

Original Sponsor: Rules Committee by  
request of the Governor

Offered: 4/14/76  
Referred: Finance

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 654

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 land."

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 for  
15 residential, public park and public recreation purposes. School lands  
16 may be exchanged for (1) state lands, (2) vacant, unappropriated and  
17 unreserved public lands and (3) lands owned by a city, borough or other  
18 public entity. In the case of unequal values, cash may be used to  
19 equalize land values. When the department determines that it is in the  
20 best 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 and if he determines that

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

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 AS 38.05.069(c) is repealed and re-enacted to read:

14 (c) Under this section:

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

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

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

28 (4) by requesting the conveyance of the remaining interest,  
29 the grantee or lessee or his assigns consent to the sale at auction and,

1 if the preference right provided by (3) of this subsection is not exer-  
2 cised, agree to accept as payment in full for their interest in the  
3 land, including improvements, the value of those improvements and the  
4 value of their interest as appraised by the director;

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

8 \* Sec. 4. AS 38.05.069 is amended by adding a new subsection to read:

9 (f) Nothing in (c) of this section affects the disposal of min-  
10 erals under secs. 135 - 183 of this chapter.

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

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

18 \* Sec. 6. AS 38.05.115 is amended to read:

19 Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The  
20 commissioner, upon recommendation of the director, shall determine the  
21 timber and other materials to be sold, and the limitations, conditions  
22 and terms of sale. The limitations, conditions and terms shall include  
23 the utilization, development and maintenance of the sustained yield  
24 principle, subject to preference among other beneficial uses. The  
25 director may negotiate sales of timber or materials without advertise-  
26 ment and on the limitations, conditions, and terms which he considers  
27 are in the best interests of the state, subject to the approval of the  
28 commissioner. However, not more than 500 M.B.M. or equivalent other  
29 measure of timber or more than \$5,000 [\$2,500] of materials may be sold

1 by nonadvertised, negotiated sale to the same purchaser within a one-  
2 year period.

3 (b) Negotiated sales for timber or materials not exceeding a value  
4 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

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

6 Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in  
7 land within the boundaries or within six linear miles of the boundaries  
8 of a general law, home rule or unified municipality, as defined under AS  
9 29, may be classified, reclassified, sold or leased, or otherwise  
10 disposed of, including the renewal of a lease entered into after the  
11 effective date of this Act, unless the following procedures have been  
12 complied with:

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

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

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

1 consulted and be sent no later than 15 days after receipt of the notice  
2 by the municipality, and the notice must contain a statement to this  
3 effect and name the official and address to which the municipality's  
4 request should be sent.

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

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

15 (b) No land or interest in land outside the boundaries of a general  
16 law, home rule, or unified municipality, as defined under AS 29, may be  
17 classified, reclassified, sold or leased, or otherwise disposed of,  
18 including the renewal of a lease entered into after the effective date  
19 of this Act, unless a notice of the proposed action as required by  
20 (a)(3) of this section is made upon the regional corporation organized  
21 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.  
22 secs. 1601-1626), within the boundaries of which the land is located.  
23 The president of the affected regional corporation or his designee has  
24 the same rights of notice, consultation, and appeal as those provided  
25 for in (a)(2) - (5) of this section.

26 (c) When notice is given under (b) of this section, the require-  
27 ments of sec. 345 of this chapter relating to notice apply in addition  
28 to any other applicable notice requirements. If requested, the director  
29 shall hold a hearing within the affected area under (b) of this section.

1 No action proposed by the director which is subject to the notice  
2 requirement specified in (b) of this section is final until at least 30  
3 days after the date the notice was published.

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

5 (e) The lease, sale, or other disposal of state land at appraised  
6 fair market value may be negotiated with a licensed public utility or a  
7 licensed common carrier by the director with the approval of the com-  
8 missioner if the utility or carrier reasonably requires the land for the  
9 conduct of its business under its license.

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

11 Sec. 38.05.321. RESTRICTION ON SALE OR LEASE OR OTHER DISPOSAL OF  
12 AGRICULTURAL LAND. No state land classified as agricultural land may be  
13 sold, leased or otherwise disposed of without provision for, as part of  
14 the terms of the sale or lease agreement, a specific conditional re-  
15 striction or a specific reservation, or both, in the instrument against  
16 subdivision or other uses incompatible with agricultural development,  
17 including the reservation of a scenic, agricultural, or similar easement  
18 as determined by the director. The restriction or easement shall state  
19 that if circumstances change so that subdivision or other uses of the  
20 agricultural land are later determined by the director to be in the best  
21 interest of the state and the person owning, leasing, or having an  
22 interest in the land, the restriction may be terminated or the easement  
23 vacated upon payment of a sum equal to the difference between the amount  
24 originally paid for the land and the value of the land without the  
25 restriction of easement. Notice of a pending determination of the  
26 director to terminate the restriction or to vacate the easement shall be  
27 made as provided for the sale or other disposition of interests in state  
28 land and shall include a statement of findings explaining the reason for  
29 the determination. The termination or vacation may not take effect until

1 expressly approved in writing by the commissioner.

2 \* Sec. 10. AS 38.05.330 is amended to read:

3 Sec. 38.05.330. PERMITS. The director, without the prior approval  
4 of the commissioner, may issue permits, rights-of-way or easements on  
5 state land for [SECONDARY] roads, trails, ditches, field gathering lines  
6 or transmission and distribution pipelines not subject to AS 38.35,  
7 telephone and transmission lines, log storage, oil well drilling sites  
8 and production facilities for the purposes of recovering minerals from  
9 adjacent lands under valid lease, and other similar uses or improve-  
10 ments, or for the limited personal use of timber or materials. The  
11 commissioner, upon recommendation of the director, shall establish a  
12 reasonable rate or fee schedule to be charged for these uses. In the  
13 granting, suspension or revocation of a permit or easement of lands, the  
14 director shall give preference to that use of the land which will be of  
15 greatest economic benefit to the state and the development of its re-  
16 sources. However, first preference shall be granted to the upland owner  
17 for the use of a tract of tideland, or tideland and contiguous submerged  
18 land, which is seaward of the upland property of the upland owner and  
19 which is needed by the upland owner for any of the purposes for which  
20 the use may be granted.

21 \* Sec. 11. AS 38.05.345 is amended to read:

22 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or  
23 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330  
24 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND  
25 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

26 (b) Notice shall be published once a week for three consecutive  
27 weeks preceding the time of sale stated in the notice, in at least one  
28 newspaper of general circulation in the vicinity in which the land,  
29 property or interest in it is to be sold, leased or disposed of. Where

1 there is no newspaper of general circulation in the vicinity, notices  
2 shall be posted in three public places near the land to be sold, leased  
3 or otherwise disposed of. The sale, lease or disposal of lands shall be  
4 held not less than 30 days after publication of the first notice and not  
5 [ONE WEEK NOR] more than five [THREE] weeks following the last appear-  
6 ance of the published notice. The notice shall contain a description of  
7 the land and interest to be sold, leased or disposed of and the time,  
8 place, and general terms of the sale, lease or disposal.

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

14 \* Sec. 12. AS 38.05.100 and 38.05.347 are repealed.

15 \* Sec. 13. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660  
16 before the effective date of this Act to leaseholders in good standing are  
17 confirmed and ratified.