

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 25, 2014

8:04 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Lynn Gattis  
Representative Shelley Hughes  
Representative Doug Isaacson  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

Representative Charisse Millett

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 132(STA)

"An Act relating to exemptions from the payment of motor vehicle registration fees for residents 65 years of age or older; and providing for an effective date."

- MOVED CSSB 132(STA) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 106(STA)

"An Act providing for certain individuals who have erected a building on land leased from the state to receive a preference right to purchase certain state land without competitive bid."

- MOVED CSSB 106(STA) OUT OF COMMITTEE

HOUSE BILL NO. 296

"An Act providing for certain individuals who have erected a building on land leased from the state to receive a preference right to purchase certain state land without competitive bid."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 132

SHORT TITLE: MOTOR VEHICLE REGISTRATION FEES

SPONSOR(S): SENATOR(S) FAIRCLOUGH

01/22/14 (S) READ THE FIRST TIME - REFERRALS  
 01/22/14 (S) STA, FIN  
 02/11/14 (S) STA AT 9:00 AM BUTROVICH 205  
 02/11/14 (S) Moved CSSB 132(STA) Out of Committee  
 02/11/14 (S) MINUTE(STA)  
 02/12/14 (S) STA RPT CS 4DP NEW TITLE  
 02/12/14 (S) DP: DYSON, WIELECHOWSKI, COGHILL,  
 GIESSEL  
 02/24/14 (S) FIN RPT CS(STA) 3DP 1NR 1AM  
 02/24/14 (S) DP: FAIRCLOUGH, BISHOP, HOFFMAN  
 02/24/14 (S) NR: OLSON  
 02/24/14 (S) AM: DUNLEAVY  
 02/24/14 (S) FIN AT 8:00 AM SENATE FINANCE 532  
 02/24/14 (S) Moved CSSB 132(STA) Out of Committee  
 02/24/14 (S) MINUTE(FIN)  
 03/21/14 (S) TRANSMITTED TO (H)  
 03/21/14 (S) VERSION: CSSB 132(STA)  
 03/24/14 (H) READ THE FIRST TIME - REFERRALS  
 03/24/14 (H) STA  
 03/25/14 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 106

SHORT TITLE: STATE LAND DISP./LEASEHOLDER PREFERENCE  
 SPONSOR(s): SENATOR(s) MEYER

01/22/14 (S) PREFILE RELEASED 1/10/14  
 01/22/14 (S) READ THE FIRST TIME - REFERRALS  
 01/22/14 (S) STA  
 02/25/14 (S) STA AT 9:00 AM BUTROVICH 205  
 02/25/14 (S) Moved CSSB 106(STA) Out of Committee  
 02/25/14 (S) MINUTE(STA)  
 02/26/14 (S) STA RPT CS 2DP 1NR SAME TITLE  
 02/26/14 (S) DP: DYSON, GIESSEL  
 02/26/14 (S) NR: WIELECHOWSKI  
 03/21/14 (S) TRANSMITTED TO (H)  
 03/21/14 (S) VERSION: CSSB 106(STA)  
 03/24/14 (H) READ THE FIRST TIME - REFERRALS  
 03/24/14 (H) STA  
 03/25/14 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

SENATOR ANNA FAIRCLOUGH  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced SB 132.

SENATOR KEVIN MEYER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced SB 106.

EDRA MORLEDGE, Staff  
Senator Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Senator Meyer, prime sponsor, answered questions regarding SB 106.

WYN MENEFEER, Chief of Operations  
Central Office  
Division of Mining, Land and Water (DMLW)  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on SB 106.

MELVIN GILLIS  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on SB 106.

#### **ACTION NARRATIVE**

[8:04:54 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Keller, Isaacson, Hughes, Kreiss-Tomkins, and Lynn were present at the call to order. Representative Gattis arrived as the meeting was in progress.

#### **SB 132-MOTOR VEHICLE REGISTRATION FEES**

[8:05:44 AM](#)

CHAIR LYNN announced that the first order of business was CS FOR SENATE BILL NO. 132(STA), "An Act relating to exemptions from the payment of motor vehicle registration fees for residents 65 years of age or older; and providing for an effective date."

[8:05:57 AM](#)

SENATOR ANNA FAIRCLOUGH, Alaska State Legislature, as prime sponsor, introduced SB 132. She stated that the proposed legislation would amend AS 28.10.411(f), which offers one exemption from a vehicle registration fee for a resident who is 65 on January 1 [of the year the vehicle is registered]. She explained that under current law, a person who turns 65 [later in the year] and tries to take advantage of the exemption would be denied, thus not receiving the same benefit as his/her peers. Senator Fairclough stated that because the Division of Motor Vehicles (DMV) operates using a biennial vehicle registration schedule, people could be 67 before they actually receive a benefit that they should have been eligible for at age 65. She said the proposed legislation would clean up an unintended consequence of a previous legislature's choice of the January 1 date.

[8:07:32 AM](#)

REPRESENTATIVE ISAACSON thanked the bill sponsor, and he opined that SB 132 would satisfy the intention of the law.

[8:07:56 AM](#)

CHAIR LYNN noted that he had had an exemption for one car for several years. He opined that SB 132 was a good bill.

[8:08:51 AM](#)

REPRESENTATIVE KELLER commented that not having the ability proposed in SB 132 puts the DMV in a tough spot.

[8:08:58 AM](#)

REPRESENTATIVE KELLER moved to report CSSB 132(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 132(STA) was reported out of the House State Affairs Standing Committee.

[8:09:25 AM](#)

The committee took an at-ease from 8:09 a.m. to 8:11 a.m.

**SB 106-STATE LAND DISP./LEASEHOLDER PREFERENCE**

[8:11:27 AM](#)

CHAIR LYNN announced that the final order of business was CS FOR SENATE BILL NO. 106(STA), "An Act providing for certain individuals who have erected a building on land leased from the state to receive a preference right to purchase certain state land without competitive bid."

[8:11:54 AM](#)

SENATOR KEVIN MEYER, Alaska State Legislature, as prime sponsor, introduced SB 106. He acknowledged that Representative Gabrielle LeDoux had the House companion to SB 106. He said the proposed legislation is necessary for the protection of state land lease holders who have invested in businesses that depend on the land for their livelihood. He said SB 106 came about when one of his constituents brought to his attention that current state statutes do not provide a way for state lease holders to purchase the property in which they have invested - up to millions of dollars of retirement money - prior to the land then being conveyed to a municipality or borough in an entitlement land selection. Senator Meyer remarked that it is not uncommon for people to take early retirement and take the money to build a fishing lodge in remote Alaska. He explained that when municipalities or boroughs form, they are allowed to choose land, and occasionally they pick the same land on which leaseholders have invested money to build a hunting or fishing lodge. The person who has built the lodge has no way to recoup his/her investment or purchase the land from the state prior to it being conveyed. He stated his belief that these Alaskans deserve protection.

[8:13:54 AM](#)

SENATOR MEYER stated that under SB 106, an individual would be allowed to receive a no-bid, first right of refusal preference, upon meeting the following conditions: The person must have erected a building on the land, used the land for a bona fide purpose for at least the past 10 years, and relied on the business for at least 25 percent of his/her total income over the previous 10 years. He said representatives were present from the Department of Natural Resources (DNR), and the department anticipated that there may be 10-15 individuals impacted by the proposed legislation. He noted that SB 106 just passed on the Senate floor, with no opposition from the majority or minority. He said the money from the sale of land to the individual would go to the municipality or borough, not the state.

[8:15:29 AM](#)

REPRESENTATIVE GATTIS questioned why the bill proposed giving the individuals the right to purchase certain state land without competitive bid.

SENATOR MEYER deferred to his staff.

[8:16:01 AM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, Alaska State Legislature, on behalf of Senator Meyer, prime sponsor, stated that the proposed legislation would apply to those who had originally obtained their leases through a competitive bid process, and then the chance to purchase the land - if it was put up for sale - would be through a noncompetitive first right of refusal.

REPRESENTATIVE GATTIS indicated that if she was the lodge owner who had leased the land, she would want the first right of refusal, giving her the ability to buy the land at fair market value. She said she understood the reasons that it would not be fair to have a competitive bid, where a competing lodge owner might "whipsaw this bid up there." She relayed, "I have been ... part of bids that have done that, and it doesn't seem fair." She said she was wondering what the reason was for "the competitive versus the noncompetitive."

[8:18:10 AM](#)

SENATOR MEYER suggested Representative Gattis' question might be better answered by someone from DNR.

[8:18:40 AM](#)

WYN MENEFE, Chief of Operations, Central Office, Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR), stated that "the lease that would be eligible for this has to be offered competitively." He continued as follows:

The point at which a municipality comes and selects the land, and then you're going to have to make a disposal to that lessee under the preference right, there's no competition; there's no bidding at that point; it's just appraised for market value sale. The only competitiveness is initially when the person applied to get a lease; that's when the competition

occurred. ... As long as that person prevailed and got the lease, and then invested all that income to that, then there's no more competition after that point.

[8:19:43 AM](#)

REPRESENTATIVE GATTIS clarified that she understood that there is no competition after the initial competitive bid, but explained that she would like to know why.

MR. MENEFEЕ replied that a preference right recognizes that there is no competition. He stated, "The bill, as it was brought forward by the sponsor, said that it was to essentially recognize the investment that the person had put into the land, and because of that, award them a preference."

[8:20:31 AM](#)

REPRESENTATIVE ISAACSON asked if there has ever been a situation in which someone leased land, but did not develop it as a business venture.

MR. MENEFEЕ answered that public and charitable leases are under AS 38.05.810; however, the preference right proposed under SB 106 addresses only those leases obtained competitively under AS 38.05.070. In response to a follow-up question, he recollected that under AS 38.05.810, there is a capability to lease or sell, as appropriate for the area, the classification of the area, and under DNR's management plan.

REPRESENTATIVE ISAACSON questioned whether [public and charitable leases] should be added to SB 106 so that any investment on leasehold land would be protected.

[8:23:34 AM](#)

MR. MENEFEЕ said he thinks that is a separate issue. He suggested Representative Isaacson consider that somebody who invests in land does not necessarily lose his/her investment. He clarified that the term of length of a lease is contingent upon what the person will be doing with the land and the amount of investment the person makes. He said the division amortizes the investment to figure out how long it will take the person to recoup the investment. He said all the leases require the person to "remove everything ... after you're done with that term"; therefore, the person has made a business decision in

investing on state land to recoup the investment during the lease period. He said if things go well, the division could renew the lease, at which point the person would be making pure profit. He continued as follows:

However, we lay over top of that the municipal entitlement. If a municipal entitlement comes along, the issue ... is that the lease doesn't go away at the point of municipal entitlement. If we convey land over to a municipality, the municipality has to honor all the terms of the lease. If it was a 35-year lease, and in year 10 of the lease it conveyed over to the municipality, they still have those 25 years that they're going to have all their terms honored so they can recoup all their investment. So, they're not "losing out on anything," but do they have longevity as in purchasing the land? And the answer would be - for a public and charitable - no, but ... the reason why public and charitables typically don't end in a sale is because they're supposed to be used for that public and charitable purpose. If you put it over into a sale, and they own the land, you haven't met that purpose, because they get [a] discounted price; they oftentimes - ... public and charitables - get it less than fair market value, ... or free, to use state land. And, because of that, even if they're investing, they've already gotten a discount to have that investment on the land for a public and charitable sale.

[8:26:43 AM](#)

REPRESENTATIVE ISAACSON referred to the proposed requirement that the lessee must have made at least 25 percent of his/her total income from the leased land to qualify for the preference right. He suggested that a successful dentist who also owns a hunting lodge that runs for 8 weeks a year, would not be making at least 25 percent of his/her income from the lodge, but would have made a significant investment in the lodge. He indicated that that person would not get the same preference as "the next person." He asked for an explanation as to why the 25 percent barrier was chosen.

MR. MENEFEER answered that the barrier was modeled after another preference right already in statute. He offered his understanding that the reason is to preserve the capability of people who "make their livelihood off of this." He said he

thinks there was not as much concern for people who "dabble in it." He said, "They can still realize their investment over the period of their lease; they just wouldn't be able to purchase it forever."

REPRESENTATIVE ISAACSON asked Mr. Menefee if he thinks it makes sense not to protect those who invest, regardless of the percentage of income they derive.

MR. MENEFEE said DNR believes that anyone who gets a lease has already protected his/her investment, because the lease term itself is the protection. He continued as follows:

If somebody's going to make a business investment on a lease, they already know that they have to end at the end of the term of the lease; they have to realize that that is their investment; so, they're already protected. Anything on top of that, ... if the legislature says we want to be able to sell it to that individual to even further that investment, that is what we would consider over the top of the original business risk analysis.

REPRESENTATIVE ISAACSON said he is thinking of survivability, but remarked that Mr. Menefee had offered a satisfactory answer that the lease itself sets the term.

[8:30:18 AM](#)

REPRESENTATIVE HUGHES directed attention to existing language in statute, [beginning on page 1, end of line 14, through page 2, line 4], which read as follows:

If the director determines in a written finding that the purchase or lease of the land would interfere with public use by residents of the area, the director may condition the purchase or lease to mitigate the adverse effects on the public use or may reject the application for the preference right.

REPRESENTATIVE HUGHES said she is trying to "synch that up" with proposed new language [in Section 2], which she said addresses a municipality or local government selecting land. She continued as follows:

And now we have a private person who's leasing who has the right for a noncompetitive bid, and it's a

municipality or local government seeking the land, so I would think that would be for public use. And so, I'm concerned about that ... private individual application being considered, because it seems like it would be easy for the director to make the argument that this is for public use, so we're going to reject it.

REPRESENTATIVE HUGHES asked how that would work.

8:31:32 AM

MR. MENEFEER said he thinks that mitigating the adverse effects on the public and rejecting the application for the preference right does not necessarily mean the public use of that parcel. He continued as follows:

Let's say you have a very narrow valley, and a lease sits right at the ... only place you can access through there, and the use is constricted so that it has to cross through that parcel: That would be [a] public use idea where you would say if there's not an easement or something that goes through that, conceivably you could block other use of other state lands.

MR. MENEFEER asked Representative Hughes to keep in mind that while the original lease may be for 20 acres, "either of these preference rights are only granting ... five acres"; therefore, there is no guarantee that a person would get everything through the preference right that he/she originally had as a lessee. The lessee with more than five acres would have to choose which part of the land was the most important. He continued as follows:

Like in the new statute, if the director determines the purchase of the land would interfere with public use of residents of the area, we would not, under the lease itself, assume that if you're going to sell a five-acre parcel, or typically when you have the lease, you've given, more or less, an exclusive right to that acreage already. So, the use has been restricted in some way, but I think you start talking about physical constraints to the other land surrounding - is it going to impact that?

MR. MENEFEE stated that when a municipality selects land, it can do it in order to gain revenues or for multiple other reasons. He said the language in the bill does not ask DNR to determine why the municipality selected the land, "and that's not part of ... the decision on this."

[8:34:08 AM](#)

REPRESENTATIVE HUGHES asked if there was a narrow definition of public use that would apply so that the individual would know, or whether it was "just to the discretion of the director."

MR. MENEFEE answered that it currently is to the discretion of the director. He added that "we don't have a specified definition for that, so it's an interpretation."

REPRESENTATIVE HUGHES expressed concern that ["public use"] was not defined.

[8:35:25 AM](#)

MELVIN GILLIS indicated that he is one of the people whom the proposed legislation is intended to help. He said SB 106 would protect himself and others like him from investing money building on land only to have a borough decide it wants the land. He imparted that he spent a couple million dollars. He said he has been trying to buy the property since 1984, and the borough decided it wanted the land he was using because it had access and value. He explained that the access was the landing strip he and his son took three years to build, and the value was his lodge. He said he thinks there are even more people in the state than estimated by Mr. Menefee that have "this problem." He indicated that the proposed legislation would be a good first step in protecting those Alaskans that make a living in the Bush. In response to Chair Lynn, he said his lodge is located approximately 480 miles west of Anchorage, between Cold Bay and Port Heiden. Mr. Gillis, regarding entitlement, said under law, "they" can only have vacant, unappropriated, and unreserved land. He emphasized the need for a definition of "vacant." He stated, "Five acres with a million and a half [to] two million dollars-worth of investment is vacant according to DNR."

[8:38:04 AM](#)

REPRESENTATIVE GATTIS said she has spoken with Mr. Gillis and thinks "he's on to something." She indicated that he had helped her "fully understand what the issue is."

[8:38:47 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

[8:39:16 AM](#)

REPRESENTATIVE ISAACSON asked if the expressed need to clarify the word "vacant" is necessary for the passage of SB 106.

[8:39:41 AM](#)

SENATOR MEYER said he does not think so.

[8:40:00 AM](#)

MS. MARLIS echoed Senator Meyer's response. She suggested that the issue could be addressed in the future when addressing a separate statute about how a municipal entitlement is conveyed.

[8:40:26 AM](#)

REPRESENTATIVE KELLER expressed his appreciation to the sponsor for bringing forward the proposed legislation, because he said he approves of getting "land into the hands of Alaskans."

[8:40:43 AM](#)

SENATOR MEYER related that Mr. Gillis is his constituent and, while the proposed legislation would not help his situation, it would help future Alaskans in similar situations.

[8:41:04 AM](#)

REPRESENTATIVE KELLER moved to report CSSB 106(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 106(STA) was reported out of the House State Affairs Standing Committee.

[8:42:00 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 8:42 a.m.