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1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 213

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to commercial development leasing of
7 state land."

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

9 * Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.073. COMMERCIAL DEVELOPMENT LEASING. (a) The com-
11 missioner may identify land suitable for commercial development leas-
12 ing. Commercial development leases for the identified land are gov-
13 erned by this section. Except for AS 38.05.070(a), 38.05.090, and
14 38.05.103, AS 38.05.070 - 38.05.105 do not apply to leasing under this
15 section.

16 (b) If the commissioner decides to proceed with commercial
17 development leasing for land identified under (a) of this section, the
18 commissioner shall initiate the preparation of a site-specific land
19 use plan under AS 38.04.065 unless a land use plan has been prepared
20 for the land. If a land use plan has been prepared for the land but
21 does not permit the type of development under consideration, the
22 commissioner shall propose a revision of the existing land use plan
23 under AS 38.04.065.

24 (c) Before soliciting expressions of interest from potential
25 lessees under this section, the commissioner shall give public notice
26 that the land is being considered for commercial development leasing
27 and provide state agencies, affected local governments, and members of
28 the public with an opportunity to comment.

29 (d) If, after evaluating the information and comments obtained

1 under (b) and (c) of this section, the commissioner determines that
2 solicitation of expressions of interest from potential lessees best
3 serves the interests of the state, the commissioner shall issue a
4 written decision and give public notice of the decision. The written
5 decision must describe the specific types of commercial development
6 for which the land may be leased and request that persons who are
7 interested in leasing the land for commercial development submit
8 certain information to the commissioner. The requested information
9 must include the specific facts on which the potential lessee bases
10 its ability to develop the land. The decision must state the criteria
11 that the commissioner will use to determine the eligibility of a
12 potential lessee.

13 (e) After soliciting proposals under (d) of this section, if the
14 commissioner determines that only one potential lessee is acceptable,
15 the commissioner may begin negotiations with the potential lessee to
16 develop the terms and conditions for the lease.

17 (f) After soliciting proposals under (d) of this section, if the
18 commissioner determines that two or more potential lessees are accept-
19 able, the commissioner may select one potential lessee with whom to
20 negotiate a lease. The commissioner shall select the potential lessee
21 who submits the highest bid during an auction or by sealed bids,
22 whichever method the commissioner chooses. After the commissioner
23 selects the potential lessee, the commissioner may begin negotiations
24 with the potential lessee to develop the terms and conditions for the
25 lease.

26 (g) After developing proposed lease terms and conditions with a
27 potential lessee under (e), (f), or (h) of this section, the commis-
28 sioner may issue a preliminary decision that leasing the land to the
29 potential lessee on the proposed terms and conditions best serves the

1 interests of the state. The commissioner shall give public notice of
2 the decision and request comments from the public. If, after the
3 public notice and comment period, the commissioner makes a final
4 determination that a lease with the potential lessee will best serve
5 the interests of the state, the commissioner shall offer the lease to
6 the potential lessee.

7 (h) If a potential lessee under (f) of this section declines the
8 lease offer made under (g) of this section, the commissioner may begin
9 negotiations with the potential lessee who provided the next highest
10 bid under (f) of this section to develop the terms and conditions for
11 a lease.

12 (i) The compensation to be paid to the state for a commercial
13 development lease issued under this section may include

- 14 (1) a percentage of the annual gross receipts;
- 15 (2) a guaranteed annual minimum rent or a percentage of
16 gross receipts, whichever is greater;
- 17 (3) the fair market rental value;
- 18 (4) a fixed annual rent that is not less than the fair
19 market rental value of the land;
- 20 (5) a fee for each user; or
- 21 (6) a combination of the above.

22 (j) Before issuing or renewing a lease under this section, the
23 commissioner shall require the lessee to post a performance bond or
24 provide other security to cover the costs to the department of restor-
25 ing the lease site if the lease is abandoned or terminated.

26 (k) The term of the lease may not exceed 55 years.

27 (l) The commissioner may reject all bids for leases when it is
28 in the best interest of the state.

29 (m) In this section, "commercial development" includes the

1. development of lodges, resorts, other tourism facilities, and other
2. recreational facilities.