

Offered: 4/15/85
Referred: Finance

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 472 (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 the
7 mental health trust; 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;

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

29 (6) there is a need for the interim management of the trust land

1 as a public trust.

2 * Sec. 2. INTERIM MENTAL HEALTH TRUST COMMISSION ESTABLISHED. (a) The
3 interim mental health trust commission is established in the Department of
4 Natural Resources.

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

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

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

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

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

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

26 (e) The commission shall meet at least quarterly and may meet more
27 frequently, either in person or by teleconference.

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

1 shall be in the exempt service.

2 (g) The commission may contract with parties or individuals for the
3 performance of functions assigned to it.

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

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

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. Except for a transfer authorized under AS 38.-
23 05.035(b)(9), the commissioner of natural resources may not sell, lease, or
24 exchange mental health trust land of the state or an interest in the mental
25 health trust land of the state without the prior approval of the commis-
26 sion. In reviewing a proposal for the sale, lease, or exchange of mental
27 health trust land from the commissioner of natural resources, the commis-
28 sion may approve the proposal of the commissioner on its determination that
29 the proposal is consistent with the terms of the trust established by the

1 Alaska Mental Health Enabling Act.

2 (d) The proceeds from the management of the mental health trust land
3 of the state shall be deposited in a special trust account in the general
4 fund of the state and are subject to appropriation by the legislature.

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

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

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

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

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

18 * Sec. 5. ADDITIONAL RESPONSIBILITIES OF THE COMMISSION. The commis-
19 sion shall submit a report to the legislature by the 10th day of the first
20 session of the fifteenth state legislature on matters of concern to the
21 commission. The report shall include its recommendations for amendment of
22 the laws relating to the management of the mental health trust, the mental
23 health trust land, and the mental health program of the state.

24 * Sec. 6. DEFINITION. In this Act "commission" means the interim
25 mental health trust commission established in sec. 2 of this Act.

26 * Sec. 7. This Act is repealed July 1, 1987.

27 * Sec. 8. This Act takes effect immediately in accordance with AS 01.-
28 10.070(c).