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Referred: Resources and
Judiciary

1 IN THE HOUSE

BY RANDOLPH AND BETTISWORTH

2 HOUSE BILL NO. 8

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management and control of
7 certain land in the state; and providing for an effec-
8 tive date."

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

10 * Section 1. FINDINGS AND INTENT. The legislature finds that

11 (1) the intent of the Constitution of the United States was to
12 grant to each of the states sovereignty over all matters within its bound-
13 aries except for those powers specifically granted to the United States as
14 agent of the states;

15 (2) the requirement in the Statehood Act that the State of Alaska
16 and its people "disclaim all right and title to any lands or other property
17 not granted or confirmed to the state or its political subdivisions by or
18 under the authority of this Act, the right or title to which is held by the
19 United States or is subject to disposition by the United States," as a
20 condition precedent to acceptance of Alaska into the Union, was an act
21 beyond the power of the Congress of the United States and is thus void;

22 (3) the purported right of ownership and control of the public
23 land in the State of Alaska by the United States is without foundation and
24 violates the clear intent of the Constitution of the United States; and

25 (4) the exercise of domination and control of the public land in
26 the State of Alaska by the United States works a severe, continuous, and
27 debilitating hardship upon the people of the State of Alaska.

28 * Sec. 2. AS 38.05 is amended by adding new sections to read:

29 Sec. 38.05.510. MANAGEMENT. (a) The department shall manage the

1 land in accordance with this chapter, except insofar as that management
2 is inconsistent with the provisions of AS 38.05.500 - 38.05.560.

3 (b) The department shall manage the land in an orderly and bene-
4 ficial manner.

5 (c) The department may adopt, in accordance with the Administra-
6 tive Procedure Act (AS 44.62), regulations governing the management of
7 the land. A regulation adopted under this subsection is not effective
8 until approved by a concurrent resolution adopted by a vote of both
9 houses of the legislature.

10 (d) The department may sell, lease, exchange, or encumber the
11 land when specifically authorized to do so by law and under the terms
12 and conditions established by law.

13 Sec. 38.05.520. PROPERTY OF THE PEOPLE. On the effective date of
14 this Act, all land in the state and all minerals not previously appro-
15 priated are the exclusive property of the people of the state and the
16 state holds title to the land and minerals in trust for the people of
17 the state, subject to valid existing rights of applicants for land.

18 Sec. 38.05.530. TREATIES AND COMPACTS. Land in the state which,
19 on the effective date of this Act, is administered by the United States
20 under international treaties and interstate compacts shall be admin-
21 istered by the department in conformity with those treaties and com-
22 pacts.

23 Sec. 38.05.540. PROCEEDS TO THE GENERAL FUND. The proceeds of
24 sales, fees, rents, royalties, or other receipts from the land paid to
25 the state under the provisions of AS 38.05.500 - 38.05.560 shall be
26 deposited in the general fund.

27 Sec. 38.05.550. EXCLUSIVE ENFORCEMENT. (a) The state has exclu-
28 sive jurisdiction to enforce the provisions of AS 38.05.500 - 38.05.560.

29 (b) An individual may institute a civil action to recover damages

1 on behalf of the state for injury or loss sustained as the result of a
2 violation of the provisions of AS 38.05.500 - 38.05.560 or for the
3 failure of the state to enforce its trust responsibilities to the
4 people of the state.

5 (c) An individual who, under color of federal law, performs
6 management functions allocated to the department under AS 38.05.510 on
7 the land is, upon conviction, guilty of a felony and is punishable by
8 imprisonment for not less than two years nor more than ten years.

9 (d) A corporation which, under color of federal law, performs
10 management functions allocated to the department under AS 38.05.510 on
11 the land is, upon conviction, guilty of a felony and is punishable by a
12 fine of not more than \$5,000.

13 Sec. 38.05.560. DEFINITIONS. In AS 38.05.500 - 38.05.560 "land"
14 means all land within the exterior boundaries of the State of Alaska
15 except land and water

16 (1) to which title is held by a private person or entity;

17 (2) to which title is held by the state or a municipality on
18 the effective date of this Act;

19 (3) which is controlled by the United States Department of
20 Defense or the Alaska Power Administration on the effective date of
21 this Act;

22 (4) which is within the Annette Island Indian Reserve;

23 (5) which has been selected by a regional or village corpora-
24 tion under the Alaska Native Claims Settlement Act of 1971;

25 (6) which is located in Mt. McKinley National Park and
26 national monuments established before January 1, 1977.

27 * Sec. 3. This Act takes effect July 1, 1983, if an amendment to the
28 Constitution of the State of Alaska revoking the state's disclaimer of
29 rights to land not granted or confirmed to the state under authority of the

1 Act admitting Alaska to the Union is approved by the voters at a general
2 election held in November 1982.

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