

CS FOR SENATE BILL NO. 280(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/5/94
Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state parks, marine parks, and recreation areas and
2 establishing the Afognak Island State Park."

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

4 * Section 1. AS 38.05 is amended by adding a new section to article 10 to read:

5 Sec. 38.05.297. REPORT TO LEGISLATURE WHEN NEW STATE PARKS
6 AND RECREATION AREAS ARE DESIGNATED; INTENT. (a) Whenever a new
7 state park or recreation area is designated by the legislature that removes the park or
8 recreation land from multiple purpose use the department shall, by the next regular
9 legislative session after the effective date of the Act creating the park or recreation
10 area, identify an amount of existing state park and recreation area land that is equal
11 to the newly created state park and recreation land and that can be returned to multiple
12 purpose use.

13 (b) Since state parks are of limited use and purpose, eliminate other
14 economically productive uses, and are costly to administer and manage, it is important

1 that the creation of new state parks and recreation areas be offset by the
2 reclassification of existing state park and recreation area land to multiple purpose use.

3 * Sec. 2. AS 41.21 is amended by adding new sections to read:

4 Sec. 41.21.185. FINDINGS AND PURPOSE OF AS 41.21.185 - 41.21.189.

5 (a) The purpose of AS 41.21.185 - 41.21.189 is to establish, subject to valid existing
6 rights including those rights created by the Afognak Island Road Use Agreement
7 executed on July 24, 1991, and as amended from time to time, the state-owned or
8 acquired land and water described in AS 41.21.186 as the Afognak Island State Park.
9 The primary purpose of establishing Afognak Island State Park is to satisfy the
10 imposed requirement that the use of the area's resources be severely limited in scope.
11 The alternative to establishing this area as a state park, permitting the land to revert
12 to federal ownership, would provide for even less development and enhancement
13 possibilities than will be potentially available under state ownership. Federal
14 ownership would result in fewer enhancement opportunities than will be available if
15 the land is owned by the state. To ensure some viable economic use of the area, the
16 state, with reservation, accepts title to this land. Classifying this area as a state park
17 eliminates timber and mineral production on this land, thereby devastating employment
18 opportunities in and around the neighboring communities. Within these burdensome
19 restrictions, this area should be promoted to achieve the maximum amount of resource
20 utilization possible. Specifically, the area should be managed to maximize other
21 resources in the area, namely the enhancement of fish and game. All forms of fish and
22 stream enhancement shall be allowed, including but not limited to stream bed
23 enhancement, egg boxes, fish transplants, and other enhancement technology known
24 or that may become known. The transplantation of game and other enhancement
25 techniques are permitted within this area. Since parks are a limited purpose use that
26 eliminate otherwise economically productive areas and are costly to administer and
27 manage, it is important that any additional grants of land for this purpose be offset by
28 reclassification of existing state park and recreation land to general multiple use
29 designation. The legislature accepts this land and reclassifies additional state park and
30 recreation land to a general multiple use designation. The other purposes of
31 establishing the Afognak Island State Park are to protect the area's recreational and

1 scenic resources; to protect the area's fish and wildlife habitat; to preserve and enhance
2 the continued use of the area for sport and subsistence hunting and fishing, personal
3 use fishing, trapping, recreational activities, and commercial fishing; and to restore and
4 enhance resources and services injured by the Exxon Valdez oil spill.

5 (b) Under the provisions of AS 38.05.300, state land, water, or land and water
6 containing more than 640 acres may be closed to multiple purpose use only by act of
7 the legislature. Because the area described in AS 41.21.186 exceeds 640 acres,
8 AS 41.21.185 - 41.21.189 are intended to close the described land and water to
9 multiple purpose use in conformity with AS 38.05.300 and to dedicate them as a
10 special purpose site in accordance with art. VIII, sec. 7, Constitution of the State of
11 Alaska.

12 (c) The legislature recognizes the rights of the owners of the private land that
13 adjoins the Afognak Island State Park established in AS 41.21.185 - 41.21.189. The
14 status of the land as a park will not impair the uses to which private land that adjoins
15 the park may be put in the future.

16 Sec. 41.21.186. AFOGNAK ISLAND STATE PARK ESTABLISHED. The
17 upland, shoreland, tideland, land underlying tidally influenced inland water, and water
18 overlying this land, including both the surface and subsurface estate, owned or
19 acquired by the state within the following described parcels are established as the
20 Afognak Island State Park:

21 (1) Township 21 South, Range 16 West, Seward Meridian according
22 to the United States of America, Department of the Interior, Bureau of Land
23 Management plat accepted December 6, 1989, and filed December 22, 1989

24 Section 19: Lots 1 - 3

25 Sections 30 - 31: (fractional) all;

26 (2) Township 22 South, Range 16 West, Seward Meridian according
27 to the United States of America, Department of the Interior, Bureau of Land
28 Management plat accepted December 6, 1989, and filed December 22, 1989

29 Section 6: (fractional) all

30 Section 7: Lots 1 - 2

31 Sections 18 - 19: (fractional) all

1 Section 31: (fractional) all;
2 (3) Township 20 South, Range 17 West, Seward Meridian according
3 to the United States of America, Department of the Interior, Bureau of Land
4 Management plat accepted December 6, 1989, and filed December 22, 1989
5 Section 32: (fractional) all;
6 (4) Township 21 South, Range 17 West, Seward Meridian according
7 to the United States of America, Department of the Interior, Bureau of Land
8 Management plat accepted December 6, 1989, and filed December 22, 1989
9 Sections 6 - 8: (fractional) all
10 Section 13: (fractional) all
11 Section 17: (fractional) all
12 Section 18: all
13 Sections 19 - 20: (fractional) all
14 Sections 23 - 24: (fractional) all
15 Section 25: all
16 Section 26: (fractional) all
17 Sections 29 - 31: (fractional) all
18 Sections 33 - 35: (fractional) all
19 Section 36: all;
20 (5) Township 22 South, Range 17 West, Seward Meridian according
21 to the United States of America, Department of the Interior, Bureau of Land
22 Management plat accepted December 6, 1989, and filed December 22, 1989
23 Section 1: all
24 Sections 2 - 5: (fractional) all
25 Sections 8 - 9: (fractional) all
26 Section 11: all
27 Section 12: (fractional) all
28 Sections 13 - 14: all
29 Section 17: (fractional) all
30 Sections 19 - 20: (fractional) all
31 Section 23: all

1 Sections 24 - 25: (fractional) all
2 Sections 26 - 29: all
3 Sections 30 - 31: (fractional) all
4 Sections 32 - 35: all
5 Section 36: (fractional) all;

6 (6) All of Township 23 South, Range 17 West, Seward Meridian
7 according to the United States of America, Department of the Interior, Bureau of Land
8 Management plat accepted December 6, 1989, and filed December 22, 1989; and the
9 supplemental plat for Section 3 accepted April 11, 1990, and filed April 19, 1990, and
10 the supplemental plat for Section 19 accepted November 9, 1990, and filed
11 November 23, 1990;

12 (7) Township 21 South, Range 18 West, Seward Meridian according
13 to the United States of America, Department of the Interior, Bureau of Land
14 Management plat accepted December 6, 1989, and filed December 22, 1989

15 Section 1: Lots 1 - 3

16 Sections 11 - 12: (fractional) all

17 Section 13: all

18 Section 14: (fractional) all

19 Section 15: Lots 1 and 2

20 Section 16: Lots 1 and 2

21 Section 17: Lot 1, excepting the property described as follows:

22 Commencing at the monument set for the northwest corner of
23 Section 6, Township 21, South, Range 18 West, Seward
24 Meridian, proceed South a distance of 10,560 feet along the
25 westerly boundaries of Sections 6 and 7; thence proceed East
26 along the section line common to sections 7 and 18 a distance
27 of 4999 feet, more or less, to the protracted section corner
28 common to sections 7, 8, 17, and 18, said corner being the True
29 Point of Beginning; thence continuing East a distance of 1320
30 feet along the north boundary of Lot 1 of section 17; thence
31 South a distance of 2640 feet; thence West a distance of 1320

1 feet, more or less, to the westerly boundary of Lot 1 of section
2 17; thence North a distance of 2640 feet, more or less, along the
3 westerly boundary of said Lot 1 of section 17 to the True Point
4 of Beginning; The foregoing exception having an area of 80
5 acres, more or less

6 Section 17: Lot 2: all

7 Sections 20 - 22: (fractional) all

8 Sections 23 - 29: all

9 Sections 31 - 36: all;

10 (8) Township 22 South, Range 18 West, Seward Meridian according
11 to the United States of America, Department of the Interior, Bureau of Land
12 Management plat accepted December 6, 1989, and filed December 22, 1989

13 Section 36: Lot 2;

14 (9) Township 23 South, Range 18 West, Seward Meridian according
15 to the United States of America, Department of the Interior, Bureau of Land
16 Management plat accepted December 6, 1989, and filed December 22, 1989

17 Section 1: Lot 1

18 Section 12: Lot 1

19 Section 13: Lots 1, 2, and 3

20 Sections 24 - 25: (fractional) all;

21 (10) Township 21 South, Range 19 West, Seward Meridian according
22 to the United States of America, Department of the Interior, Bureau of Land
23 Management plat accepted December 6, 1989, and filed December 22, 1989

24 Sections 35 - 36: all

25 All of plat no. 93-40 within portions of Sections 26, 27, and 34,
26 as filed in the Kodiak Recording District October 19, 1993;

27 (11) All of Alaska Tideland Survey No. 1474.

28 Sec. 41.21.187. DESIGNATION OF MANAGEMENT RESPONSIBILITY.

29 (a) The state land and water described in AS 41.21.186 is assigned to the department
30 as a unit of the state park system for control, maintenance, and development consistent
31 with the purposes and provisions of AS 41.21.185 - 41.21.189.

1 (b) The Department of Fish and Game is responsible for the management of
2 fish and game resources in the Afognak Island State Park, consistent with the sustained
3 yield principle and the purposes and provisions of this chapter. The Board of
4 Fisheries, the Board of Game, and the commissioner of fish and game are responsible
5 for adopting regulations governing uses of fish and game in accordance with AS 16.
6 The fish and game habitat and breeding areas shall be managed to ensure that the fish
7 and game resources of the park and habitat are maintained or enhanced.

8 (c) The Department of Natural Resources shall consult with the Department
9 of Fish and Game before adoption of regulations governing public use of the Afognak
10 Island State Park.

11 (d) The Board of Fisheries, the Board of Game, and the commissioner of fish
12 and game shall consult with the Department of Natural Resources before adoption of
13 regulations governing fish and game use in the Afognak Island State Park.

14 (e) Regulations under this section shall be adopted under AS 44.62
15 (Administrative Procedure Act).

16 (f) The Department of Public Safety shall have necessary access to the
17 Afognak Island State Park for fish and game management and enforcement purposes.
18 The Department of Fish and Game shall have unlimited access and use of the Afognak
19 Island State Park for fish and game management, research, enhancement, and
20 enforcement purposes.

21 Sec. 41.21.188. INCOMPATIBLE USES. (a) The commissioner may
22 designate by regulation incompatible uses within the land and water of the Afognak
23 Island State Park.

24 (b) Lawful use of a weapon in the Afognak Island State Park shall be allowed
25 except in areas that may be closed for purposes of public safety by regulation by the
26 commissioner.

27 (c) The regulations governing public use of the Afognak Island State Park
28 must provide reasonable access for lawful sport and subsistence hunting and fishing,
29 personal use fishing, trapping, recreational uses, and commercial fishing. Except to
30 protect public safety, the commissioner may not restrict the exercise of sport or
31 subsistence hunting or fishing, personal use fishing, trapping, or commercial fishing

1 permitted under law or under a regulation of the Board of Fisheries or the Board of
2 Game within the Afognak Island State Park.

3 (d) The commissioner may not designate as an incompatible use a use
4 permitted by the Afognak Island Road Use Agreement executed on July 24, 1991, and
5 as amended from time to time.

6 Sec. 41.21.189. ADDITIONS TO PARK. Land and water outside of the
7 boundaries established under AS 41.21.186 may be added to the Afognak Island State
8 Park only by an act of the legislature. The commissioner may acquire land and water
9 within the boundaries of the Afognak Island State Park except by eminent domain.

10 * Sec. 3. AS 41.21.475 is amended to read:

11 Sec. 41.21.475. CHENA RIVER STATE RECREATION AREA
12 ESTABLISHED. The presently state-owned land and water, vacant and
13 unappropriated, and all that acquired in the future by the state, lying within the
14 following described boundary, are hereby designated as the Chena River State
15 Recreation Area, are reserved from all uses incompatible with their primary function
16 as public recreation land, and are assigned to the department for control, development,
17 and maintenance:

18 [(1) PROTRACTED SECTIONS AND TOWNSHIPS. - TOWNSHIP
19 1 NORTH, RANGE 6 EAST, FAIRBANKS MERIDIAN, SECTION 24; TOWNSHIP
20 1 NORTH, RANGE 7 EAST, FAIRBANKS MERIDIAN, SECTIONS 1, 2, 3, 8, 9, 10,
21 11, 12, 15, 16, 17, 19, 20 AND 21; TOWNSHIP 2 NORTH, RANGE 7 EAST,
22 FAIRBANKS MERIDIAN, SECTIONS 12, 13, 24, 25, 35, AND 36; TOWNSHIP 2
23 NORTH, RANGE 8 EAST, FAIRBANKS MERIDIAN, SECTIONS 6, 7, AND 18;

24 (2)] beginning at the N.W. Corner [OF THE AREA DESIGNATED IN
25 (1) OF THIS SECTION, SAID POINT BEING THE N.W. CORNER] of Section 6,
26 T2N, R8E, Fairbanks Meridian; thence north along the section line to the N.E. corner
27 of Section 25, T3N, R7E; thence west along the section line to the S.W. corner of the
28 S.E. 1/4 of Section 20, T3N, R7E; thence north along the 1/4 section line to the N.E.
29 corner of the N.W. 1/4, Section 17, T3N, R7E; thence west along the section line to
30 the N.W. corner of Section 16, T3N, R6E; thence south along the section line to the
31 N.W. corner of Section 16, T2N, R6E; thence west along the section line to the N.W.

1 corner of Section 14, T2N, R5E; thence south along the section line to the N.W. corner
2 of Section 23, T1N, R5E; thence west along the section line to the N.W. corner of
3 Section 20, T1N, R5E; thence south along the section line to the S.W. corner of
4 Section 32, T1N, R5E; thence east to the N.W. corner of Section 2, T1S, R5E; thence
5 south along the section line to the S.W. corner of Section 11, T1S, R5E; thence east
6 along the section line to the S.W. corner of Section 10, T1S, R6E; thence south along
7 the section line to the S.W. corner of Section 10, T2S, R6E; thence east along the
8 section line to the S.W. corner of Section 7, T2S, R9E; thence north along the section
9 line to the N.W. corner of Section 6, T1S, R9E; thence east to the S.E. corner of
10 Section 36, T1N, R8E; thence north along the section line to the N.E. corner of
11 Section 12, T2N, R8E; thence west along the section line to the N.E. corner of Section
12 7, T2N, R8E; thence north along the section line to the N.E. corner of Section 6, T2N,
13 R8E; thence west along the section line to the point of beginning, containing
14 approximately 254,080 acres.

15 * **Sec. 4.** AS 41.21.180, 41.21.181, 41.21.182, 41.21.183, 41.21.304(2), 41.21.304(4),
16 41.21.304(5), 41.21.304(7), 41.21.304(10), 41.21.304(11), 41.21.304(12), 41.21.304(13),
17 41.21.304(14), 41.21.304(15), 41.21.304(16), 41.21.304(17), 41.21.304(19), and 41.21.304(26),
18 are repealed.