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Referred: Judiciary and
Finance

Original sponsors: Pighalberi, Gruenberg,
Boucher, et al

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the interim management of mental
7 health trust land; and providing for an effective
8 date."

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

10 * Section 1. The legislature finds that

11 (1) the Congress granted 1,000,000 acres of land to the Terri-
12 tory of Alaska to be administered as a public trust for the necessary
13 expenses of the support of mental health in the territory;

14 (2) the land authorized to be granted to the Territory of Alaska
15 has been selected by the territory and since statehood by the state and
16 most of the 1,000,000 acres has been conveyed to the state;

17 (3) the Alaska Supreme Court ruled in State v. Weiss, 706 P.2d
18 681 (Alaska 1985) that the legislation redesignating mental health trust
19 land as general grant land had actually breached the trust established by
20 Congress and the court ordered the trust reconstituted;

21 (4) there is presently no statutory authority providing for the
22 management of the mental health trust land as trust land, Weiss et al. v.
23 State, 4 FA 82 2208 CIV;

24 (5) the Alaska Mental Health Association as the original sponsor
25 of the litigation regarding the management of the mental health trust land,
26 more recently participating as intervenor in the litigation, and the plain-
27 tiffs have performed and continue to perform an important public function
28 in their efforts to reconstitute the mental health trust land and to pro-
29 vide for the proper management of the trust land;

1 (6) there is an immediate need for funds to facilitate the
2 reconstruction of the trust land and to conclude the litigation over the
3 status of the mental health trust land; and

4 (7) there is an immediate need for the interim management of the
5 trust land as a public trust.

6 * Sec. 2. INTERIM MENTAL HEALTH TRUST LAND COMMISSION ESTABLISHED. (a)
7 The interim mental health trust land commission is established in the
8 Department of Natural Resources.

9 (b) The commission established under (a) of this section consists of
10 five members, including the commissioner of natural resources and the
11 commissioner of health and social services, or their designees, and three
12 members appointed by the governor as follows:

13 (1) a member representing the plaintiffs, appointed by the
14 governor from a list of three names submitted to the governor by the plain-
15 tiffs in State v. Weiss, 706 P.2d 681 (Alaska 1985);

16 (2) a member representing the intervenors, appointed by the
17 governor from a list of three names submitted to the governor by the inter-
18 venors in State v. Weiss, 706 P.2d 681 (Alaska 1985); and

19 (3) a member representing the Governor's Mental Health Advisory
20 Council, appointed by the governor from a list of three names submitted to
21 the governor by the Governor's Mental Health Advisory Council.

22 (c) The members of the commission shall elect a presiding officer. A
23 majority of the commission constitutes a quorum. The affirmative vote of
24 three members is required to take official action. A vacancy does not
25 impair the power of the remaining members to exercise the powers of the
26 commission.

27 (d) Members of the commission serve without compensation but are
28 entitled to per diem and travel expenses authorized by law for other boards
29 under AS 39.20.180.

1 (e) The commission shall meet at least once a month.

2 (f) The commission may employ an executive director and staff to
3 assist it in fulfilling its responsibilities under this Act.

4 * Sec. 3. RESPONSIBILITIES OF THE COMMISSIONER OF NATURAL RESOURCES AND
5 THE COMMISSION. (a) The commissioner of natural resources inventory and
6 catalog the mental health trust land of the state, shall audit each land
7 transaction involving land that has been part of the mental health trust
8 land of the state, and determine the status of mental health trust land on
9 the effective date of this Act under procedures and guidelines established
10 by the commissioner of natural resources with the approval of the commis-
11 sion. In the exercise of the commission's responsibilities under this
12 section, the commission may review the records of the Department of Natural
13 Resources.

14 (b) The commissioner of natural resources shall, with the approval of
15 the commission, retain an appraiser to appraise all or a portion of land
16 that, at any time, was part of the mental health trust land of the state.
17 The commissioner shall provide the appraiser conducting the appraisal with
18 written procedures and instructions that have been approved by the commis-
19 sion.

20 (c) The commissioner of natural resources is responsible for the
21 management of the mental health land of the state as a public trust under
22 P.L. 84-830, 70 Stat. 709, under the direction of the commission. The
23 commission may contract with the plaintiffs or the intervenors for the
24 performance of functions assigned to it. The commissioner of natural
25 resources may not sell, lease, or exchange mental health trust land of the
26 state or an interest in the mental health trust land of the state without
27 the prior approval of the commission. The commissioner of natural re-
28 sources shall sell, lease, and exchange mental health trust land of the
29 state as directed by the commission. In managing the trust and the trust

1 land the commission and the commissioner shall seek to maximize the income
2 earned and received by the trust consistent with a trustee's obligation to
3 protect and perpetuate the trust.

4 (d) The proceeds from the management of the mental health trust land
5 of the state shall be deposited in a special trust account in the general
6 fund of the state and may be appropriated by the legislature for the sup-
7 port of the mental health program in the state.

8 * Sec. 4. RESPONSIBILITIES OF THE COMMISSIONER OF HEALTH AND SOCIAL
9 SERVICES AND THE COMMISSION. (a) The commissioner of health and social
10 services, with the approval of the commission, shall

11 (1) select an independent auditor to audit the state's mental
12 health program;

13 (2) establish the procedures and guidelines to guide the auditor
14 selected under this subsection;

15 (3) propose the guidelines and procedures to be used in de-
16 termining a range of expenditures for mental health programs necessary to
17 comply with the state's comprehensive mental health plan.

18 (b) The commission may review the records of the Department of Health
19 and Social Services that involve mental health expenditures under the
20 state's comprehensive mental health plan.

21 * Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
22 sion shall make an annual report to the legislature on matters of concern
23 to it including recommendations of the commission for amendment of the laws
24 relating the management of mental health trust, the mental health trust
25 land, and the mental health program of the state.

26 * Sec. 6. DEFINITION. In secs. 2 - 5 of this Act "commission" means
27 the interim mental health trust land commission established in sec. 2 of
28 this Act.

29 * Sec. 7. Sections 1 - 6 of this Act are repealed July 1, 1988.

1 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
2 10.070(c).