

CS FOR HOUSE BILL NO. 104(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/17/23

Referred: Rules

Sponsor(s): REPRESENTATIVES CRONK, Rauscher, McCabe, McKay, Sumner, Tomaszewski, C.Johnson, Carpenter, Vance, D.Johnson, Ruffridge, Wright

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to salvage sales of timber, negotiated timber sales for local**
2 **manufacture of wood products, and expedited timber sales; and providing for an**
3 **effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE PURPOSE. The purpose of this Act is to reduce the risk and cost of
8 fires, minimize the loss of harvestable timber caused by fire, insect infestation, and disease
9 epidemics, and support an increase in local wood product producers and facilities.

10 * **Sec. 2.** AS 38.05.035(e) is amended to read:

11 (e) Upon a written finding that the interests of the state will be best served, the
12 director may, with the consent of the commissioner, approve contracts for the sale,
13 lease, or other disposal of available land, resources, property, or interests in them. In
14 approving a contract under this subsection, the director need only prepare a single

1 written finding. In addition to the conditions and limitations imposed by law, the
2 director may impose additional conditions or limitations in the contracts as the director
3 determines, with the consent of the commissioner, will best serve the interests of the
4 state. The preparation and issuance of the written finding by the director are subject to
5 the following:

6 (1) with the consent of the commissioner and subject to the director's
7 discretion, for a specific proposed disposal of available land, resources, or property, or
8 of an interest in them, the director, in the written finding,

9 (A) shall establish the scope of the administrative review on
10 which the director's determination is based, and the scope of the written
11 finding supporting that determination; the scope of the administrative review
12 and finding may address only reasonably foreseeable, significant effects of the
13 uses proposed to be authorized by the disposal;

14 (B) may limit the scope of an administrative review and finding
15 for a proposed disposal to

16 (i) applicable statutes and regulations;

17 (ii) the facts pertaining to the land, resources, or
18 property, or interest in them, that the director finds are material to the
19 determination and that are known to the director or knowledge of which
20 is made available to the director during the administrative review; and

21 (iii) issues that, based on the statutes and regulations
22 referred to in (i) of this subparagraph, on the facts as described in (ii) of
23 this subparagraph, and on the nature of the uses sought to be authorized
24 by the disposal, the director finds are material to the determination of
25 whether the proposed disposal will best serve the interests of the state;
26 and

27 (C) may, if the project for which the proposed disposal is
28 sought is a multiphased development, limit the scope of an administrative
29 review and finding for the proposed disposal to the applicable statutes and
30 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
31 pertain solely to the disposal phase of the project when

1 (i) the only uses to be authorized by the proposed
2 disposal are part of that phase;

3 (ii) the disposal is a disposal of oil and gas, or of gas
4 only, and, before the next phase of the project may proceed, public
5 notice and the opportunity to comment are provided under regulations
6 adopted by the department;

7 (iii) the department's approval is required before the
8 next phase of the project may proceed; and

9 (iv) the department describes its reasons for a decision
10 to phase;

11 (2) the director shall discuss in the written finding prepared and issued
12 under this subsection the reasons that each of the following was not material to the
13 director's determination that the interests of the state will be best served:

14 (A) facts pertaining to the land, resources, or property, or an
15 interest in them other than those that the director finds material under (1)(B)(ii)
16 of this subsection; and

17 (B) issues based on the statutes and regulations referred to in
18 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
19 subsection;

20 (3) a written finding for an oil and gas lease sale or gas only lease sale
21 under AS 38.05.180 is subject to (g) of this section;

22 (4) a contract for the sale, lease, or other disposal of available land or
23 an interest in land is not legally binding on the state until the commissioner approves
24 the contract, but if the appraised value is not greater than \$50,000 in the case of the
25 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
26 interest in land, the director may execute the contract without the approval of the
27 commissioner;

28 (5) public notice requirements relating to the sale, lease, or other
29 disposal of available land or an interest in land for oil and gas, or for gas only,
30 proposed to be scheduled in the five-year oil and gas leasing program under
31 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

1 (A) before a public hearing, if held, or in any case not less than
 2 180 days before the sale, lease, or other disposal of available land or an interest
 3 in land, the director shall make available to the public a preliminary written
 4 finding that states the scope of the review established under (1)(A) of this
 5 subsection and includes the applicable statutes and regulations, the material
 6 facts and issues in accordance with (1)(B) of this subsection, and information
 7 required by (g) of this section, upon which the determination that the sale,
 8 lease, or other disposal will serve the best interests of the state will be based;
 9 the director shall provide opportunity for public comment on the preliminary
 10 written finding for a period of not less than 60 days;

11 (B) after the public comment period for the preliminary written
 12 finding and not less than 90 days before the sale, lease, or other disposal of
 13 available land or an interest in land for oil and gas or for gas only, the director
 14 shall make available to the public a final written finding that states the scope of
 15 the review established under (1)(A) of this subsection and includes the
 16 applicable statutes and regulations, the material facts and issues in accordance
 17 with (1) of this subsection, and information required by (g) of this section,
 18 upon which the determination that the sale, lease, or other disposal will serve
 19 the best interests of the state is based;

20 (6) before a public hearing, if held, or in any case not less than 21 days
 21 before the sale, lease, or other disposal of available land, property, resources, or
 22 interests in them other than a sale, lease, or other disposal of available land or an
 23 interest in land for oil and gas or for gas only under (5) of this subsection, the director
 24 shall make available to the public a written finding that, in accordance with (1) of this
 25 subsection, sets out the material facts and applicable statutes and regulations and any
 26 other information required by statute or regulation to be considered upon which the
 27 determination that the sale, lease, or other disposal will best serve the interests of the
 28 state was based; however, a written finding is not required before the approval of

29 (A) a contract for a negotiated **timber** sale authorized under
 30 AS 38.05.115 **or a salvage timber sale authorized under AS 38.05.117**;

31 (B) a lease of land for a shore fishery site under AS 38.05.082;

1 (C) a permit or other authorization revocable by the
2 commissioner;

3 (D) a mineral claim located under AS 38.05.195;

4 (E) a mineral lease issued under AS 38.05.205;

5 (F) an exempt oil and gas lease sale or gas only lease sale under
6 AS 38.05.180(d) of acreage subject to a best interest finding issued within the
7 previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under
8 AS 38.05.180(w) of acreage subject to a best interest finding issued within the
9 previous 10 years, unless the commissioner determines that substantial new
10 information has become available that justifies a supplement to the most recent
11 best interest finding for the exempt oil and gas lease sale or gas only lease sale
12 acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage;
13 however, for each oil and gas lease sale or gas only lease sale described in this
14 subparagraph, the director shall call for comments from the public; the
15 director's call for public comments must provide opportunity for public
16 comment for a period of not less than 30 days; if the director determines that a
17 supplement to the most recent best interest finding for the acreage is required
18 under this subparagraph,

19 (i) the director shall issue the supplement to the best
20 interest finding not later than 90 days before the sale;

21 (ii) not later than 45 days before the sale, the director
22 shall issue a notice describing the interests to be offered, the location
23 and time of the sale, and the terms and conditions of the sale; and

24 (iii) the supplement has the status of a final written best
25 interest finding for purposes of (i) and (l) of this section;

26 (G) a surface use lease under AS 38.05.255;

27 (H) a permit, right-of-way, or easement under AS 38.05.850;

28 (7) the director shall include in

29 (A) a preliminary written finding, if required, a summary of
30 agency and public comments, if any, obtained as a result of contacts with other
31 agencies concerning a proposed disposal or as a result of informal efforts

1 undertaken by the department to solicit public response to a proposed disposal,
2 and the department's preliminary responses to those comments; and

3 (B) the final written finding a summary of agency and public
4 comments received and the department's responses to those comments.

5 * **Sec. 3.** AS 38.05.110(c) is amended to read:

6 (c) If a sale of timber may be offered under multiple provisions of
7 AS 38.05.110 - 38.05.124 [AS 38.05.110 - 38.05.123], the commissioner shall
8 determine the applicable provisions under which to offer the timber.

9 * **Sec. 4.** AS 38.05.112(a) is amended to read:

10 (a) The department may not authorize the harvest of timber, except for
11 harvests of 10 acres or less, salvage sales under AS 38.05.117, or expedited timber
12 sales under AS 38.05.124 [OR TIMBER SALVAGED FROM LAND CLEARED
13 FOR A NONFOREST USE], until a site-specific forest land use plan has been
14 adopted. A forest land use plan is required whether or not a regional or area land use
15 plan under AS 38.04.065(a) or a forest management plan under AS 41.17.230 has been
16 adopted. The requirements of AS 38.04.065(b) shall apply to a land use plan adopted
17 under this section only if a regional or area land use plan under AS 38.04.065(a) or a
18 forest management plan under AS 41.17.230 has not been adopted.

19 * **Sec. 5.** AS 38.05.113(c) is amended to read:

20 (c) Sales of 160 acres or less, salvage sales under AS 38.05.117, and
21 expedited timber sales under AS 38.05.124 [EMERGENCY SALES] are exempt
22 from the requirements of this section.

23 * **Sec. 6.** AS 38.05.115 is amended by adding new subsections to read:

24 (d) The period of a contract for a sale of timber subject to a forest land use
25 plan under AS 38.05.112 is 25 years unless the purchaser requests a shorter term or the
26 commissioner makes a written finding that a shorter term is in the best interest of the
27 state. A contract under this section must provide that stumpage rates be redetermined
28 by negotiation at least once every five years during the term of the contract to reflect
29 changes in market conditions. The redetermined rates may not be less than the base
30 price for the area as established under regulations adopted by the commissioner.

31 * **Sec. 7.** AS 38.05.117 is amended to read:

1 **Sec. 38.05.117. Salvage sales.** Notwithstanding **AS 38.05.035(e) and** the
 2 provisions of AS 38.05.113, the commissioner **may, without** [, AFTER] making a
 3 written finding that the disposal will serve the best interests of the state, [MAY] offer
 4 for salvage sale timber [STANDS] that **has lost substantial economic value or** will
 5 lose substantial economic value [BECAUSE OF INSECT OR DISEASE EPIDEMICS
 6 OR FIRE,] if not salvaged within two years. **The commissioner shall determine the**
 7 **timber to be sold and the limitations, conditions, and terms of sale. The**
 8 **limitations, conditions, and terms must include the utilization, development, and**
 9 **maintenance of the sustained yield principle, subject to preference among other**
 10 **beneficial uses. The commissioner may negotiate sales of timber without**
 11 **advertisement and on the limitations, conditions, and terms that are considered**
 12 **to be in the best interests of the state** [TIMBER ON LAND TO BE CLEARED FOR
 13 CONVERSION TO NONFOREST USES ALSO MAY BE OFFERED AS A
 14 SALVAGE SALE].

15 * **Sec. 8.** AS 38.05.117 is amended by adding a new subsection to read:

16 (b) A sale under this section is limited to timber that has been

17 (1) killed by fire, insect, disease, or an act of nature;

18 (2) removed for conversion of land to a nonforest use; or

19 (3) cleared as part of a fire prevention or suppression activity.

20 * **Sec. 9.** AS 38.05.123(a) is amended to read:

21 (a) Notwithstanding the provisions of AS 38.05.115 and 38.05.120, and upon
 22 a finding that the sale is in the best interest of the state, the commissioner may
 23 negotiate a sale of timber for use in the local manufacture of high value-added wood
 24 products. A timber sale contract entered into under this section may provide for a
 25 harvest of up to 10,000,000 board feet of timber each year, consistent with sustained
 26 yield principles, and may **not be for a term of less than seven years, unless a**
 27 **shorter term is requested by the purchaser. A contract may** be for a term of up to
 28 **25** [10] years. Initial stumpage rates for a contract under this section shall be
 29 determined by negotiation but may not be less than the base price for the area as
 30 established under regulations adopted by the commissioner. A contract under this
 31 section must provide that stumpage rates shall be redetermined by negotiation at least

1 once every three years during the term of the contract, to reflect changes in market
 2 conditions. The [; THE] redetermined rates may not be less than the base price for the
 3 area as established under regulations adopted by the commissioner. The commissioner
 4 shall endeavor to negotiate at least two contracts under this section in each [BY
 5 REGULATION SET A MAXIMUM NUMBER OF CONTRACTS, BUT NOT LESS
 6 THAN TWO, PER] region of the state [THAT MAY BE NEGOTIATED EACH
 7 YEAR UNDER THIS SECTION].

8 * **Sec. 10.** AS 38.05 is amended by adding a new section to article 4 to read:

9 **Sec. 38.05.124. Expedited timber sales.** (a) Notwithstanding the provisions of
 10 AS 38.05.112 - 38.05.117 and 38.05.120, upon finding that a sale is in the best interest
 11 of the state, the commissioner may expedite the sale of timber in areas subject to high
 12 annual fire danger or insect or disease epidemics.

13 (b) A timber sale contract entered into under this section must provide for a
 14 harvest in an amount to be determined by the commissioner. If the commissioner
 15 determines under AS 38.05.035(e) and this section that a sale of timber is likely to
 16 offset the department's future management costs in preventing or suppressing fire or
 17 mitigating the spread of harmful insects and disease, by an equal or greater amount,
 18 the commissioner may negotiate a sale of timber under this section at the base price
 19 for the area.

20 (c) In making the best interest finding required by AS 38.05.035(e) and (a) of
 21 this section, before offering an expedited timber sale, the commissioner shall find that
 22 the timber has been burned by fire, infected by insects or disease, or is in an area
 23 threatened by fire, insect, or disease and, as a result, the timber

24 (1) creates, or will create, a public safety issue;

25 (2) causes or may cause the destruction of habitat or a decrease in
 26 wildlife populations;

27 (3) affects, or may affect, soil stability; or

28 (4) eliminates, or may eliminate, other commercially viable or better
 29 uses for the timber, such as the likelihood of commercial success of locally
 30 manufactured high value-added wood products.

31 (d) The commissioner

1 (1) is not required to notice an expedited timber sale under this section
2 in a timber sale schedule under AS 38.05.113; and

3 (2) may not reduce the sale of other more commercially viable timber
4 under another provision of AS 38.05.110 - 38.05.124 solely because of a sale of
5 timber under this section.

6 (e) In this section, "expedited timber sale" means a sale that shortens the time
7 frame for each step of the timber sale process and concentrates personnel actions to
8 maximize the amount of qualifying burnt, infected, diseased, or threatened timber
9 available for harvest.

10 * **Sec. 11.** This Act takes effect immediately under AS 01.10.070(c).