

Introduced: 3/11/77
Referred: Community & Regional
Affairs and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 241

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection and transfer of state
7 land to municipalities; and providing for an effec-
8 tive date."

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

10 * Section 1. STATEMENT OF PURPOSE. The purposes of this Act are: to
11 remove existing inequities and uncertainties in the existing municipal land
12 selection law of the state; to provide for an immediate, final determination
13 of municipal land entitlement; to provide for the completion of rational
14 ownership patterns for sound land management within five years; and to
15 provide for timely patent of lands to municipalities to fulfill their
16 respective entitlements.

17 * Sec. 2. AS 29.18 is amended by adding new sections to read:

18 ARTICLE 3A. STATE LAND.

19 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT. The total state
20 land entitlement of each municipality eligible to receive state land,
21 under the former secs. 190 - 200 of this chapter, is 10 per cent of
22 the maximum total acreage of vacant, unappropriated, unreserved general
23 grant land within the boundaries of each municipality at any time
24 since the initial date of eligibility under the former secs. 190 -
25 200, but in no event later than December 31, 1976. For purposes of
26 determination of entitlement, the boundaries of each municipality are
27 those which existed on the initial date of eligibility under the
28 former secs. 190 - 200.

29 Sec. 29.18.204. FULFILLMENT OF LAND ENTITLEMENTS. State land

1 entitlements of eligible municipalities shall be fulfilled in the
2 following manner:

3 (1) Within six months of the effective date of this Act,
4 the director shall determine each municipality's entitlement as defined
5 in sec. 202 of this chapter and shall certify that entitlement to each
6 municipality.

7 (2) The acreage of each municipality's land selections
8 under the former secs. 190 - 200 of this chapter, for which patent has
9 been issued before the effective date of this Act, shall be credited
10 toward fulfillment of that municipality's entitlement.

11 (3) All approved selections under the former secs. 190 -
12 200 of this chapter, for which patent has not yet issued to a munici-
13 pality as of the effective date of this Act, shall be reviewed by the
14 director within six months after the effective date of this Act. Any
15 approved selection for land which was vacant, unappropriated, or
16 unreserved on the date of approval is considered valid, and a patent
17 shall be issued to the municipality within six months after approval
18 by the director of a plat of survey for the approved selection. This
19 acreage shall be credited toward fulfillment of that municipality's
20 entitlement. No municipality is entitled to receive patent under this
21 chapter to more than its entitlement under sec. 202 of this chapter.
22 Any prior approval by the director of municipal selections for land
23 which was not vacant, unappropriated, or unreserved on the date of
24 approval shall be rescinded, and patent may not be issued except where
25 disposal to a third party by sale or lease has occurred. Patent for
26 approved municipal selections of land under agricultural or grazing
27 lease as of the effective date of this Act is subject to AS 38.05.321.
28 Classification actions as reflected upon the land status records of
29 the Department of Natural Resources are determinative of land classifi-

1 cation status for the purposes of this chapter.

2 (4) All municipal land selections under the former secs.
3 190 - 200 of this chapter not yet approved as of the effective date of
4 this Act shall be recognized by the director as representing the
5 priority interests of the municipalities under this Act and those
6 selections shall be given first consideration under (6) of this section
7 unless a municipality indicates different priorities.

8 (5) No filing of a municipal land selection vests any
9 rights to the land selected unless approved by the director as being
10 in the best interests of the state. As of the effective date of this
11 Act, and for a period of five years after that date, no classification
12 under AS 38.05.300 of a parcel of state land in excess of 5,760 acres
13 is effective, unless otherwise required by law, if the municipality in
14 which the land lies, notifies the director in writing of the reasons
15 for any objections to the classification within 30 days after receipt
16 of notice of the proposed classification.

17 (6) Commencing on the effective date of this Act, and
18 within five years after that date, each eligible municipality and the
19 director shall jointly determine which vacant, unappropriated, unre-
20 served land, including federal land of interest to a municipality
21 which is selectable by the state as general grant land, within the
22 boundaries of the municipality is appropriate for selection and approval
23 to fulfill any remaining municipal land entitlement. This joint
24 determination must include a cooperative land management and planning
25 process which will, in addition to the normal objectives of such
26 processes, identify both local and state interests in the remaining
27 vacant, unappropriated, unreserved land within each municipality. The
28 director shall expeditiously review municipal selections for that land
29 jointly identified as being of predominantly local interest. Following

1 approval of a municipal selection, a patent shall be issued to the
2 municipality within six months after approval by the director of a
3 plat of survey for the approved selection.

4 (7) In determining whether a municipal selection of vacant,
5 unappropriated, unreserved land is in the best interests of the state,
6 the director shall consider the state's responsibilities for develop-
7 ing and protecting those land values which are of statewide concern.
8 Responsibilities which are of general statewide concern include: large
9 scale development, development of regional impact, and critical en-
10 vironmental concerns. Specific land values to be considered include:
11 air quality; water; minerals and energy; timber; agricultural; grazing;
12 fish, wildlife, and their habitat; public recreation, natural histori-
13 cal, and archaeological areas of greater than local significance;
14 public access to public land and water; transportation; communications;
15 public safety; and other values of greater than local significance.

16 (8) Every action of approval or disapproval of a municipal
17 selection by the director must include a written explanation of that
18 decision based upon the values enumerated in (7) of this section. If
19 the interests of the state may be protected through conveyance of less
20 than fee title, the director may only convey title less than fee title
21 in acre-for-acre fulfillment of the municipality's entitlement.

22 (9) Within 30 days after the convening of the first regular
23 session of the Eleventh Alaska Legislature, and the first and second
24 regular sessions of the Twelfth Alaska Legislature, the director shall
25 report to the legislature on the implementation of secs. 202-216 of
26 this chapter.

27 Sec. 29.18.206. SELECTION AND CONVEYANCE PROCEDURE. (a) All
28 selections must be made in reasonably compact tracts, taking into
29 account the use capabilities of a tract as well as its relationship to

1 surrounding land uses. Selections filed by a municipality, but not
2 yet approved by the director, may be relinquished at any time.
3 Approved selections may be relinquished by a municipality if agreed to
4 by the director. Selections or approved selections relinquished by a
5 municipality increase its remaining entitlement on an acre-for-acre
6 basis.

7 (b) If land selected by a municipality is unsurveyed at the time
8 of approval, the director shall survey, or may approve the municipality's
9 survey of, the exterior boundaries of such an approved selection
10 without interior subdivision, and he shall issue patent in terms of
11 the exterior boundary survey. The cost of the survey shall be borne
12 by the municipality. If land selected by a municipality has been sur-
13 veyed at the time of its selection, the boundaries must conform to the
14 public land subdivisions established by the approved survey.

15 (c) The director may approve municipal selections for land
16 tentatively approved or patented to the state by the federal government,
17 but he may not issue patent to a municipality until that land has been
18 first patented to the state. After approval of a selection by the
19 director, but before patent to a municipality, the municipality may
20 execute conditional leases and make conditional sales only after
21 approval by the director of a plat of survey of the area to be leased
22 or sold.

23 (d) Nothing in this chapter affects a valid existing claim,
24 location, or entry under the laws of the state or the United States
25 whether for homestead, mineral, right-of-way or other purpose, nor
26 affects the rights of an owner, claimant, locater, or entryman to the
27 full use and enjoyment of the land so occupied.

28 Sec. 29.18.208. AUTHORIZATION FOR LAND EXCHANGES. The director,
29 with the concurrence of the commissioner, and the municipalities are

1 authorized and encouraged to exchange land or interests in land among
2 themselves where it is in the best public interest. Land or interests
3 in land exchanged under this section must be of approximately equal
4 value, including values of public benefits. Exchanges under this
5 chapter are not subject to the provisions of AS 38.50, but are subject
6 to the notice and review provisions of AS 38.05.305 and AS 38.05.345.

7 Sec. 29.18.210. DIRECTOR'S AUTHORITY. Nothing in this chapter
8 limits or impairs the director's authority to transfer land to muni-
9 cipalities for public purposes under AS 38.05.315, except that the
10 acreage of such transfers must be credited toward fulfillment of a
11 municipality's land entitlement so long as any unfulfilled entitlement
12 remains.

13 Sec. 29.18.212. ELECTION OF BENEFITS. (a) A municipality which
14 is or becomes engaged in litigation against the state regarding a
15 claim to state lands under the former secs. 190 - 200 of this chapter
16 shall elect either to obtain the benefits afforded by secs. 202 - 216
17 of this chapter, or to pursue that litigation and thereby waive any
18 claim to entitlement under secs. 202 - 216. That election must be
19 made by filing a motion for dismissal with prejudice in the court in
20 which the litigation is pending within 60 days after the effective
21 date of this Act. Failure to file such a motion within the time
22 period allowed is considered a waiver of entitlement under secs. 202 -
23 216.

24 (b) A municipality which has filed land selections under the
25 former secs. 190 - 200 of this chapter and which is not in litigation
26 with the state regarding a claim to rights under those statutes may,
27 within 60 days after the effective date of this Act, elect to pursue
28 its claim under the former secs. 190 - 200 by filing a legal action in
29 the superior court to perfect the claim. A municipality not so

1 filing within the time period specified is considered to have elected
2 to receive benefits under secs. 202 - 216 of this chapter, and to have
3 waived any claims which might have been raised under the former secs.
4 190 - 200.

5 Sec. 29.18.214. REGULATIONS. The commissioner may adopt regula-
6 tions under the Administrative Procedure Act (AS 44.62) necessary to
7 carry out the purposes of secs. 202 - 216 of this chapter.

8 Sec. 29.18.216. DEFINITIONS. In secs. 202 - 216 of this chapter,
9 unless the context requires otherwise

10 (1) "approved selection" means a municipal land selection
11 which has been approved in writing by the director as being in the
12 best interests of the state for transfer by patent to a municipality;

13 (2) "director" means the director of the division of
14 lands, Department of Natural Resources, or his designee;

15 (3) "general grant land" means land patented or tentatively
16 approved to the state from the United States under Section 6(a) or (b)
17 of the Alaska Statehood Act (72 Stat. 339, et. seq.);

18 (4) "municipal land selection" means a request by a munici-
19 pality, filed in writing with the director under authority of the
20 former secs. 190 - 200 of this chapter or under secs. 202 - 216 of
21 this chapter, for vacant, unappropriated, unreserved land within its
22 municipal boundaries in partial fulfillment of its municipal entitle-
23 ment;

24 (5) "municipality" means an incorporated city or organized
25 borough of any class, whether home rule or otherwise, and includes a
26 municipality unified under AS 29.68.240 - 29.68.440;

27 (6) "patent" means a document, issued by the director to a
28 municipality for a previously approved selection, which conveys and
29 quitclaims all the state's right, title, and interest, without reserva-

1 tion or condition except as may be permitted by law;

2 (7) "vacant, unappropriated, unreserved land" means the
3 surface estate of general grant land as defined in (3) of this section,
4 exclusive of shoreland, which:

5 (A) has not been set aside by statute for one or more
6 particular uses or purposes; or

7 (B) is unclassified or, if classified under AS 38.05.-
8 300, is classified for agricultural, grazing, commercial, indus-
9 trial, private recreation, residential, utility, or open-to-entry
10 purposes.

11 * Sec. 3. AS 38.05.321 is repealed and re-enacted to read:

12 Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF
13 AGRICULTURAL AND GRAZING LAND. (a) The sale, lease or other disposal
14 of state land classified as agricultural or grazing land transfers
15 only rights for agricultural and grazing purposes, and all other
16 interests in the land remain with the state unless otherwise required
17 by law.

18 (b) State land classified as agricultural or grazing land and
19 selected by a municipality under the former AS 29.18.190 - 29.18.200
20 or under AS 29.18.202 - 29.18.216 may be approved and patented to that
21 municipality; however, only rights in the land for agricultural and
22 grazing purposes may be transferred and all other interests in the
23 land will remain with the state. Agricultural or grazing land patented
24 to a municipality shall be credited, acre for acre, toward fulfillment
25 of that municipality's entitlement under AS 29.18.202. If the director
26 later determines it to be in the best interests of the state to transfer
27 some or all of the additional rights in that approved or patented
28 agricultural or grazing land, those rights shall pass without considera-
29 tion to the municipality in which the land is located.

1 * Sec. 4. AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

2 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
3 10.070(c).

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