

Introduced: 1/27/76
Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 *SCS CS* HOUSE BILL NO. 654 *(Rules) am reer.*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the administration of state
7 lands."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 38.05.030(e) is amended to read:

10 (e) The sale, lease or other disposal of school lands under the
11 jurisdiction of the department shall be made by the commissioner in
12 accordance with the provisions of this chapter. [HOWEVER, DISPOSAL OF
13 SCHOOL LANDS UNDER THIS SUBSECTION, OTHER THAN DISPOSAL BY LEASE FOR A
14 TERM OF YEARS, SHALL BE MADE ONLY FOR SITES FOR SCHOOL FACILITIES OR
15 FOR PUBLIC PARK AND PUBLIC RECREATION PURPOSES.] School lands may be
16 exchanged for (1) state lands, (2) vacant, unappropriated and unreserved
17 public lands and (3) lands owned by a city, borough or other public
18 entity. In the case of unequal values, cash may be used to equalize
19 land values. When the department determines that it is in the best
20 interest of the state to dispose of the school lands located within
21 Sections 16 and 36 in an organized borough or city of any class, the
22 borough or city is authorized, and has preference for six months after
23 notice, to acquire the land at the appraised value by purchase or
24 exchange of land acceptable to the department. No sale, lease, exchange
25 or other disposal of school lands may be made without the approval of
26 the State Board of Education.

27 * Sec. 2. AS 38.05.069(a) is amended to read:

28 (a) If the director determines that the highest and best use of
29 unoccupied land is for agricultural purposes, he shall grant to an

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1 Alaskan resident owning and using or leasing and using land for agri-
2 cultural purposes a 60-day first option after [FROM] the date of the
3 auction [THE LAND BECOMES AVAILABLE TO THE PUBLIC OR 90 DAYS FROM THE
4 EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER,] to purchase or
5 lease unoccupied land situated adjacent to or in the approximate
6 vicinity of his presently held land for the amount of the high bid
7 received at public auction; provided the aggregate number of acres
8 owned and acquired under the option shall not exceed 640 acres; and
9 further provided that the land acquired under this section is used for
10 agricultural purposes as required by law [FOR AT LEAST ONE YEAR
11 FOLLOWING PURCHASE].

12 * Sec. 3. AS 38.05.069(c) is repealed and re-enacted to read:

13 (c) Under this section:

14 (1) the director may convey only an interest in the land for
15 agricultural purposes, and all other interests in the land remains
16 in the state; the sale or lease shall be at public auction;

17 (2) the remaining interests may subsequently be conveyed by
18 the director only upon the request of the grantee or lessee or his
19 assigns and the determination of the director that the conveyance is
20 in the public interest;

21 (3) the conveyance of the remaining interests shall be at
22 public auction; the original grantee or lessee or his assigns have a
23 preference right to meet the high bid within 30 days after the day of
24 the auction; if the right is exercised, the value of improvements
25 owned by the holder of the preference right as appraised by the director
26 is deducted from the purchase price;

27 (4) by requesting the conveyance of the remaining interest,
28 the grantee or lessee or his assigns consent to the sale and, if the
29 preference right provided by (3) of this subsection is not exercised,

1 to accept as payment in full for their interest in the land, including
2 improvements, the value of those improvements and the value of their
3 interest as appraised by the director;

4 (5) the remaining interests in the land may not be conveyed
5 for less than their appraised value together with improvements except
6 for the deduction allowed by (3) of this subsection.

7 * Sec. 4. AS 38.05.070(b) is amended to read:

8 (b) The director, with the approval of the commissioner, shall
9 determine the land to be leased and the limitations, conditions and
10 terms of the lease. If the appraised value of the transaction is \$600
11 [~~\$250~~] a year or less the director may negotiate a lease without
12 advertisement for a period not to exceed five years, and on the
13 limitations, conditions and terms which he considers are in the best
14 interests of the state.

15 * Sec. 5. AS 38.05 is amended by adding a new section to read:

16 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold
17 created under secs. 70--100 of this chapter is offered for sale or
18 long-term lease at the termination of the existing leasehold, the
19 director may, if he finds that it is in the best interest of the
20 state, allow the holder in good standing of that leasehold to purchase
21 or lease the land for the amount of the high bid received at public
22 auction.

23 * Sec. 6. AS 38.05.115(a) is amended to read:

24 (a) The commissioner, upon recommendation of the director, shall
25 determine the timber and other materials to be sold, and the limitations
26 conditions and terms of sale. The limitations, conditions and terms
27 shall include the utilization, development and maintenance of the
28 sustained yield principle, subject to preference among other bene-
29 ficial uses. The director may negotiate sales of timber or materials

1 without advertisement and on the limitations, conditions, and terms
2 which he considers are in the best interests of the state, subject to
3 the approval of the commissioner. However, not more than 500 M.B.M.
4 or equivalent other measure of timber or more than \$5,000 [\$2,500] of
5 materials may be sold by nonadvertised, negotiated sale to the same
6 purchaser within a one-year period.

7 * Sec. 7. AS 38.05.305 is repealed and re-enacted to read:

8 Sec. 38.05.305. NOTICE AND REVIEW. No land or interest in land
9 within the boundaries or within six linear miles of the boundaries of
10 a general law, home rule or unified municipality, as defined under AS
11 29, may be classified, reclassified, sold or leased, or otherwise
12 disposed of, including the renewal of an original lease for more than
13 one additional term, unless the following procedures have been com-
14 plied with:

15 (1) A notice of the proposed action shall be sent to the
16 governing body of each municipality a boundary of which is within six
17 linear miles of the land involved.

18 (2) The notice shall be sent at the earliest practicable
19 time but no less than 30 days before the proposed action.

20 (3) The notice must contain a statement of the proposed
21 action, identifying the land involved and the action proposed in
22 sufficient detail to fairly inform the recipient of the nature of the
23 proposed action. If the land is not surveyed, a legal description
24 need not be used; but the land must be described in sufficient detail
25 to allow the recipient to understand its approximate size, number of
26 tracts involved, and location. The notice must also contain a state-
27 ment to the effect that the municipality is invited to comment on the
28 proposed action and that, upon the request of the governing body,
29 chief executive officer, or planning agency, the division will consult

1 with the municipal officials on the proposed action. Any request by a
2 municipality for consultation must include the name of the municipal
3 official to be consulted and be sent no later than 15 days after
4 receipt of the notice by the municipality, and the notice must contain
5 a statement to this effect and name the official and address to which
6 the municipality's request should be sent.

7 (4) In consulting with the municipal officials, the proposed
8 action and the authority under which it is to be taken shall be explain-
9 ed and the reason for the proposed action shall be given. A public
10 hearing need not be held, but the municipal officials may hold a
11 public hearing or otherwise allow public participation and comment.

12 (5) A municipality having a right to notice or consultation
13 under this section may appeal to the superior court and have set aside
14 any action taken which does not conform to this section. A munici-
15 pality incorporated or established less than 30 days before the action
16 is taken has no right to notice or consultation under this section.

17 * Sec. 8. AS 38.05.315 is amended by adding a new subsection to read:

18 (e) The lease, sale, or other disposal of state land at appraised
19 fair market value may be negotiated with a licensed public utility or
20 a licensed common carrier by the director with the approval of the
21 commissioner if the utility or carrier reasonably requires the land
22 for the conduct of its business under its license.

23 * Sec. 9. AS 38.05 is amended by adding a new section to read:

24 Sec. 38.05.321. RESTRICTION ON SALE OR LEASE OR OTHER DISPOSAL
25 OF AGRICULTURAL LAND. No state land classified as agricultural land
26 may be sold, leased or otherwise disposed of without provision for, as
27 part of the terms of the sale or lease agreement, a specific conditiona
28 l restriction or a specific reservation, or both, in the instrument
29 against subdivision or other uses incompatible with agricultural

1 development, including the reservation of a scenic, agricultural, or
2 similar easement as determined by the director. The restriction or
3 easement shall state that if circumstances change so that subdivision
4 or other uses of the agricultural land are later determined by the
5 director to be in the best interest of the state and the person owning,
6 leasing, or having an interest in the land, the restriction may be
7 terminated or the easement vacated upon payment of a sum equal to the
8 difference between the amount originally paid for the land and the
9 value of the land without the restriction of easement. Notice of a
10 pending determination of the director to terminate the restriction or
11 to vacate the easement shall be made as provided for the sale or other
12 disposition of interests in state land and shall include a statement
13 of findings explaining the reason for the determination. The termination
14 or vacation may not take effect until expressly approved in writing by
15 the commissioner.

16 * Sec. 10. AS 38.05.330 is amended to read:

17 Sec. 38.05.330. PERMITS. The director, without the prior approval
18 of the commissioner, may issue permits, rights-of-way or easements on
19 state land for [SECONDARY] roads, trails, ditches, field gathering
20 lines or transmission and distribution pipelines not subject to AS
21 38.35, telephone and transmission lines, log storage, oil well drilling
22 sites and production facilities for the purposes of recovering minerals
23 from adjacent lands under valid lease, and other similar uses or
24 improvements, or for the limited personal use of timber or materials.
25 The commissioner, upon recommendation of the director, shall establish
26 a reasonable rate or fee schedule to be charged for these uses. In
27 the granting, suspension or revocation of a permit or easement of
28 lands, the director shall give preference to that use of the land
29 which will be of greatest economic benefit to the state and the develop-

1 ment of its resources. However, first preference shall be granted to
2 the upland owner for the use of a tract of tideland, or tideland and
3 contiguous submerged land, which is seaward of the upland property of
4 the upland owner and which is needed by the upland owner for any of
5 the purposes for which the use may be granted.

6 * Sec. 11. AS 38.05.345 is amended to read:

7 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or
8 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC.
9 330 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75
10 AND 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as
11 follows.

12 (b) Notice shall be published once a week for three consecutive
13 weeks preceding the time of sale stated in the notice, in at least one
14 newspaper of general circulation in the vicinity in which the land,
15 property or interest in it is to be sold, leased or disposed of. Where
16 there is no newspaper of general circulation in the vicinity, notices
17 shall be posted in three public places near the land to be sold,
18 leased or otherwise disposed of. The sale, lease or disposal of lands
19 shall be held not less than 30 days after publication of the first
20 notice and not [ONE WEEK NOR] more than five [THREE] weeks following
21 the last appearance of the published notice. The notice shall contain
22 a description of the land and interest to be sold, leased or disposed
23 of and the time, place, and general terms of the sale, lease or disposal.

24 (c) [PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-
25 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT
26 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 AND
27 80 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE
28 COMMISSIONER.]

29 * Sec. 12. AS 38.05.100 and 38.05.347 are repealed.

1 * Sec. 13. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660
2 before the effective date of this Act to leaseholders in good standing are
3 confirmed and ratified.
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