

Introduced: 4/6/76
Referred: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 **FCS HCS CS**

SENATE BILL NO. 726 **amH**

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 exchange of land."

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

8 * Section 1. AS 38 is amended by adding a new chapter to read:

9 CHAPTER 100. EXCHANGE OF LAND.

10 Sec. 38.100.010. EXCHANGE AUTHORIZED. The state may exchange land
11 or an interest in land with a corporation organized under Alaska law
12 pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85
13 Stat. 688; 43 USC 1601 et seq.) or the United States without the reser-
14 vation of mineral estate as provided in AS 38.05.125 only in accordance
15 with the provisions of this chapter and may exchange land with any
16 person in accordance with the provisions of this chapter if the mineral
17 estate is reserved to the state.

18 Sec. 38.100.020. NOTICE OF PROPOSED EXCHANGE. Not more than 60
19 days and at least 30 days before the public hearing on a proposed ex-
20 change of land, notice of the proposed exchange shall be

21 (1) published in a newspaper of general circulation in the
22 area in which the land to be exchanged is located and in newspapers of
23 general circulation in the five largest municipalities in the state once
24 a week for three consecutive weeks;

25 (2) mailed to every person who has filed a request for notice
26 of proposed exchanges with the department;

27 (3) mailed to each member of the legislature;

28 (4) mailed to each municipality in the vicinity in which the
29 land to be exchanged is located;

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1 (5) when appropriate, in the judgment of the department, pub-
2 lished in trade or industry publications or in the additional form and
3 manner the department considers appropriate and mailed to a person or
4 group of persons the department believes is interested in the proposed
5 exchange.

6 Sec. 38.100.030. CONTENTS OF NOTICE. The notice of proposed ex-
7 change shall include

8 (1) a statement of the time and place the public hearing on
9 the proposed exchange will be held;

10 (2) a description of the land proposed to be exchanged;

11 (3) the nature of the interest in land proposed to be ex-
12 changed;

13 (4) the names and addresses of the parties to the proposed
14 exchange;

15 (5) a map of the land proposed to be exchanged in sufficient
16 detail and on a scale that will allow identification of the particular
17 parcels and a vicinity map on a scale that will allow location of the
18 land in relationship to easily identified places in the state;

19 (6) a legal description of the land proposed to be exchanged
20 and a general description sufficient to identify the land;

21 (7) the appraised value of each parcel of land proposed to be
22 exchanged.

23 Sec. 38.100.040. PUBLIC HEARING. (a) On the date and at the
24 place designated in the notice the department shall give each interested
25 person or his authorized representative or both and each other person
26 who desires to be heard the opportunity to present statements orally or
27 in writing. The department shall consider all relevant matter presented
28 to it before proceeding with an exchange.

29 (b) The department shall hold the record open for at least two

1 weeks after the conclusion of the hearing to receive supplemental state-
2 ments or additional statements from a person who appeared at the hearing
3 or who shows good cause for being allowed to present an additional
4 statement.

5 Sec. 38.100.050. APPRAISAL. No land or interest in land may be
6 exchanged unless appraised within 90 days before the date fixed for
7 public hearing and unless the land or interest in land to be acquired
8 has been appraised within 90 days before the date fixed for the public
9 hearing. The appraisal shall be by an independent appraiser, and shall
10 be based on the fair market value of the land or interest in land pro-
11 posed to be exchanged.

12 Sec. 38.100.060. RECOMMENDATION TO GOVERNOR. After the conclusion
13 of the period in which statements concerning the proposed exchange may
14 be filed the department shall recommend to the governor in writing
15 whether the proposed exchange or a portion of the proposed exchange
16 should be made. The recommendation shall include the specific facts on
17 which the recommendation is based and a summary of the public hearing.
18 A copy of the recommendation shall be mailed to each member of the
19 legislature.

20 Sec. 38.100.070. ACTION BY GOVERNOR. If the governor finds the
21 exchange is in the best interest of the state and will not jeopardize
22 the financial condition of the state and he approves the exchange, he
23 shall submit his recommendation that the exchange be approved to the
24 legislature together with his reasons for approving the exchange.

25 Sec. 38.100.080. APPROVAL OF EXCHANGE. If the legislature by con-
26 current resolution approves the exchange, the director of the division
27 of lands at the direction of the commissioner of the department shall
28 execute the documents necessary to consummate the exchange.

29 Sec. 38.100.090. EQUAL VALUE. Exchanges shall be on the basis of

1 equal market value and either party may pay or accept cash in order to
2 equalize the value of the property exchanged unless the governor waives
3 this requirement on the basis that a waiver would be in the best in-
4 terest of the state and would not jeopardize the financial condition of
5 the state. The difficulties of a realistic fair market value appraisal
6 and the existence of values which are not readily measured in monetary
7 terms are factors to be considered in determining whether a waiver is in
8 the best interest of the state.

9 Sec. 38.100.100. EXEMPTION. Exchanges of land or interest in land
10 of less than 640 acres, of less value than \$50,000 and in which the
11 reservation of mineral estate under AS 38.05.125 is made may be author-
12 ized by the governor upon his finding that a proposed exchange is in the
13 best interest of the state. The requirements of secs. 20 - 40 and 60 -
14 80 of this chapter do not apply to these exchanges.

15 * Sec. 2. AS 38.05.125 is amended to read:

16 Sec. 38.05.125. RESERVATION. Each contract for the sale, lease or
17 grant of state land, and each deed to state land, properties or interest
18 in state land, made under secs. 315 - 325 of this chapter, [OR] secs.
19 45 - 120 of this chapter, or ch. 100 of this title except as provided in
20 AS 38.100.010 and except for those lands originally acquired by purchase,
21 exchange, condemnation, gift, escheat or foreclosure are subject to the
22 following reservations: "The party of the first part, Alaska, hereby
23 expressly saves, excepts and reserves out of the grant hereby made, unto
24 itself, its lessees, successors, and assigns forever, all oils, gases,
25 coal, ores, minerals, fissionable materials, and fossils of every name,
26 kind or description, and which may be in or upon said lands above
27 described, or any part thereof, and the right to explore the same for
28 such oils, gases, coal, ores, minerals, fissionable materials, and
29 fossils, and it also hereby expressly saves and reserves out of the

1 grant hereby made, unto itself, its lessees, successors, and assigns
2 forever, the right to enter by itself, its or their agents, attorneys,
3 and servants upon said lands, or any part or parts thereof, at any and
4 all times for the purpose of opening, developing, drilling, and working
5 mines or wells on these or other lands and taking out and removing
6 therefrom all such oils, gases, coal, ores, minerals, fissionable
7 materials and fossils, and to that end it further expressly reserves out
8 of the grant hereby made, unto itself, its lessees, successors, and as-
9 signs forever, the right by its or their agents, servants and attorneys
10 at any and all times to erect, construct, maintain, and use all such
11 buildings, machinery, roads, pipelines, powerlines, and railroads, sink
12 such shafts, drill such wells, remove such soil, and to remain on said
13 lands or any part thereof for the foregoing purposes and to occupy as
14 much of said lands as may be necessary or convenient for such purposes
15 hereby expressly reserving to itself, its lessees, successors, and as-
16 signs, as aforesaid, generally all rights and power in, to, and over
17 said land, whether herein expressed or not, reasonably necessary or
18 convenient to render beneficial and efficient the complete enjoyment of
19 the property and rights hereby expressly reserved."

20 * Sec. 3. AS 38.95.060 is repealed.
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