special interest legislation. Representative Crawford further opined that Mr. Schnabel should be able to purchase the property he is working.

[1:14:20 PM](#)

REPRESENTATIVE CRAWFORD asked if there are any ways that what SSHB 57 proposes could be abused.

REPRESENTATIVE WEYHRAUCH said he didn't know.

[1:14:43 PM](#)

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources, said he has worked with the sponsor on SSHB 57. He explained that the route taken by the legislation was chosen to address Mr. Schnabel's situation because Mr. Schnabel expressed interest in purchasing a parcel of land that the state couldn't sell to him under existing law. Mr. Mylius explained that in most instances when state land is sold, it's through a competitive process that provides all Alaskans an equal chance to purchase it. However, this parcel has two problems with offering it to the general public. First, the land is totally surrounded by land owned by Mr. Schnabel and thus there is no legal access to the parcel. Second, there are

mining claims under the property, and if the parcel were sold a split estate situation would result. The aforementioned is generally avoided. Therefore, SSHB 57 allows the land to be sold under a preference rights sale, which allows DNR to offer the land to one individual due to that individual's specific interest in the land. Mr. Mylius opined that the situation SSHB 57 addresses could theoretically apply to other situations because state land surrounded by land owned by one individual is of very little value to the public and that state land can't be sold through the state's regular sale programs without access to the land. Mr. Mylius concluded by characterizing SSHB 57 as a good solution.

[1:17:16 PM](#)

REPRESENTATIVE SEATON asked if the access issue will be considered in the fair market value.

MR. MYLIUS said an appraiser will review the value of surrounding lands, although the appraiser will likely reduce the value of land such as Mr. Schnabel's because of the lack of legal access. He said that the value would be determined through a fair market appraisal.

[1:18:17 PM](#)

REPRESENTATIVE SEATON asked if there are other state parcels in a similar situation.

MR. MYLIUS said that although he doesn't know of specific parcels, he said he is sure such parcels exist. Mr. Mylius said this situation is unusual because the state acquired this parcel under the 1959 state law requiring people to register their parcels and if they didn't, then the state foreclosed on the parcel. The parcel under discussion is a foreclosed mining claim.

[1:19:24 PM](#)

JOHN SCHNABEL, landowner, informed the committee that he wants to purchase the 13 acres of land without an outcry auction because anyone can bid for a parcel of land that he has elected to lease or purchase without having to pay the upfront costs for the survey, legal research, advertising, title insurance, et cetera. He further informed the committee that he is in the process of developing the 80 acres he owns that surrounds the state's parcel into a tourist destination. Mr. Schnabel related

that to date he has invested over \$1 million and he needs the state's parcel in order to avoid future conflict. He mentioned that he has no problem complying with the R.S. 2477 [easement]. He concluded by expressing his hope that the legislature could make it possible to transfer the land this year.

[1:21:17 PM](#)

REPRESENTATIVE SEATON asked if the R.S. 2477 easement is something that the department normally ensures occurs during the transfer of state lands.

MR. MYLIUS replied yes. He clarified that if it's determined that there is a R.S. 2477 easement, then the desire would be to reserve it for the State of Alaska. In further response to Representative Seaton, Mr. Mylius confirmed that conditions to that effect could be attached to the sale.

REPRESENTATIVE ELKINS moved to report SSHB 57 out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objection, SSHB 57 was passed out of the House Resources Standing Committee.

#### SB 55-AGRICULTURAL LAND

CO-CHAIR SAMUELS announced that the final order of business would be CS FOR SENATE BILL NO. 55(FIN), "An Act instructing the commissioner of natural resources to issue a patent for the remaining interest in certain state land to the owner of the agricultural rights to that land."

[1:23:29 PM](#)

AMY SEITZ, Staff to Senator Tom Wagoner, Alaska State Legislature, speaking on behalf of the sponsor, pointed out that CSSB 55(FIN) is similar to SSHB 57 in that it gives the commissioner of the Department of Natural Resources (DNR) the authority to transfer rights to certain parcels. The three requirements the property has to meet are as follows: it has to be no more than 15 acres; the state had to have originally acquired the land through the Alaska Statehood Act for purposes of community expansion; and the owner of the agricultural rights has to pay the fair market value. A 15-acre parcel in Hope, to which the Ross Miller family has the agricultural rights, meets these requirements. Ms. Seitz related that the Ross Miller family homesteaded in Hope before statehood and had 27 acres of their own as well as 15 acres that were leased from the state

for pasture land. During the 1964 earthquake, several of the family's own acreage fell into the Turnagain Arm and the family was compensated with one acre through the Earthquake Exchange Program. The state did not think that was fair, and therefore turned over the agricultural rights of the 15 acres to the Ross Miller family. Since that time, the family has attempted to purchase the remaining rights, which the state wants to sell to the family. However, the state cannot do so without a statutory change, which is what SB 55 accomplishes.

1:25:33 PM

REPRESENTATIVE SEATON asked if there are any R.S. 2477 easements through the property.

MS. SEITZ said that she did not know.

1:26:00 PM

DICK MYLIUS, Director, Division of Mining, Land and Water, Department of Natural Resources, noted his agreement that SB 55 is similar to SSHB 57 in that it's a parcel that the state would like to sell, but cannot under existing law. Mr. Mylius noted that SB 55 was narrowly crafted to apply to the situation in Hope, although it may also apply to a few parcels in Gustavus. However, the legislation would not apply to other agricultural parcels. In response to Representative Seaton's earlier question, Mr. Mylius confirmed that there are no R.S. 2477 [easements] through this parcel, although the parcel does front a road with an existing right-of-way.

1:27:28 PM

CO-CHAIR SAMUELS asked if the language on page 1, line 9, regarding issuing a patent is legal ease that means "to sell it."

MR. MYLIUS said that it's the department's intention to sell the parcel at fair market value.

1:28:00 PM

FRANK MILLER informed the committee that he is the son of Ross Miller, the original homesteader, and he and his sister, Linda Graham, co-own the agricultural rights to the aforementioned acreage. He further informed the committee that he and his sister have been working for a number of years to try to resolve

the situation to make the land fee simple. This bill would solve the problem and bring closure to this difficult situation, he said.

[1:28:56 PM](#)

CHUCK GRAHAM, speaking on behalf of his wife Linda Graham, related that the two strongly support the bill, as it seems to be the only means to resolve this problem.

ERICA MILLER, Ross Miller's granddaughter, related her strong support for SB 55. She said she didn't want to wait another year for full rights to the property.

[1:31:06 PM](#)

DOUGLAS VOLLMAN informed the committee that he is involved with the agricultural community in Copper Center. Although Mr. Vollman said that he didn't oppose SB 55, he cautioned that the bill could open up the door for transferring other agricultural rights. He then inquired as to how the department will determine the fair market value. He emphasized that he supports the Miller family and its attempt to obtain the patent to the land. However, he reiterated concern with regard to the legal aspects of doing this legislation and others with agricultural rights wanting their conveyance or the elimination of the agricultural restrictions.

[1:32:47 PM](#)

CO-CHAIR RAMRAS relayed that Mr. Mylius, in relation to SSHB 57, testified that in order to determine the fair market value of a property, an appraiser would be hired to determine the fair market value. Furthermore, the bill was written by the Department of Law, and is presumed legal until such time as there is a court challenge.

CO-CHAIR RAMRAS closed public testimony.

[1:33:21 PM](#)

REPRESENTATIVE SEATON noted that the legal opinion from Legislative Legal Services states that the bill is constructed as a law of general application. Any other person who falls under similar circumstances would be entitled to the same provisions, and therefore this is not special legislation.

1:33:53 PM

REPRESENTATIVE SEATON moved to report CSSB 55(FIN) out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objections, it was so ordered.

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 1:34:46 PM.