

Original sponsor: Resources Committee

Offered: 4/25/78
Referred: Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 562

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 by
11 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 land
14 and waters, for the maximum benefit of its people" (art. VIII, sec. 2). The
15 constitution also directs that "Fish, forests, wildlife, grasslands, and all
16 other replenishable resources belonging to the State shall be utilized,
17 developed, and maintained on the sustained yield principle, subject to pre-
18 ferences among beneficial uses" (art. VIII, sec. 4). The purpose of this Act
19 is to implement these broad constitutional goals through establishment of
20 policies for use of state land surface and to express these policies in
21 sufficient detail to guide the administrative decisions which govern the use
22 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 use
28 of state land consistent with the public interest, it is the policy of
29 the State of Alaska to plan and manage state-owned land to establish a

1 balanced combination of land available for both public and private
2 purposes. The choice of land best suited for public and private use
3 shall be determined through the inventory, planning, and classification
4 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 shall 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 of
12 sufficient land which combine high value for recreation and other public
13 purposes with accessibility to settled areas. This classification for
14 public purposes does not constitute dedication to open space, but the
15 division's management of land so classified shall be in a manner to
16 preserve the identified values.

17 (c) In allocating land for private use and public retention, the
18 requirements of future generations shall be considered. To this end, a
19 supply of state land of a variety of types and locations shall be re-
20 served 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 essential
24 in the decision-making process which leads to making state land avail-
25 able 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 private
2 use, the director shall seek to guide year-round settlement to areas
3 where public services already exist, or can be extended with reasonable
4 economy, or where development of a viable economic base is probable.

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

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

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

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

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

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

27 (5) to guide the location of settlement and development to
28 minimize public costs and maximize social and economic benefits.

29 ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

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

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

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

26 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
27 which land availability program is appropriate for state lands in dif-
28 ferent locations, the director shall be guided by the following cri-
29 teria:

1 (1) To cover public costs associated with private land use
2 and to provide the public with a fair return for publicly owned pro-
3 perty, conveyance of state land to private parties should be at fair
4 market value except where otherwise authorized by statute, or by an
5 administrative regulation the adoption of which is specifically per-
6 mitted by statute.

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

11 (3) Lease programs should be employed

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

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

16 (C) in commercial or industrial situations when a lease-
17 hold can provide cash flow advantages to the lessee;

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

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

24 (4) For enabling isolated cabin development in remote loca-
25 tions where survey and conveyance is impractical, a system for cabin
26 permits on public land should be used.

27 (5) Limited or conditional title may be granted when the
28 state's best interest so dictates. Among other things, title limita-
29 tions may include grants of agricultural interest only, retention of

1 development rights, and retention of scenic or other easements. A
2 conditional title may be tied to a development schedule or other stan-
3 dards of performance.

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

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

19 (b) Before the conveyance of surface rights to state land, an
20 official cadastral survey shall be accomplished, unless a comparable,
21 acceptable survey exists that has been conducted by the Federal Bureau
22 of Land Management. The rectangular survey section corner positions
23 shall be monumented and shown on a cadastral survey plat approved by the
24 state. However, for those areas where the state may wish to convey
25 surface estate outside of an Official Cadastral Survey grid, the direc-
26 tor may waive monumentation of all individual section corner positions
27 and substitute an official control survey with control points being
28 monumented at approximately two-mile intervals and shown on control
29 survey plats approved by the state. No portion of land to be conveyed

1 may be located more than two miles from such a survey control monument.
2 The lots and tracts in state subdivisions shall be monumented and the
3 cadastral survey and plats for the subdivision shall be approved by the
4 state. Where land is located within a municipality with planning,
5 platting, and zoning powers, plats for state subdivisions shall comply
6 with local ordinances and regulations in the same manner and to the same
7 extent as plats for subdivisions by other landowners. State subdivi-
8 sions shall be filed in the district recorder's office. The require-
9 ments of this section do not apply to land made available through a
10 cabin permit system, material sales, or short-term leases; however, for
11 short-term leases a municipality may require compliance with local
12 subdivision contracts.

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

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

26 ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

27 Sec. 38.04.060. INVENTORY. (a) The commissioner shall prepare
28 and maintain on a continuing basis an inventory of all state land and
29 water and their resource and other values, giving priority to areas of

1 potential settlement and of critical environmental concern. This in-
2 ventory shall be kept current so as to reflect changes in conditions and
3 to identify new and emerging resource and other values.

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

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

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

18 (b) In the development and revision of land use plans, the commis-
19 sioner shall

20 (1) use and observe the principles of multiple use and sus-
21 tained yield;

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

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

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

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

1 (6) consider the supply, resources, and present and potential
2 use of land under other ownership within the area or region of concern;

3 (7) weigh long-term benefits to the public against short-term
4 benefits;

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

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

10 (c) As a basis for more detailed land use planning and classifi-
11 cation, the commissioner shall develop regional land use plans for the
12 use of all state land. These regional plans shall identify and de-
13 lineate

14 (1) areas of settlement and settlement impact, where land must
15 be classified for various private uses and for public recreation, open
16 space, and other public uses desirable in and around settlement; and

17 (2) areas which must be retained in state ownership and
18 planned and classified for various uses and purposes in accordance with
19 sec. 15 of this chapter.

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

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

27 (f) Decisions about the location of easements and rights-of-way,
28 other than for minor access, shall be integrated with land use planning
29 and classification for the appropriate area or region.

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

5 Sec. 38.04.070. MANAGEMENT SYSTEMS. (a) State land classified
6 for uses and purposes involving retention in public ownership may be
7 included in the following management systems:

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

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

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

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

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

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(b) State land classified in accordance with sec. 65 of this chapter may be included in the State Public Reserve System by proclamation of the governor.

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

ARTICLE 4. GENERAL PROVISIONS.

Sec. 38.04.900. REGULATIONS. The commissioner may adopt under the Administrative Procedure Act (AS 44.62) regulations he believes are necessary to carry out the purposes of this chapter. Within 120 days after the effective date of this Act, the director shall submit to the commissioner draft regulations implementing this chapter and revising regulations in effect on the effective date of this Act pertaining to planning, classification, management, and disposal of the state's surface estate in land. New and revised regulations shall be integrated in a single comprehensive draft compatible with the structure of the Alaska Administrative Code. In preparing this draft, the director shall seek to simplify and clarify regulations governing land planning, classification, management, and disposal.

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

- (1) "commissioner" means the commissioner of the Department of Natural Resources;
- (2) "director" means the director of the division of lands of the Department of Natural Resources;
- (3) "fair market value" means the price at which a willing

1 seller and a willing buyer will trade;

2 (4) "multiple use" means the management of state land and its
3 various resource values so that it is used in the combination that will
4 best meet the present and future needs of the people of Alaska, making
5 the most judicious use of the land for some or all of these resources or
6 related services over areas large enough to provide sufficient latitude
7 for periodic adjustments in use to conform to changing needs and condi-
8 tions; it includes

9 (A) the use of some land for less than all of the re-
10 sources, and

11 (B) a combination of balanced and diverse resource uses
12 that takes into account the short-term and long-term needs of
13 present and future generations for renewable and nonrenewable
14 resources, including, but not limited to, recreation, range, tim-
15 ber, minerals, watershed, wildlife and fish, and natural scenic,
16 scientific, and historic values;

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

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

27 (7) "short-term lease" means a lease for a term of five years
28 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 use
2 and enjoyment of recreational, scenic, cultural, historical, wilderness,
3 and similar values, including but not limited to areas designated under

4 (A) AS 41.20.050 - 41.20.060, roadside rests and recrea-
5 tional beaches;

6 (B) AS 41.20.130 - 41.20.160, 41.20.330 - 41.20.345, ch.
7 61 SLA 1966, and ch. 26 SLA 1967, state recreation areas;

8 (C) AS 41.20.170 - 41.20.320, state parks; and

9 (D) AS 41.35.030, state monuments and historic sites;

10 (9) "state trail" means an area designated by proclamation of
11 the governor or by statute to be managed as a public historic or recrea-
12 tional trail including but not limited to

13 (A) trails designated under AS 41.20.070 - 41.20.120,
14 wilderness trails and campsites; and

15 (B) trails and footpaths designated under AS 41.20.355 -
16 41.20.375;

17 (10) "state wild and scenic river" means any free-flowing
18 river or stream so designated by the state in accordance with the cri-
19 teria set out in the Federal Wild and Scenic Rivers Act (82 Stat. 906;
20 16 U.S.C, 1271-1287);

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

25 * Sec. 3. AS 38.05.300 is repealed.

26 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).

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