

CS FOR SENATE BILL NO. 310(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/30/94
Referred: Rules

Sponsor(s): SENATORS FRANK, Taylor, Pearce, Sharp, Miller, Kelly, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management and sale of state timber and relating to the
2 administration of forest land."

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

4 * Section 1. AS 38.05.112(c) is amended to read:

5 (c) A forest land use plan shall consider [IN ADDITION TO] the
6 requirements of AS 38.04.065(b) only for areas where a land use plan under
7 AS 38.04.065(a) or a forest management plan under AS 41.17.230 has not been
8 adopted. Regardless of whether there is a land use plan or a forest management
9 plan, each [, A] forest land use plan shall consider

10 (1) commercial timber harvesting, including related activities;

11 (2) harvesting of forest products for personal use;

12 (3) fish and wildlife habitat, including

13 (A) identification and protection of important wildlife habitat;

14 (B) retention of riparian, wetland, and ocean-shoreline

- 1 vegetation critical for fish and wildlife habitat; and
- 2 (C) classification of water bodies according to physical
- 3 characteristics;
- 4 (4) uses of forest land for nontimber purposes, including
- 5 (A) recreation, tourism, and related activities;
- 6 (B) mining, mining claims, mineral leaseholds, and material
- 7 extraction;
- 8 (C) uses of fish and wildlife;
- 9 (D) agriculture, including grazing; and
- 10 (E) other resources and uses appropriate to the area, including
- 11 compatible traditional uses;
- 12 (5) soil characteristics and productivity;
- 13 (6) water quality; and
- 14 (7) watershed management.

15 * Sec. 2. AS 38.05.113(c) is amended to read:

16 (c) Sales under 500,000 board feet [THE DEPARTMENT MAY ADOPT
17 REGULATIONS EXEMPTING SMALL] and emergency sales are exempt from the
18 requirements of this section if public notice of the proposed sale is provided in the
19 manner specified in AS 38.05.945(b). Exempt sales, other than emergency sales,
20 under this subsection may not exceed 1,000,000 board feet in a calendar year in
21 each region.

22 * Sec. 3. AS 38.05 is amended by adding a new section to article 4 to read:

23 Sec. 38.05.122. FOREST MANAGEMENT AGREEMENTS. (a)
24 Notwithstanding the requirements of AS 38.05.110 - 38.05.120 or another provision
25 of this chapter, the commissioner, under the procedures set out in this section and if
26 not inconsistent with a land use plan then in effect, may enter into a forest
27 management agreement with a person to authorize the person to enter on the state
28 forest land covered by the agreement for the purposes of selecting, harvesting, and
29 regenerating timber in a manner consistent with sustained yield.

30 (b) At least once each calendar year, the commissioner shall solicit proposals
31 for forest management agreements on state forest land. The commissioner shall provide

1 notice of the solicitation to all persons who have requested notification and may
2 provide for any additional notice that the commissioner determines is appropriate.
3 Regardless of whether the commissioner has solicited proposals under this subsection,
4 a person may submit a proposal for a forest management agreement to the
5 commissioner at any time for consideration. The commissioner may not consider
6 unsolicited proposals for a parcel of land covered by a solicited proposal until the
7 commissioner has completed the review and determination required under this section
8 concerning the solicited proposals.

9 (c) The commissioner shall solicit public comment for a proposed agreement
10 unless the evaluation under (d) indicates it is unlikely that the proposed agreement will
11 be selected as a tentatively successful proposed agreement. The public comment
12 period under this subsection may not be less than 30 days nor more than 60 days.

13 (d) The commissioner shall evaluate proposed agreements submitted under (b)
14 of this section. In evaluating a proposed agreement, the commissioner shall consider
15 the

16 (1) effect of the agreement on the following:

17 (A) commercial timber harvesting, including related activities;

18 (B) harvesting of forest products for personal use;

19 (C) fish and wildlife habitat, including

20 (i) identification and protection of important wildlife
21 habitat;

22 (ii) retention of riparian, wetland, and ocean shoreline
23 vegetation critical for fish and wildlife habitat; and

24 (iii) classification of water bodies according to physical
25 characteristics;

26 (D) uses of forest land for nontimber purposes, including

27 (i) recreation, tourism, and related activities;

28 (ii) mining, mining claims, mineral leaseholds, and
29 material extraction;

30 (iii) uses of fish and wildlife;

31 (iv) agriculture, including grazing; and

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(v) other resources and uses appropriate to the area,
including compatible traditional uses;

(E) soil characteristics and productivity;

(F) water quality; and

(G) watershed management:

(2) necessary public access for uses described in (1) of this subsection;

(3) financial feasibility of the proposed agreement;

(4) technical and financial qualifications of the proposer;

(5) stumpage payments offered to be paid;

(6) economic benefits from the proposed agreement to the region in
which the land that is to be covered by the agreement is located;

(7) economic benefits to state forest land under the proposed
agreement; and

(8) other factors that the commissioner determines are relevant and
appropriate.

(e) After evaluating proposed agreements under (d) of this section, the
commissioner may designate a tentatively successful proposed agreement. A proposed
agreement may not be designated under this subsection until public comment has been
solicited under (c) of this section. A tentatively successful proposed agreement may
not be designated unless the commissioner includes, and makes a written finding that
sets out facts and applicable law to support the commissioner's conclusion, that

(1) land or timber covered by the tentatively successful proposed
agreement is not reasonably necessary to provide sustained harvest for a sawmill or
wood processing facility using that land or timber at the time the proposed agreement
was evaluated, or that a final agreement can adequately address those needs; and

(2) the tentatively successful proposed agreement will best serve the
interests of the state and is consistent with applicable land use or management plans
then in effect.

(f) The commissioner shall provide notice under AS 38.05.945(b) and (c) of
a finding under (e) of this section and designation of a tentatively successful proposed
agreement at least 90 days prior to entering into a final agreement. The commissioner

1 shall solicit comments from the public and from state and local government agencies
2 on a tentatively successful proposed agreement.

3 (g) If a tentatively successful proposed agreement is designated under (e) of
4 this section, the commissioner, after considering comments and recommendations
5 received under (f) of this section, may proceed to develop a proposed final agreement
6 between the proposer and the state. A proposed final agreement

7 (1) shall provide for terms, conditions, and limitations determined by
8 the commissioner to be in the public interest;

9 (2) must contain

10 (A) the initial term of the agreement, which may not exceed 20
11 years;

12 (B) the stumpage prices for the timber;

13 (C) provisions regarding compensation from the proposer for
14 scaling services required in order to account for timber sold;

15 (D) provisions regarding compensation, if required by the
16 department, for state services provided to administer the agreement;

17 (E) provisions regarding responsibilities for construction and
18 maintenance of access roads necessary to manage the land that is to be covered
19 by the agreement;

20 (F) provisions regarding consideration for the sale of material
21 obtained from state land for the construction of access roads on the land that
22 is to be covered by the agreement;

23 (G) provisions regarding responsibilities for reforestation and
24 silvicultural practices on land that is to be covered by the agreement;

25 (H) a statement that activities under the agreement are governed
26 by the provisions of AS 41.17 and regulations adopted under AS 41.17
27 applicable to operations on state land;

28 (I) provisions for the submission and approval of biennial
29 operational plans for activities authorized or required by the agreement;

30 (J) requirements for reports and submission of information to
31 the department regarding performance under the agreement;

1 (K) procedures for enforcement and termination of the
2 agreement;

3 (L) provisions for existing public access;

4 (M) an operational level forest inventory every five years; and

5 (N) provisions for deactivation or termination, that may include
6 bonding, to ensure reforestation, stabilization, monitoring, and other residual
7 obligations.

8 (h) The form of the proposed final agreement developed under (g) of this
9 section must be approved by the attorney general before the agreement is signed by
10 the commissioner. After approval by the attorney general under this subsection, the
11 commissioner and the proposer may sign the proposed final agreement.

12 (i) When the commissioner solicits public comment under (c) of this section,
13 and at all times thereafter, the proposed agreements are public records and are open
14 to public inspection and disclosure under AS 09.25.120. Prior to solicitation of public
15 comment under (c) of this section, proposed agreements submitted under this section
16 are confidential and are not open to public inspection or disclosure under
17 AS 09.25.120. When the commissioner selects a tentatively successful proposed
18 agreement under (c) of this section, all documents regarding that proposed agreement
19 and all other competing proposed agreements, as well as a subsequent final agreement
20 and all documents leading up to that agreement, are public records and are open for
21 inspection under AS 09.25.120.

22 (j) All right, title, and interest in or to timber or material in or on land covered
23 by a final forest management agreement remains with the state until the timber or
24 material has been cut or severed, determined as to volume, removed from the site, and
25 paid for in compliance with the agreement. Timber or material that is not removed
26 from land covered by a final forest management agreement within the period specified
27 by the agreement or by an extension of the agreement remains the property of the
28 state.

29 (k) An interest in a final forest management agreement may not be assigned
30 without the prior written consent of the commissioner. An assignment without the
31 prior written consent of the commissioner is void. The commissioner may not consent

1 under this subsection unless the assignment is of the entire interest in the final forest
2 management agreement. The commissioner shall consider all of the factors of this
3 section when making a determination concerning an assignment.

4 (l) Upon the completion of three-quarters of the total term of the agreement,
5 the commissioner shall review the operation and performance of the agreement and
6 determine whether it is in the best interest of the state to renew the agreement. If the
7 commissioner determines that it is in the best interest of the state, the commissioner
8 shall solicit and evaluate proposals, as provided in this section, for renewal of the
9 agreement, including a proposal from the current operator.

10 (m) The activities conducted under a final forest management agreement are
11 governed by AS 41.17 and regulations adopted under AS 41.17 applicable to
12 operations on state land.

13 (n) In this section,

14 (1) "agreement" means a forest management agreement;

15 (2) "proposer" means the person who submitted a proposed forest
16 management agreement under (b) of this section;

17 (3) "sustained yield" has the meaning given in AS 38.04.910.

18 * Sec. 4. AS 41.17.060(c) is amended to read:

19 (c) With respect to state and municipal forest land only, the following
20 standards also apply:

21 (1) forest land shall be administered for the multiple use of the
22 renewable and nonrenewable resources and for the sustained yield of the renewable
23 resources of the land in the manner that best provides for the present needs and
24 preserves the future options of the people of the state;

25 (2) a system of allocating predominant uses or values to particular units
26 within a contiguous area of land shall reflect in reasonable proportion the various
27 resources and values present in that area;

28 (3) to the extent its capacity permits, forest land shall be administered
29 so as to provide for the continuation and expansion of businesses, activities, and
30 lifestyles that are dependent upon or derived from forest resources;

31 (4) timber harvesting is limited to areas where data and information

1 demonstrate that natural or artificial reforestation techniques will result in the
2 production of a sustained yield of merchantable timber from that area;

3 (5) there may not be significant impairment of the productivity of the
4 land and water with respect to renewable resources;

5 (6) allowance shall be made for scenic quality in or adjacent to areas
6 of substantial importance to the tourism and recreation industry; and

7 (7) allowance shall be made for important fish and wildlife habitat.

8 * Sec. 5. AS 41.17.200 is amended to read:

9 Sec. 41.17.200. STATE FOREST PURPOSES. The purpose of AS 41.17.200
10 - 41.17.230 is to permit the establishment of designated state-owned or acquired land
11 and water areas as state forests. The primary purpose in the establishment of state
12 forests is the development of commercial forest land under the principles of
13 sustained yield and multiple use while perpetuating [PERPETUATION OF]
14 personal, commercial, and other beneficial uses of resources through multiple-use
15 management.

16 * Sec. 6. AS 41.17.200 is amended by adding a new subsection to read:

17 (b) In managing a state forest the commissioner shall

18 (1) allow for the fullest possible access to, and use of, the natural
19 resources, including timber, fish, game, and minerals; the allowance under this
20 paragraph shall take into account the interests of private landowners;

21 (2) maintain forest growth at a high level of productivity; and

22 (3) restrict the public use of the land and its resources only when
23 necessary to carry out the purposes of this chapter.