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1 IN THE SENATE

BY RAY

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 796

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the management of state-owned
7 land in the Haines area, establishing the Alaska Chilkat
8 Bald Eagle Preserve and the Haines State Forest Resource
9 Management Area"

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

11 * Section 1. AS 41.20 is amended by adding new sections to read:

12 ARTICLE 16. ALASKA CHILKAT BALD EAGLE PRESERVE.

13 Section 41.20.550. DECLARATION OF PURPOSE. The purpose of
14 AS 41.20.550 - 41.20.560 is to establish the state-owned land and water
15 described in AS 41.20.550(a) as the Alaska Chilkat Bald Eagle Preserve
16 as part of the state park system. The primary purpose of establishing
17 the Alaska Chilkat Bald Eagle Preserve is to protect and perpetuate the
18 the Chilkat bald eagles and their essential habitats within the preserve
19 in recognition of their statewide, nationally and internationally
20 significant values, and to protect the natural salmon spawning and
21 rearing areas of the Chilkat and Chilkoot River systems within the
22 preserve. The preserve is also established to provide continued
23 opportunities for research, study and enjoyment of bald eagles and other
24 wildlife and to provide for other public uses consistent with the primary
25 purpose for which the Alaska Chilkat Bald Eagle Preserve is established.
26 The statelands and waters described in section 550(a) of this chapter
27 are dedicated as a special purpose site pursuant to Article VIII, section
28 7 of the Alaska Constitution.

29 ESTABLISHMENT AND MANAGEMENT

1 (a) Subject to valid existing rights, the state-owned or acquired
2 land and water lying within boundaries and depicted on a map entitled
3 "Alaska Chilkat Bald Eagle Preserve," and dated February, 1982, and on
4 file in the office of the Commissioner of Natural Resources, and hereby
5 designated as the Alaska Chilkat Bald Eagle Preserve and assigned to the
6 Department of Natural Resources for control, development and maintenance.

7 (b) Private land, existing selections by the Haines Borough under
8 State law, and existing transportation and utility corridors lying
9 within the parcels described in (a) of this section are excluded from
10 the Alaska Chilkat Bald Eagle Preserve, and the State may not acquire
11 private land within the Alaska Chilkat Bald Eagle Preserve by eminent
12 domain.

13 (c) Approved and pending Native allotment applications located
14 within or partially within the Alaska Chilkat Bald Eagle Preserve shall
15 not be adversely affected by the establishment of the preserve, and all
16 approved allotments shall be treated as private land under AS 41.20.550 -
17 560.

18 (d) The Department of Fish and Game is responsible for the manage-
19 ment of fish and game resources in the Alaska Chilkat Bald Eagle Preserve
20 under applicable law and consistent with the purposes of AS 41.20.550 -
21 41.20.560.

22 (e) The Department of Natural Resources shall consult with the
23 Department of Fish and Game, the U. S. Fish and Wildlife Service, and
24 the Advisory Council established by this Act before adoption of reason-
25 able regulations governing public use and protection of the Alaska
26 Chilkat Bald Eagle Preserve. The Department of Fish and Game shall
27 consult with the Department of Natural Resources and the Bald Eagle
28 Preserve Advisory Council in proposing regulations governing fish and
29 game management in the Alaska Chilkat Bald Eagle Preserve for adoption

1 by the Board of Fisheries or the Board of Game. The Department of Fish
2 and Game and the Department of Natural Resources shall cooperate with
3 the U. S. Fish and Wildlife Service in its administration of the Bald
4 Eagle Protection Act of 1940 and other appropriate laws that govern the
5 conservation of bald eagles or implement international treaty obliga-
6 tions of the United States.

7 (f) The natural habitat of the Alaska Chilkat Bald Eagle Preserve
8 shall be managed by the Department of Natural Resources to sustain the
9 eagle and salmon populations and other wildlife in perpetuity in accor-
10 dance with applicable law and to insure to the maximum extent practi-
11 cable, water quality and necessary water quantity in accordance with
12 applicable law.

13 (g) The State land and water described in (a) of this section are
14 closed to mineral entry and location under AS 38.05.135 - 38.05.280,
15 commercial harvest of timber, conveyance of fee title under State land
16 disposal laws and future municipal selections under state law.

17 (h) Continued oportunities for traditional uses of the area at
18 levels and by methods and means that are compatible with the protection
19 of the bald eagle population are guaranteed. These historically com-
20 patible uses include but are not limited to hunting, trapping, fishing,
21 berry picking, other subsistence and recreational uses, operation of
22 motorized vehicles and the harvesting of personal use firewood. The
23 level and method or means of traditional use shall be permitted to
24 continue subject to reasonable regulation unless the director of the
25 Division of Parks, after consultation with the Advisory Council, makes a
26 finding that the level or method and means of use is causing significant
27 resource damage which is inconsistent with the primary purposes of
28 AS 41.20.550 - 41.20.560. The director of the division of parks shall
29 hold public hearings in Haines and Klukwan before restricting a tradi-

1 tional use permitted under this section.

2 (i) If privately owned land, valid mining claims, existing mineral
3 leases, subsurface rights on private lands, or other valid occupancies,
4 are surrounded by State land of the Alaska Chilkat Bald Eagle Preserve
5 or if privately owned land, valid mining claims, subsurface rights, or
6 other valid occupancies or state-owned or federally owned land not
7 designated as part of the Alaska Chilkat Bald Eagle Preserve does not
8 have reasonable, timely, and economically feasible access for economic
9 and other purposes by means other than crossing land designated as part
10 of the Alaska Chilkat Bald Eagle Preserve in (a) of this section, the
11 director of the division of parks shall grant the landowner, holder of
12 valid mining claims, mineral lease or subsurface right, occupant or
13 government agency the rights necessary to assure reasonable, timely and
14 economically feasible access for economic and other purposes. This
15 right of access shall be subject to reasonable regulation and stipula-
16 tions established by the director of the division of parks in consul-
17 tation with the Advisory Committee in furtherance of the purposes and to
18 protect the values for which the Alaska Chilkat Bald Eagle Preserve was
19 established and to minimize adverse environmental impacts in the pre-
20 serve. The director of the division of parks shall give favorable
21 consideration to applications for utility rights of way that are com-
22 patible with the primary purpose of the Alaska Chilkat Bald Eagle
23 Preserve.

24 (j) The director of the division of parks and the Alaska Chilkat
25 Bald Eagle Local Advisory Council established under AS 41.20.560, in
26 consultation with the U. S. Fish and Wildlife Service and the Alaska
27 Department of Fish and Game, shall use information gained through the
28 Haines-Klukwan Cooperative resource studies and other pertinent sources
29 in the development of the management plan for the Alaska Chilkat Bald

1 Eagle Preserve and in decisions affecting the management and adminis-
2 tration of the preserve. The Management Plan shall be developed and
3 implemented within two years of the effective date of this Act. The
4 director of the division of parks and the Advisory Council shall in-
5 vestigate the need for additional research to increase knowledge and
6 understanding of the natural resources of the area and to enhance
7 effective management of the Alaska Chilkat Bald Eagle Preserve. No
8 state, federal or private study of the preserve or its resources for the
9 single purpose of adding or deleting areas from the preserve shall be
10 conducted without 90 days prior notice to and timely review by the
11 council except that the director may certify to the council that a study
12 is required by an emergency which necessitates immediate action or a
13 shorter period of review.

14 Sec. 41.20.560. ALASKA CHILKAT BALD EAGLE PRESERVE LOCAL ADVISORY
15 COUNCIL.

16 (a) An 11 member local advisory council is hereby established.
17 The members of the local advisory council shall be appointed by the
18 governor. Members of the local advisory council are entitled to per
19 diem and travel expenses authorized for members of state boards under
20 AS 39.20.180.

21 (b) The governor shall appoint individuals to the Advisory Council
22 representing the following interests;

23 (1) a resident of the Haines Borough representing a conserva-
24 tion organization;

25 (2) a resident of the Haines Borough representing commercial
26 or industrial interests nominated by the borough mayor;

27 (3) the Mayor of the City of Haines;

28 (4) the Mayor of the Borough of Haines;

29 (5) a representative nominated by Klukwan, Inc.;

1 (6) the President of the IRA Council of the Chilkat Indian
2 Village;

3 (7) a representative nominated by the Upper Lynn Canal Local
4 Fish and Game Advisory Council;

5 (8) a representative of the Alaska Department of Fish and
6 Game;

7 (9) a representative of the U. S. Fish and Wildlife Service;

8 (10) a representative of the Alaska Department of Natural
9 Resources, Division of Forestry;

10 (11) a representative of the Alaska Department of Natural
11 Resources; Division of Parks.

12 (c) All appointments to the local advisory council shall be for a
13 term of two years.

14 (d) The Alaska Chilkat Bald Eagle Preserve Advisory Council shall
15 assist the Department of Natural Resources in the development and
16 monitoring of the management plan for the Alaska Chilkat Bald Eagle
17 Preserve. The management plan shall be presented at public hearings in
18 Haines and Klukwan before approval and implementation by the department.

19 AS 41.15.570 MISCELLANEOUS PROVISIONS.

20 (a) Notwithstanding any other provision of this Act or law,
21 establishment by section 550 of this Chapter of the Alaska Chilkat Bald
22 Eagle Preserve shall not be deemed to enlarge, diminish, add to, or
23 waive any substantive or procedural requirements otherwise applicable to
24 the management or use of the adjacent lands of the Haines State Forest
25 Resource Management Area, or other State or private lands. Any and all
26 activities allowed under applicable law on lands adjacent to the Alaska
27 Chilkat Bald Eagle Preserve, including but not limited to timber harvest,
28 mining, other resource development, or recreation shall be permitted on
29 adjacent lands so long as these activities are conducted in compliance

1 with applicable law. The director of the division of parks and the
2 director of the division of forestry are encouraged to consult with one
3 another in the preparation of the management plan so as to promote
4 effective, efficient, and coordinated administration of the Forest
5 Resource Management Area and Preserve for the values for which each is
6 established.

7 (b) It is the intent of the Alaska Legislature in enacting this
8 legislation to provide sufficient protection for the purposes for which
9 the Alaska Chilkat Bald Eagle Preserve is established; accordingly, the
10 establishment of the Alaska Chilkat Bald Eagle Preserve represents a
11 proper balance between the reservation of State public domain lands and
12 waters for bald eagle preserve purposes and those State lands more
13 appropriate for multiple use, and thus the Alaska Legislature believes
14 that the need for future legislation expanding or contracting the
15 boundary of the Alaska Chilkat Bald Eagle Preserve is unnecessary.

16 (c) The Chilkat River Fish and Game Critical Habitat Area estab-
17 lished by AS 16.20.230(8) is hereby repealed.

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19 * Section 2. AS 41.15 is amended by adding new sections to read:

20 ARTICLE 3A. HAINES STATE FOREST RESOURCE MANAGEMENT AREA.

21 Sec. 41.15.500. HAINES STATE FOREST RESOURCE MANAGEMENT AREA. (a)

22 The purpose of AS 41.15.500 - 41.15.530 is to establish designated
23 state-owned or acquired land and water areas as the Haines State Forest
24 Resource Management Area. The primary purposes of the establishment of
25 the Haines State Forest Resource Management Area are the utilization,
26 perpetuation, conservation, and production of the land and water, in-
27 cluding but not limited to the use of renewable and non-renewable re-
28 sources through multiple-use management, and the continuation of other
29 beneficial uses including traditional uses and other recreational

1 activities.

2 (b) The responsibility for the management of the Haines State
3 Forest Resource Management Area established under AS 41.15.500 - 41.15.-
4 530 is assigned to the Department of Natural Resources.

6 Sec. 41.15.510. BOUNDARIES OF HAINES STATE FOREST RESOURCE MANAGE-
8 MENT AREA. (a) Subject to valid existing rights, the state-owned or
7 acquired land and water located above the mean high tide line and lying
8 within the boundaries and depicted on a map entitled "Haines State
9 Forest Resource Management Area" and dated February, 1982 and on file in
10 the Office of the Commissioner of Natural Resources, are hereby desig-
11 nated as the Haines State Forest Resource Management Area and assigned
12 to Department of Natural Resources for control, development and main-
13 tenance.

14 (b) Private land, existing transportation corridors, and borough
15 selection within the Haines State Forest Resource Management Area are
16 excluded from the Haines State Forest Resource Management Area, and the
17 State may not acquire private land within the Haines State Forest
18 Resource Management Area by eminent domain.

19 (c) Approved and pending Native allotment applications located
20 within or partially within the Haines State Forest Resource Management
21 Area shall not be adversely affected by the establishment of the Haines
22 State Forest Resource Management Area and all approved allotments shall
23 be treated as private land under this title.

24 (d) The Division of Forestry shall consult with the Division of
25 Parks, the Department of Fish and Game, and the Alaska Chilkat Bald
26 Eagle Preserve Local Advisory Council to promote effective, efficient,
27 and coordinated administration of the Forest and the Preserve for the
28 values for which each is established.

29 (e) To the extent practicable, resource studies undertaken by the

1 Department shall be designed to benefit the management and administration
2 of both the Haines State Forest Resource Management Area and the Alaska
3 Chilkat Bald Eagle Preserve.

4 (f) The establishment of the Haines State Forest Resource Manage-
5 ment Area shall have no effect on the terms and conditions of any exist-
6 ing permits or contracts involving use of the land, water, or other
7 resources of the Forest.

8 Sec. 41.15.520. MULTIPLE-USE MANAGEMENT. (a) Land within the
9 Haines State Forest Resource Management Area shall be managed under the
10 principles of multiple use and sustained yield as defined by AS 38.-
11 04.910 and pursuant to the Forest Resources and Practices Act and other
12 applicable laws and pursuant to a management plan prepared by the
13 Department of Natural Resources. This plan may not be adopted or
14 revised without prior review by the Board of Forestry or without public
15 hearings held in the Haines Borough. The management plan shall be
16 adopted and implemented within two years after enactment of this
17 legislation. The management plan should be based on a current opera-
18 tional level inventory completed within the last ten years and updated
19 as future inventory information becomes available.

20 (b) The Department of Natural Resources shall periodically review
21 the management plan for the Haines State Forest Resource Management Area
22 under AS 41.15.510. The Haines-Skagway Area Land Use Plan adopted by
23 the Department of Natural Resources in 1979 shall be used as the basis
24 for preparation of the management plan for the Haines State Forest
25 Resource Management Area. Prior to approval of the management plan
26 prepared pursuant to AS 41.15., management of the Haines State Forest
27 Resource Management Area shall be conducted pursuant to the land use
28 allocations and their appropriate management provisions of the Haines-
29 Skagway Area Land Use Plan.

1 (c) A copy of a management plan and any revision to it prepared by
2 the Department of Natural Resources, reviewed by the Board of Forestry
3 and adopted by the Department after public hearings required under (a)
4 of this section shall be provided to the Legislature within 30 days of
5 its adoption or revision or within the first 10 days of the first
6 session of the Legislature to convene after its adoption or revision.

7 (d) The Department of Fish and Game is responsible for the manage-
8 ment of fish and game resources in the Haines State Forest Resource
9 Management Area under applicable law and in a manner consistent with the
10 purposes and provisions of this section.

11 (e) The control of highway access and roadside structures within
12 the Haines State Forest Resource Management Area is the responsibility
13 of the Department of Natural Resources except that the Department of
14 Transportation and Public Facilities is responsible for the repair and
15 maintenance of all existing public roads in the Haines State Forest
16 Resource Management Area.

17 (f) The state land and water described in section 510(a) of this
18 Act are closed to conveyance of fee title under state land disposal laws
19 and to future municipal selections under state laws.

20 (g) The Department of Natural Resources shall consult with the
21 Department of Fish and Game during preparation of a management plan
22 under (a, and (b) of this section and formulation of regulations
23 governing the public use of the Haines State Forest Resource Management
24 Area. The Department of Fish and Game shall consult with the Department
25 of Natural Resources before adoption of regulations governing fish and
26 wildlife management in the Haines State Forest Resource Management Area.
27 Regulations may not be adopted by either department without prior review
28 at public hearings.

29 Sec. 41.15.530. COOPERATIVE MANAGEMENT AGREEMENT.

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(a) The Department of Natural Resources may enter into cooperative management agreements with persons who hold title to or have a valid entry on land within the boundaries of the Haines State Forest Resource Management Area or adjoining the boundaries of the Haines State Forest Resource Management Area.