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request of the Governor

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Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 654

3 NINTH LEGISLATURE - SECOND SESSION

4 A BILL

5 For an Act entitled: "An Act relating to the administration of state land."

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

7 * Section 1. AS 38.05 is amended by adding a new section to read:

8 Sec. 38.05.032. SCHOOL LAND DISPOSITION PROCEDURES. (a) Before
9 the sale, lease or other disposal of school land, the director shall

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

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

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

23 (b) In the case of school land to be disposed of within munici-
24 palities, no disposal may be made until the municipal planning authority
25 has held a public hearing on development plans and applications relating
26 to the land to be disposed of. The director shall make development
27 plans and applications available to municipal planning authorities for
28 this purpose. No disposition of land may be made sooner than three
29 weeks after a hearing held under this subsection. No disposition of

1 land may be made unless the development plan is approved by the municipi-
2 pal planning authority.

3 * Sec. 2. AS 38.05.035(a)(13) is amended to read:

4 (13) select, administer, and dispose of mental health lands
5 for the support of the mental health program except that no mental
6 health lands may be disposed of without the approval of a board
7 composed of the director of the division of mental health, chairman of
8 the Mental Health Advisory Council, and the commissioner of revenue;

9 * Sec. 3. AS 38.05.035(a)(14) is amended to read:

10 (14) when he makes a written finding [FINDS] that the
11 interests of the state will be best served, he may, with the consent of
12 the commissioner, approve contracts for the sale, lease, or other
13 disposal of available lands, resources, property or interests in them,
14 and in addition to the conditions and limitations imposed by law, he may
15 impose additional conditions or limitations in the contracts as he, with
16 the consent of the commissioner, determines will best serve the interests
17 of the state; and no contract for the sale, lease, or other disposal of
18 available lands or interest in them, is legally binding on the state
19 until the commissioner formally records his consent to the contract; but
20 if the appraised value is not greater than \$10,000 in the case of the
21 sale of land or an interest in land, or \$1,000 in the case of the annual
22 rental of land or interest in land, the director may approve and issue
23 the contract without the consent or approval of the commissioner. The
24 written finding shall be available to the public upon request. Before
25 a public hearing, if held, or in any case no less than 21 days before
26 the sale, lease, or other disposal of available land, property, re-
27 sources, or interests in them, the director shall make available to the
28 public a written decision in which he sets out the facts and applicable
29 law upon which he based his determination that the sale, lease, or other

1 disposal will best serve the interests of the state.

2 * Sec. 4. AS 38.05.069(a) is repealed and re-enacted to read:

3 (a) If the director determines that the highest and best use of
4 unoccupied land is for agricultural purposes, and if he determines that
5 it is in the best interests of the state to sell or lease the land, he
6 shall grant to an Alaskan resident owning and using or leasing and using
7 land for agricultural purposes a 60-day first option after the date
8 of the auction to purchase or lease the unoccupied land situated adja-
9 cent to or in the approximate vicinity of his presently held land for
10 the amount of the high bid received at public auction; provided the
11 aggregate number of acres owned and acquired under the option shall not
12 exceed 320 acres; and further provided that the land acquired under this
13 section is used for agricultural purposes as required by law.

14 * Sec. 5. AS 38.05.069(b) is amended to read:

15 (b) If more than one person is eligible for a first option under
16 (a) of this section, the director shall determine priority by granting
17 precedence first to the person who demonstrates the greatest need for
18 the unoccupied land in order to establish an economic unit and, secondly,
19 to the eligible person who occupies land that is most readily accessible
20 to the unoccupied land to be sold or leased [LEASE]. In the event that
21 two or more persons have approximately equal qualifications for priority
22 under this section, the director shall grant priority to that person who
23 is a veteran. If more than one person is approximately equally well
24 qualified under this section, the director shall [MAY] determine priority
25 by lot.

26 * Sec. 6. AS 38.05.069 is amended by adding a new subsection to read:

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

29 * Sec. 7. AS 38.05 is amended by adding a new section to read:

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

7 * Sec. 8. AS 38.05.105 is amended to read:

8 Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. Each lease shall
9 stipulate that the annual rental payment is subject to adjustment at
10 five-year intervals and charges or adjustments shall be based primarily
11 on a reappraised annual rental value. [HOWEVER, WHEN DEVELOPMENT OF THE
12 LAND IS NOT OTHERWISE POSSIBLE DUE TO SPECIAL CONDITIONS, THE REAP-
13 PRaisal PERIOD MAY BE LENGTHENED OR WAIVED UNDER REGULATIONS ADOPTED BY
14 THE COMMISSIONER.]

15 * Sec. 9. AS 38.05.115 is amended to read:

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

29 (b) Negotiated sales for timber or materials not exceeding a value

1 of \$500 [\$250] are exempt from the provisions of AS 34.15.150.

2 * Sec. 10 AS 38.05.135 is amended by adding a new subsection to read:

3 (b) When minerals are to be leased on a competitive basis, in
4 addition to any other notice given, notice shall also be given as pro-
5 vided in secs. 305 and 345 of this chapter. If land is to be made
6 available for noncompetitive mineral leasing, notice of the proposed
7 action shall also be given as provided in secs. 305 and 345 of this
8 chapter. After the notice of noncompetitive leasing has been made as
9 required in this subsection, notice of the subsequent issuance of a
10 noncompetitive lease for the land involved shall be made by mail not
11 less than 30 days before the issuance of the lease only to those who
12 have requested the notice.

13 * Sec. 11. AS 38.05.305 is repealed and re-enacted to read:

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

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

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

26 (3) The notice must contain a statement of the proposed
27 action, identifying the land involved and the action proposed in suf-
28 ficient detail to fairly inform the recipient of the nature of the
29 proposed action. If the land is not surveyed, a legal description need

1 not be used; but the land must be described in sufficient detail to
2 allow the recipient to understand its approximate size, number of tracts
3 involved, and location. The notice must also contain a statement to the
4 effect that the municipality is invited to comment on the proposed
5 action and that, upon the request of the governing body, chief executive
6 officer, or planning agency, the division will consult with the municipi-
7 pal officials on the proposed action. Any request by a municipality for
8 consultation must include the name of the municipal official to be
9 consulted and be sent no later than 15 days after receipt of the notice
10 by the municipality, and the notice must contain a statement to this
11 effect and name the official and address to which the municipality's
12 request should be sent.

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

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

25 (b) No land or interest in land outside the boundaries of a
26 general law, home rule, or unified municipality, as defined under AS 29,
27 may be classified, reclassified, sold or leased, or otherwise disposed
28 of, including the renewal of a lease entered into after the effective
29 date of this Act, unless a notice of the proposed action as required by

1 (a)(3) of this section is made upon the regional corporation organized
2 under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C.
3 secs. 1601-1626), within the boundaries of which the land is located.
4 The president of the affected regional corporation or his designee has
5 the same rights of notice, consultation, hearing and appeal as those
6 provided for in (a)(2) - (5) of this section.

7 (c) When notice is given under (b) of this section, the require-
8 ments of sec. 345 of this chapter relating to notice apply in addition
9 to any other applicable notice requirements. If requested, the director
10 shall hold a hearing within the affected area under (b) of this section.
11 No action proposed by the director which is subject to the notice
12 requirement specified in (b) of this section is final until at least 30
13 days after the date the notice was published.

14 * Sec. 12. AS 38.05.315 is amended by adding a new subsection to read:

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

20 * Sec. 13. AS 38.05.330 is amended to read:

21 Sec. 38.05.330. PERMITS. The director, without the prior approval
22 of the commissioner, may issue permits, rights-of-way or easements on
23 state land for [SECONDARY] roads, trails, ditches, field gathering lines
24 or transmission and distribution pipelines not subject to AS 38.35,
25 telephone and transmission lines, log storage, oil well drilling sites
26 and production facilities for the purposes of recovering minerals from
27 adjacent lands under valid lease, and other similar uses or improve-
28 ments, or for the limited personal use of timber or materials. The
29 commissioner, upon recommendation of the director, shall establish a

1 reasonable rate or fee schedule to be charged for these uses. In the
2 granting, suspension or revocation of a permit or easement of lands, the
3 director shall give preference to that use of the land which will be of
4 greatest economic benefit to the state and the development of its re-
5 sources. However, first preference shall be granted to the upland owner
6 for the use of a tract of tideland, or tideland and contiguous submerged
7 land, which is seaward of the upland property of the upland owner and
8 which is needed by the upland owner for any of the purposes for which
9 the use may be granted.

10 * Sec. 14. AS 38.05.345 is amended to read:

11 Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or
12 other disposal of land or interest in it [, EXCEPT GRANTS UNDER SEC. 330
13 OF THIS CHAPTER AND PREFERENCE RIGHT GRAZING LEASES UNDER SECS. 75 AND
14 80 OF THIS CHAPTER, WHEN REQUIRED,] shall be substantially as follows.

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

27 [(c) PUBLIC NOTICE OF GRANTS OF PERMITS, RIGHTS-OF-WAY AND EASE-
28 MENTS UNDER SEC. 330 OF THIS CHAPTER AND OF GRANTS OF PREFERENCE RIGHT
29 GRAZING LEASES AND PREFERENCE RIGHT FOREST LEASES UNDER SECS. 75 and 80

1 OF THIS CHAPTER SHALL BE ESTABLISHED IN REGULATIONS ADOPTED BY THE
2 COMMISSIONER.]

3 * Sec. 15. AS 38.05.100 and 38.05.347 are repealed.

4 * Sec. 16. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660
5 before the effective date of this Act to leaseholders in good standing are
6 confirmed and ratified.

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