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For Today's Calendar

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 654 (Rules)

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 land."

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

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

9 (e) The sale, lease or other disposal of school lands under the
10 jurisdiction of the department shall be made by the commissioner in
11 accordance with the provisions of this chapter. However, disposal of
12 school lands under this subsection, other than disposal by lease for a
13 term of years, shall be made only for sites for school facilities or for
14 residential, public park and public recreation purposes. School lands
15 may be exchanged for (1) state lands, (2) vacant, unappropriated and
16 unreserved public lands and (3) lands owned by a city, borough or other
17 public entity. In the case of unequal values, cash may be used to
18 equalize land values. When the department determines that it is in the
19 best interest of the state to dispose of the school lands located within
20 Sections 16 and 36 in an organized borough or city of any class, the
21 borough or city is authorized, and has preference for six months after
22 notice, to acquire the land at the appraised value by purchase or
23 exchange of land acceptable to the department. No sale, lease, exchange
24 or other disposal of school lands may be made without the approval of
25 the state [STATE] Board of Education. The state Board of Education
26 shall act as a trustee of school lands. The board may retain private
27 counsel when necessary to carry out its duties as a trustee.

28 * Sec. 2. AS 38.05 is amended by adding a new section to read:

29 Sec. 38.05.032. SCHOOL LAND DISPOSITION PROCEDURES. (a) Before

1 the sale, lease or other disposal of school land, the director shall

2 (1) cause the preparation of a development plan which ade-
3 quately describes the manner in which the land will be developed or
4 utilized; however, no development plan is required for an exchange of
5 school land to a public entity;

6 (2) make notice under sec. 345 of this chapter of the pro-
7 posed development plan, stating that a disposal of the land for such use
8 is under consideration, and that interested persons may make comments
9 and submit alternative proposals for development and use within 30 days
10 of the last publication of notice; and

11 (3) notify municipalities as provided in sec. 305 of this
12 chapter at the same time notice is published or posted under (2) of this
13 subsection; no further notice to municipalities need be given at the
14 time of disposal.

15 (b) In the case of school land to be disposed of within munici-
16 palities, no disposal may be made until the municipal planning authority
17 has held a public hearing on development plans and applications relating
18 to the land to be disposed of. The director shall make development
19 plans and applications available to municipal planning authorities for
20 this purpose. No disposition of land may be made sooner than three
21 weeks after a hearing held under this subsection. No disposition of
22 land may be made unless the development plan is approved by the munici-
23 pal planning authority.

24 * Sec. 3. AS 38.05.035(a)(13) is amended to read:

25 (13) select, administer, and dispose of mental health lands
26 for the support of the mental health program except that no mental
27 health lands may be disposed of without the approval of the commissioner
28 of health and social services;

29 * Sec. 4. AS 38.05.035(a)(14) is amended to read:

1 (14) when he makes a written finding in a document available
2 to the public on request [FINDS] that the interests of the state will be
3 best served, he may, with the consent of the commissioner, approve
4 contracts for the sale, lease, or other disposal of available lands,
5 resources, property or interests in them, and in addition to the condi-
6 tions and limitations imposed by law, he may impose additional condi-
7 tions or limitations in the contracts as he, with the consent of the
8 commissioner, determines will best serve the interests of the state; and
9 no contract for the sale, lease, or other disposal of available lands or
10 interest in them, is legally binding on the state until the commissioner
11 formally records his consent to the contract; but if the appraised value
12 is not greater than \$10,000 in the case of the sale of land or an
13 interest in land, or \$1,000 in the case of the annual rental of land or
14 interest in land, the director may approve and issue the contract
15 without the consent or approval of the commissioner. Before a public
16 hearing, if held, or in any case no less than 21 days before the sale,
17 lease, or other disposal of available land, property, resources, or
18 interests in them, the director shall make available to the public
19 information considered by him regarding the economic and environmental
20 impact of the decision on competing renewable and nonrenewable resources
21 actually or potentially affected by the decision.

22 * Sec. 5. AS 38.05.069(a) is repealed and re-enacted to read:

23 (a) If the director determines that the highest and best use of
24 unoccupied land is for agricultural purposes, he shall grant to an
25 Alaskan resident owning and using or leasing and using land for agri-
26 cultural purposes a 60-day first option after the date of the auction to
27 purchase or lease unoccupied land situated adjacent to or in the approxi-
28 mate vicinity of his presently held land for the amount of the high bid
29 received at public auction; provided the aggregate number of acres owned

1 and acquired under the option shall not exceed 320 acres; and further
2 provided that the land acquired under this section is used for agri-
3 cultural purposes as required by law.

4 * Sec. 6. AS 38.05.069(b) is amended to read:

5 (b) If more than one person is eligible for a first option under
6 (a) of this section, the director shall determine priority by granting
7 precedence first to the person who demonstrates the greatest need for
8 the unoccupied land in order to establish an economic unit and, second-
9 ly, to the eligible person who occupies land that is most readily
10 accessible to the unoccupied land to be sold or leased [LEASE]. In the
11 event that two or more persons have approximately equal qualifications
12 for priority under this section, the director shall grant priority to
13 that person who is a veteran. If more than one person is approximately
14 equally well qualified under this section, the director shall [MAY]
15 determine priority by lot.

16 * Sec. 7. AS 38.05.069 is amended by adding a new subsection to read:

17 (f) Nothing in (c) of this section affects the disposal of minerals
18 under secs. 135 - 183 of this chapter.

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

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

26 * Sec. 9. AS 38.05.105 is amended to read:

27 Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. Each lease shall
28 stipulate that the annual rental payment is subject to adjustment at
29 five-year intervals and charges or adjustments shall be based primarily

1 on a reappraised annual rental value. [HOWEVER, WHEN DEVELOPMENT OF THE
2 LAND IS NOT OTHERWISE POSSIBLE DUE TO SPECIAL CONDITIONS, THE REAP-
3 PRAISAL PERIOD MAY BE LENGTHENED OR WAIVED UNDER REGULATIONS ADOPTED BY
4 THE COMMISSIONER.]

5 * Sec. 10. AS 38.05.115 is amended to read:

6 Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The
7 commissioner, upon recommendation of the director, shall determine the
8 timber and other materials to be sold, and the limitations, conditions
9 and terms of sale. The limitations, conditions and terms shall include
10 the utilization, development and maintenance of the sustained yield
11 principle, subject to preference among other beneficial uses. The
12 director may negotiate sales of timber or materials without advertise-
13 ment and on the limitations, conditions, and terms which he considers
14 are in the best interests of the state, subject to the approval of the
15 commissioner. However, not more than 500 M.B.M. or equivalent other
16 measure of timber or more than \$5,000 [\$2,500] of materials may be sold
17 by nonadvertised, negotiated sale to the same purchaser within a one-
18 year period.

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

21 * Sec. 11. AS 38.05.135 is amended by adding a new subsection to read:

22 (b) When minerals are to be leased on a competitive basis, in
23 addition to any other notice given, notice shall also be given as pro-
24 vided in secs. 305 and 345 of this chapter. If land is to be made
25 available for noncompetitive mineral leasing, notice of the proposed
26 action shall also be given as provided in secs. 305 and 345 of this
27 chapter. After the notice of noncompetitive leasing has been made as
28 required in this subsection, notice of the subsequent issuance of a
29 noncompetitive lease for the land involved shall be made by mail not

1 less than 30 days before the issuance of the lease only to those who
2 have requested the notice.

3 * Sec. 12. AS 38.05.305 is repealed and re-enacted to read:

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

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

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

16 (3) The notice must contain a statement of the proposed
17 action, identifying the land involved and the action proposed in suf-
18 ficient detail to fairly inform the recipient of the nature of the
19 proposed action. If the land is not surveyed, a legal description need
20 not be used; but the land must be described in sufficient detail to
21 allow the recipient to understand its approximate size, number of tracts
22 involved, and location. The notice must also contain a statement to the
23 effect that the municipality is invited to comment on the proposed
24 action and that, upon the request of the governing body, chief executive
25 officer, or planning agency, the division will consult with the munic-
26 ipal officials on the proposed action. Any request by a municipality for
27 consultation must include the name of the municipal official to be
28 consulted and be sent no later than 15 days after receipt of the notice
29 by the municipality, and the notice must contain a statement to this

1 effect and name the official and address to which the municipality's
2 request should be sent.

3 (4) In consulting with the municipal officials, the proposed
4 action and the authority under which it is to be taken shall be ex-
5 plained and the reason for the proposed action shall be given. A public
6 hearing need not be held, but the municipal officials may hold a public
7 hearing or otherwise allow public participation and comment. A hearing
8 held under this paragraph shall be attended by the commissioner of
9 natural resources or his designee.

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
16 general law, home rule, or unified municipality, as defined under AS 29,
17 may be classified, reclassified, sold or leased, or otherwise disposed
18 of, including the renewal of a lease entered into after the effective
19 date 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, hearing and appeal as those
25 provided 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. 13. 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. 14. AS 38.05.330 is amended to read:

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

29 * Sec. 15. AS 38.05.345 is amended to read:

1 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or
2 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330
3 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND
4 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

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

17 [(c) PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-
18 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT
19 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80
20 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE
21 COMMISSIONER.]

22 * Sec. 16. AS 38.05.100 and 38.05.347 are repealed.

23 * Sec. 17. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660
24 before the effective date of this Act to leaseholders in good standing are
25 confirmed and ratified.
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