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Referred: Community & Regional
Affairs, Resources and Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 *HCS CS* SENATE BILL NO. 562 *Am (rules)*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaska land policy; and providing
7 for an effective date."

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

9 * Section 1. PURPOSE. Alaska's Constitution directs that the state
10 "encourage the settlement of its land and the development of its resources
11 by making them available for maximum use consistent with the public interest"
12 (art. VIII, sec. 1), and to "provide for the utilization, development, and
13 conservation of all natural resources belonging to the State, including
14 land and waters, for the maximum benefit of its people" (art. VIII, sec.
15 2). The constitution also directs that "Fish, forests, wildlife, grasslands,
16 and all other replenishable resources belonging to the State shall be
17 utilized, developed, and maintained on the sustained yield principle,
18 subject to preferences among beneficial uses" (art. VIII, sec. 4). The
19 purpose of this Act is to implement these broad constitutional goals through
20 establishment of policies for use of state land surface and to express
21 these policies in sufficient detail to guide the administrative decisions
22 which govern the use and management of state-owned land.

23 * Sec. 2. AS 38 is amended by adding a new chapter to read:

24 CHAPTER 4. POLICY FOR USE AND CLASSIFICATION
25 OF STATE LAND SURFACE.

26 ARTICLE 1. PUBLIC AND PRIVATE LAND USE.

27 Sec. 38.04.005. POLICY. (a) In order to provide for maximum
28 use of state land consistent with the public interest, it is the
29 policy of the State of Alaska to plan and manage state-owned land to

1 establish a balanced combination of land available for both public and
2 private purposes. The choice of land best suited for public and
3 private use shall be determined through the inventory, planning, and
4 classification processes set out in secs. 60 and 70 of this chapter.

5 (b) In classifying state land for private use and settlement
6 purposes, the director shall make adequate provision for public open
7 space which is accessible to communities so that natural areas are
8 easily reached from all communities and settled areas. The amount of
9 such land must be sufficient to meet existing and projected needs for
10 accessible public recreation land. Special care shall be taken to
11 preserve public access to public water and to retain state ownership
12 of sufficient land which combine high value for recreation and other
13 public purposes with accessibility to settled areas. This classifica-
14 tion for public purposes does not constitute dedication to open space,
15 but the division's management of land so classified shall be in a
16 manner to preserve the identified values.

17 (c) In allocating land for private use and public retention, the
18 requirements of future generations must be considered. To this end, a
19 supply of state land of a variety of types and locations must be
20 reserved to provide an opportunity for future decisions.

21 (d) Private land use rights are integral to the material well-
22 being of the people of Alaska and our society.

23 (e) Involvement of municipalities and local residents is essen-
24 tial in the decision making process which leads to making state land
25 available for private use.

26 Sec. 38.04.010. PUBLIC INTEREST IN MAKING LAND AVAILABLE FOR
27 PRIVATE USE. (a) The primary public interest in conveying rights to
28 state land surface to private parties is to make them available to
29 individuals and other persons for direct use in areas classified as

1 suitable for these purposes. In making state land available for
2 private use, the director shall seek to guide year-round settlement to
3 areas where public services already exist, or can be extended with
4 reasonable economy, or where development of a viable economic base is
5 probable.

6 (b) State land which is located beyond the range of existing
7 schools and other necessary public services, or which is located where
8 development of sources of employment is improbable, may be made avail-
9 able for seasonal recreational purposes or for low density settlement,
10 with sufficient separation between residences so that public services
11 will not be necessary or expected.

12 Sec. 38.04.015. PUBLIC INTEREST IN RETAINING STATE LAND IN
13 PUBLIC OWNERSHIP. The primary public interests in retaining areas of
14 state land surface in public ownership are:

15 (1) to make them available on a sustained yield basis for a
16 variety of beneficial uses including subsistence, forestry, grazing,
17 sport hunting and fishing, hiking, snowmobiling, skiing, and other
18 activities of a type which can generally be made available to more
19 people and conducted more successfully if the land is in public rather
20 than private ownership;

21 (2) to facilitate mining and mineral leasing by managing
22 appropriate public land for surface uses which are compatible with
23 subsurface uses;

24 (3) to protect critical wildlife habitat and areas of
25 special scenic, recreational, scientific, or other environmental
26 concern;

27 (4) to restrict development in floodplains, avalanche
28 zones, and other hazardous locations; and

29 (5) to guide the location of settlement and development to

1 minimize public costs and maximize social and economic benefits.

2 ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

3 Sec. 38.04.020. TIMING AND AMOUNT. On a continuing or annual
4 basis, the director shall make available for private use an array of
5 state land suitable for a variety of uses. During fiscal year 1979,
6 the director shall make available a minimum of 50,000 acres, not more
7 than 10 per cent of which may be made available for leasing. Annually
8 thereafter, the following three options for the state land availability
9 program must be submitted to the legislature along with the admini-
10 stration's budget: an increased-level program, a current-level program,
11 and a reduced-level program. At least one option must include at
12 least 50,000 acres.

13 Sec. 38.04.025. VARIETY OF USES. In making state land available
14 for private use, the director shall endeavor to accommodate persons
15 with a current need and anticipated use for the land. To this end,
16 the director shall assess the nature of the supply and demand for
17 state land in different regions and locations of the state, taking
18 into account the supply of available land under other ownership, and
19 shall make land available in locations and other programs suited to
20 the differing needs of prospective users throughout the state.

21 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may
22 be used by the director to make the state's land surface available for
23 private use under this section include sale of whole or partial rights
24 to the fee simple estate, including conveyance of agricultural use
25 rights; leasing; open-to-entry; homesiting; homesteading; permitting
26 for construction and occupation of cabins in isolated locations on
27 land retained in state ownership; and other methods as provided by
28 law.

29 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining

1 which land availability program is appropriate for state lands in
2 different locations, the director shall be guided by the following
3 criteria:

4 (1) To cover public costs associated with private land use
5 and to provide the public with a fair return for publicly owned pro-
6 perty, conveyance of state land to private parties should be at fair
7 market value except where otherwise authorized by statute or by admini-
8 strative regulation.

9 (2) Sale or lease programs should be employed where land is
10 readily accessible to a major community center or where, because of a
11 prime location on waterfront or a transportation route or some other
12 location characteristic, land has relatively high real estate value.

13 (3) Lease programs should be employed

14 (A) where special land use controls are required and
15 there is a high public interest in having certain types of land
16 used for particular purposes;

17 (B) when the intended use is a temporary one;

18 (C) in commercial or industrial situations when a
19 leasehold can provide cash flow advantages to the lessee;

20 (D) when a unique location with special public values
21 is involved, as in a deep water port; and

22 (E) where current demand for private use is high, but
23 projections suggest that, in the future, the land may be more
24 valuable for public use, as in accessible waterfront recreation
25 areas.

26 (4) For enabling isolated cabin development in remote
27 locations where survey and conveyance is impractical, a system for
28 cabin permits on public land should be used.

29 (5) Limited or conditional title may be granted when the

1 state's best interest so dictates. Among other things, title limita-
2 tions may include grants of agricultural interest only, retention of
3 development rights, and retention of scenic or other easements. A
4 conditional title may be tied to a development schedule or other
5 standards of performance.

6 Sec. 38.04.040. AVAILABILITY OF MENTAL HEALTH LAND, SCHOOL LAND,
7 AND UNIVERSITY LAND. Mental health land, school land, and university
8 land may be made available at fair market value for private use under
9 the purposes of this chapter; however, any such action must be in
10 accordance with statutes pertaining to these lands and the authority
11 of the mental health land board, the Board of Education, and the Board
12 of Regents of the University of Alaska.

13 Sec. 38.04.045. SURVEY AND SUBDIVISION. (a) State land to be
14 conveyed in fee simple or less than fee simple estate must be sub-
15 divided so that lots and tracts are of a size which fits the require-
16 ments of individual users and reflects the physical characteristics of
17 the land, except that in locations where there is an inadequate margin
18 between the demand for and the supply of vacant land, the state may
19 make land available for private acquisition in parcels that are larger
20 than required for individual use.

21 (b) Before the conveyance of surface rights to state land, an
22 official cadastral survey must be accomplished, unless a comparable,
23 acceptable survey exists that has been conducted by the Federal Bureau
24 of Land Management. The rectangular survey section corner positions
25 must be monumented and shown on a cadastral survey plat approved by
26 the state. However, for those areas where the state may wish to
27 convey surface estate outside of an Official Cadastral Survey grid,
28 the director may waive monumentation of all individual section corner
29 positions and substitute an official control survey with control

1 points being monumented at approximately two-mile intervals and shown
2 on control survey plats approved by the state. No portion of land to
3 be conveyed may be located more than two suitable miles from such a
4 survey control monument. The lots and tracts in state subdivisions
5 must be monumented and the cadastral survey and plats for the sub-
6 division must be approved by the state. Where land is located within
7 a municipality with planning, platting, and zoning powers, plats for
8 state subdivisions must comply with local ordinances and regulations
9 in the same manner and to the same extent as plats for subdivisions by
10 other landowners. State subdivisions must be filed in the district
11 recorder's office. The requirements of this section do not apply to
12 land made available through material sales or a cabin permit system,
13 or under short-term leases.

14 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
15 land is surveyed for purposes of private use, adequate rights-of-way
16 and easements must be reserved as necessary for access and, where
17 appropriate, for power and telephone service to each parcel of land.
18 Where necessary and appropriate for the use intended, the director
19 shall arrange for the development of surface access as part of the
20 land availability program. The direct cost of local access development
21 must be borne by the recipient of the land unless otherwise provided
22 by state statutes or regulations.

23 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director
24 shall reserve easements and rights-of-way on and across land which is
25 made available for private use as necessary to reach or use public
26 water and public and private land.

27 ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

28 Sec. 38.04.060. INVENTORY. (a) The commissioner shall prepare
29 and maintain on a continuing basis an inventory of all state land and

1 water and their resource and other values, giving priority to areas of
2 potential settlement and of critical environmental concern. This
3 inventory must be kept current so as to reflect changes in conditions
4 and to identify new and emerging resource and other values.

5 (b) The commissioner's inventory must include land and water
6 under interagency assignment of land management authority and land and
7 water proposed for such an assignment. That land and water must be
8 reviewed at regular intervals to analyze current and proposed uses as
9 these uses relate to alternative uses for all or part of the land and
10 to determine the uses which best provide for the public interest.

11 (c) As funds and manpower are made available, the commissioner
12 shall provide local and federal governments and major private land-
13 owners with data from the inventory for the purpose of planning and
14 managing the uses of land in proximity to state land.

15 Sec. 38.04.065. LAND USE PLANNING AND CLASSIFICATION. (a) The
16 commissioner shall, with local governmental and public involvement,
17 develop, maintain and, when appropriate, revise land use plans which
18 provide, by regions or areas, for the use of the state-owned land.

19 (b) In the development and revision of land use plans, the
20 commissioner shall:

21 (1) use and observe the principles of multiple use and
22 sustained yield;

23 (2) use a systematic interdisciplinary approach to achieve
24 integrated consideration of physical, economic, and social factors
25 affecting the region or area;

26 (3) give priority to planning and classification in areas
27 of potential settlement and critical environmental concern;

28 (4) rely, to the extent that it is available, on the inven-
29 tory of the state land, its resources, and other values;

1 (5) consider present and potential uses of state land;

2 (6) consider the supply, resources, and present and poten-
3 tial use of land under other ownership within the area or region of
4 concern;

5 (7) weigh long-term benefits to the public against short-
6 term benefits;

7 (8) plan for compatible surface and mineral land use classi-
8 fications; and

9 (9) provide for meaningful participation in the planning
10 process by affected local governments, state and federal agencies,
11 adjacent landowners, and the general public.

12 (c) As a basis for more detailed land use planning and classifi-
13 cation, the commissioner shall develop regional land use plans for the
14 use of all state land. These regional plans must identify and delineate
15 (1) areas of settlement and settlement impact, where land must be
16 classified for various private uses and for public recreation, open
17 space, and other public uses desirable in and around settlement; and
18 (2) areas which must be retained in state ownership and planned and
19 classified for various uses and purposes in accordance with sec. 15 of
20 this chapter.

21 (d) Official regional or area plans and subsequent amendments
22 adopted by the commissioner after public and local governmental parti-
23 cipation must be signed and dated by the commissioner. Land classifi-
24 cations must be made in accordance with these official plans.

25 (e) Land must be classified before being made available for pri-
26 vate use or included in the management systems described in sec. 70 of
27 this chapter.

28 (f) Decisions about the location of easements and rights-of-way,
29 other than for minor access, must be integrated with land use planning

1 and classification for the appropriate area or region.

2 (g) Land use plans adopted by the commissioner under this section
3 must be consistent with local governmental land use plans to the
4 maximum extent he determines to be consistent with the state interests
5 and the purposes of this chapter.

6 Sec. 39.04.070. MANAGEMENT SYSTEMS. (a) State land classified
7 for uses and purposes involving retention in public ownership may be
8 included in the following management systems:

9 (1) State Public Reserve System: areas of public land to
10 be managed for a wide variety of compatible uses and purposes in
11 accordance with the principles of multiple use and sustained yield;
12 land designated to this system may include, but need not be limited
13 to, state forest reserves and state wildlife reserves as well as land
14 classified for public purposes within settlement impact areas;

15 (2) State Park System: areas with special recreational,
16 scenic, cultural, historical, wilderness, or similar values, to be
17 managed primarily for the public use and enjoyment of these values;

18 (3) State Trail System: a system of public historic or
19 recreational trails;

20 (4) Wild and Scenic River Systems: a system of rivers with
21 special natural, scenic, and recreational values designated by the
22 state to be managed as part of the national system of wild and scenic
23 rivers in accordance with the federal Wild and Scenic Rivers Act (82
24 Stat. 906; 16 U.S.C. 1271 et seq.);

25 (5) State Public Domain: land within areas designated on
26 regional plans as settlement and settlement impact which are not part
27 of the management systems listed in (1) -- (4) of this subsection;
28 through classification, this land may be made available for private
29 use, settlement, and development as well as for public uses associated

1 with settlement and development.

2 (b) State land classified in accordance with sec. 65 of this
3 chapter may be included in the State Public Reserve System by procla-
4 mation of the governor.

5 (c) State land classified in accordance with sec. 65 of this
6 chapter may be included in the State Park System, State Trail System
7 or the Wild and Scenic River System by proclamation of the governor.
8 However, no state land, water, or combination of land and water may,
9 except by Act of the state legislature, be closed to multiple purpose
10 use, if the area involved contains more than 640 acres.

11 ARTICLE 4. GENERAL PROVISIONS.

12 Sec. 38.04.900. REGULATIONS. The commissioner may adopt under
13 the Administrative Procedure Act (AS 44.62) regulations he believes
14 are necessary to carry out the purposes of this chapter. Within 120
15 days after the effective date of this Act, the director shall submit
16 to the commissioner draft regulations implementing this chapter and
17 revising regulations in effect on the effective date of this Act per-
18 taining to planning, classification, management, and disposal of the
19 state's surface estate in land. New and revised regulations must be
20 integrated in a single comprehensive draft compatible with the struc-
21 ture of the Alaska Administrative Code. In preparing this draft, the
22 director shall seek to simplify and clarify regulations governing land
23 planning, classification, management, and disposal.

24 Sec. 38.04.910. DEFINITIONS. In this chapter, unless the context
25 otherwise requires,

26 (1) "commissioner" means the commissioner of the Department
27 of Natural Resources;

28 (2) "director" means the director of the division of lands
29 of the Department of Natural Resources;

1 (3) "fair market value" means the price at which a willing
2 seller and a willing buyer will trade;

3 (4) "multiple use" means the management of state land and
4 its various resource values so that it is used in the combination that
5 will best meet the present and future needs of the people of Alaska,
6 making the most judicious use of the land for some or all of these
7 resources or related services over areas large enough to provide
8 sufficient latitude for periodic adjustments in use to conform to
9 changing needs and conditions; it includes (A) the use of some land
10 for less than all of the resources, and (B) a combination of balanced
11 and diverse resource uses that takes into account the short-term and
12 long-term needs of present and future generations for renewable and
13 nonrenewable resources, including, but not limited to, recreation,
14 range, timber, minerals, watershed, wildlife and fish, and natural
15 scenic, scientific, and historic values;

16 (5) "official cadastral survey" means a United States
17 public land survey or a survey executed under survey instructions
18 issued by the division for the purpose of preparing a cadastral survey
19 plat, and approved and accepted by the division for the state's offi-
20 cial records;

21 (6) "official control survey" means a position marked on
22 the ground by triangulation or traverse stations established in con-
23 formity with standards adopted by United States Coastal and Geodetic
24 Survey for first, second and third order work, whose geodetic positions
25 have been rigidly adjusted on the North American datum of 1927 and
26 approved by the division;

27 (7) "short-term lease" means a lease for a term of five
28 years or less;

29 (8) "state park" means an area of state land designated by

1 proclamation of the governor or by statute to be managed for public
2 use and enjoyment of recreational, scenic, cultural, historical,
3 wilderness, and similar values, including but not limited to areas
4 designated under (A) AS 41.20.050 - 41.20.060, roadside rests and
5 recreational beaches; (B) AS 41.20.130 - 41.20.160, 41.20.330 -
6 41.20.345, ch. 61 SLA 1966, and ch. 26 SLA 1967, state recreation
7 areas, (C) AS 41.20.170 - 41.20.320, state parks; and (D) AS 41.35.030,
8 state monuments and historic sites;

9 (9) "state trail" means an area designated by proclamation
10 of the governor or by statute to be managed as a public historic or
11 recreational trail including but not limited to (A) trails designated
12 under AS 41.20.070 - 41.20.120, wilderness trails and campsites; and
13 (B) trails and footpaths designated under AS 41.20.355 - 41.20.375;

14 (10) "state wild and scenic river" means any free-flowing
15 river or stream so designated by the state in accordance with the
16 criteria set forth in the Federal Wild and Scenic Rivers Act (82 Stat.
17 906; 16 U.S.C, 1271-1287);

18 (11) "sustained yield" means the achievement and maintenance
19 in perpetuity of a high level annual or regular periodic output of the
20 various renewable resources of the state lands consistent with multiple
21 use.

22 * Sec. 3. AS 38.05.300 is repealed.

23 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
24 10.070(c).