

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

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/27/94  
Referred: Finance

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

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 is amended to read:

5           Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may not  
6           [SELL OR] harvest timber, except for isolated sales of less than 50,000 board feet  
7           [PERSONAL USE TIMBER HARVEST], until a site-specific forest land use plan has  
8           been adopted. A forest land use plan is required whether or not a regional or area land  
9           use plan under AS 38.04.065(a) or a forest management plan under AS 41.17.230 has  
10           been adopted.

11           (b) The commissioner shall base a forest land use plan on the best available  
12           data, including information provided by other agencies [DESCRIBING THE  
13           IMMEDIATE AND LONG-TERM EFFECTS OF INDIVIDUAL AND COLLECTIVE  
14           FOREST ACTIVITIES ON THE TIMBER BASE AND ON OTHER RESOURCES

1 AND USES].

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

- 7 (1) commercial timber harvesting, including related activities;
- 8 (2) harvesting of forest products for personal use;
- 9 (3) fish and wildlife habitat, including
- 10 (A) identification and protection of important wildlife habitat;
- 11 (B) retention of riparian, wetland, and ocean-shoreline
- 12 vegetation critical for fish and wildlife habitat; and
- 13 (C) classification of water bodies according to physical
- 14 characteristics;
- 15 (4) uses of forest land for nontimber purposes, including
- 16 (A) recreation, tourism, and related activities;
- 17 (B) mining, mining claims, mineral leaseholds, and material
- 18 extraction;
- 19 (C) uses of fish and wildlife;
- 20 (D) agriculture, including grazing; and
- 21 (E) other resources and uses appropriate to the area, including
- 22 compatible traditional uses;
- 23 (5) soil characteristics and productivity;
- 24 (6) water quality; and
- 25 (7) watershed management.

26 (d) A management plan prepared by the commissioner under AS 41.17.230  
27 or AS 38.04.065 must consider and permit the uses described in (c) of this section.  
28 If the commissioner finds that a permitted use is incompatible with one or more other  
29 uses in a portion of a state forest, the commissioner shall, consistent with  
30 AS 41.17.200, affirmatively state in the management plan that finding of  
31 incompatibility for the specific area where the incompatibility is anticipated to exist

1 and the time period when the incompatibility is anticipated to exist together with the  
2 reasons for each finding. If the commissioner finds that the use described in (c)(1)  
3 of this section is incompatible, or otherwise restricts that use, the commissioner  
4 shall also document the finding with sound scientific or economic data that clearly  
5 proves the incompatibility and the benefits of the restriction.

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

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

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

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

21 (b) At least once each calendar year, the commissioner shall solicit proposals  
22 for forest management agreements on state forest land. The commissioner shall identify  
23 the forest land included in the solicitation of proposals. The land identified may  
24 include land covered by a cooperative resource management or development agreement  
25 under AS 38.05.027 subject to the approval of the owner of any land other than state  
26 land. The commissioner shall provide notice of the solicitation to all persons who  
27 have requested notification and may provide for any additional notice that the  
28 commissioner determines is appropriate. Regardless of whether the commissioner has  
29 solicited proposals under this subsection, a person may submit a proposal for a forest  
30 management agreement to the commissioner at any time for consideration. The  
31 commissioner may not consider unsolicited proposals for a parcel of land covered by

1 a solicited proposal until the commissioner has completed the review and determination  
2 required under this section concerning the solicited proposals.

3 (c) The commissioner shall solicit public comment for a proposed agreement  
4 unless the evaluation under (d) of this section indicates it is unlikely that the proposed  
5 agreement will be selected as a tentatively successful proposed agreement. The public  
6 comment period under this subsection may not be less than 30 days nor more than 60  
7 days.

8 (d) The commissioner shall evaluate proposed agreements submitted under (b)  
9 of this section. In evaluating a proposed agreement, the commissioner shall consider  
10 the

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

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

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

14 (C) fish and wildlife habitat, including

15 (i) identification and protection of important wildlife  
16 habitat;

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

19 (iii) classification of water bodies according to physical  
20 characteristics;

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

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

23 (ii) mining, mining claims, mineral leaseholds, and  
24 material extraction;

25 (iii) uses of fish and wildlife;

26 (iv) agriculture, including grazing; and

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

29 (E) soil characteristics and productivity;

30 (F) water quality; and

31 (G) watershed management;

- 1 (2) value of the area for the long-term production of timber;
- 2 (3) extent that local hire will be increased;
- 3 (4) intent of the proposer to process a value added product within the
- 4 state;
- 5 (5) experience of the proposer in the forest products industry;
- 6 (6) necessary public access for uses described in (1) of this subsection;
- 7 (7) financial feasibility of the proposal;
- 8 (8) technical and financial qualifications of the proposer;
- 9 (9) stumpage payments offered to be paid;
- 10 (10) economic benefits from the proposed agreement to the region in
- 11 which the land that is to be covered by the agreement is located;
- 12 (11) extent to which the proposed agreement provides for processing
- 13 in the state of the timber harvested, to the extent permitted by law;
- 14 (12) economic benefits to state forest land under the proposed
- 15 agreement;
- 16 (13) timber inventory; and
- 17 (14) other factors that the commissioner determines are relevant and
- 18 appropriate.

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

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

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

1 (f) The commissioner shall provide notice under AS 38.05.945(b) and (c) of  
2 a finding under (e) of this section and designation of a tentatively successful proposed  
3 agreement at least 90 days prior to entering into a final agreement. The commissioner  
4 shall solicit comments from the public and from state and local government agencies  
5 on a tentatively successful proposed agreement.

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

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

13 (2) must contain

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

16 (B) the stumpage prices for the timber;

17 (C) provisions requiring compensation from the proposer for  
18 scaling services required in order to account for timber sold;

19 (D) provisions requiring compensation for state services  
20 provided to administer the agreement;

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

24 (F) provisions requiring the processing of the timber in the state  
25 if that is the highest and best use of the timber as determined by the  
26 commissioner and if permitted by law;

27 (G) provisions regarding consideration for the sale of material  
28 obtained from state land for the construction of access roads on the land that  
29 is to be covered by the agreement;

30 (H) provisions requiring the proposer to be responsible for  
31 reforestation and silvicultural practices on land that is to be covered by the

1 agreement;

2 (I) a statement that activities under the agreement are governed  
3 by the provisions of AS 41.17 and regulations adopted under AS 41.17  
4 applicable to operations on state land;

5 (J) provisions requiring the submission and approval of biennial  
6 operational plans for activities authorized or required by the agreement;

7 (K) requirements for reports and submission of information to  
8 the department regarding performance under the agreement;

9 (L) procedures for enforcement and termination of the  
10 agreement;

11 (M) provisions for existing public access;

12 (N) an operational level forest inventory every five years; and

13 (O) provisions requiring the proposer to reforest, stabilize,  
14 monitor, and meet other residual obligations upon deactivation or termination;  
15 these provisions may include bonding.

16 (h) The form of the proposed final agreement developed under (g) of this  
17 section must be approved by the attorney general before the agreement is signed by  
18 the commissioner. If the forest management agreement covers nonstate land under an  
19 agreement authorized under AS 38.05.027, the owner of the land must approve the  
20 agreement. After approval by the attorney general under this subsection, the  
21 commissioner and the proposer may sign the proposed final agreement.

22 (i) When the commissioner solicits public comment under (c) of this section,  
23 and at all times thereafter, the proposed agreements are public records and are open  
24 to public inspection and disclosure under AS 09.25.120. Prior to solicitation of public  
25 comment under (c) of this section, proposed agreements submitted under this section  
26 are confidential and are not open to public inspection or disclosure under  
27 AS 09.25.120. When the commissioner designates a tentatively successful proposed  
28 agreement under (e) of this section, all documents regarding that proposed agreement  
29 and all other competing proposed agreements, as well as a subsequent final agreement  
30 and all documents leading up to that agreement, are public records and are open for  
31 inspection under AS 09.25.120.

1 (j) All right, title, and interest in or to timber or material in or on land covered  
2 by a final forest management agreement remains with the state until the timber or  
3 material has been cut or severed, determined as to volume, removed from the site, and  
4 paid for in compliance with the agreement. Timber or material that is not removed  
5 from land covered by a final forest management agreement within the period specified  
6 by the agreement or by an extension of the agreement remains the property of the  
7 state.

8 (k) An interest in a final forest management agreement may not be assigned  
9 without the prior written consent of the commissioner. An assignment without the  
10 prior written consent of the commissioner is void. The commissioner may not consent  
11 under this subsection unless the assignment is of the entire interest in the final forest  
12 management agreement. The commissioner shall consider all of the factors of this  
13 section when making a determination concerning an assignment.

14 (l) The commissioner shall strictly enforce the provisions of the final  
15 agreement. Upon the completion of three-quarters of the total term of the agreement,  
16 the commissioner shall review the operation and performance of the agreement and  
17 determine whether it is in the best interest of the state to renew the agreement. If the  
18 commissioner determines that it is in the best interest of the state, the commissioner  
19 shall solicit and evaluate proposals, as provided in this section, for renewal of the  
20 agreement, including a proposal from the current operator.

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

24 (n) In this section,

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

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

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

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

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

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

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

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

11 (4) timber harvesting is limited to areas where data and information  
12 demonstrate that natural or artificial reforestation techniques will result in the  
13 production of a sustained yield of merchantable timber from that area;

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

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

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

19 (8) to the fullest extent practicable, harvested forest land shall be  
20 reforested, naturally or artificially, so as to result in a sustained yield of  
21 merchantable timber from that land; if artificial planting is required,  
22 silviculturally acceptable seedlings must first be available for planting at an  
23 economically fair price

24 \* Sec. 5. AS 41.17.060 is amended by adding a new subsection to read:

25 (d) With respect to private forest land only, to the fullest extent practicable,  
26 harvested forest land shall be reforested, naturally or artificially. If artificial planting  
27 is required, silviculturally acceptable seedlings must first be available for planting at  
28 an economically fair price.

29 \* Sec. 6. AS 41.17.200 is amended to read:

30 Sec. 41.17.200. STATE FOREST PURPOSES. The purpose of AS 41.17.200  
31 - 41.17.230 is to permit the establishment of designated state-owned or acquired land

1 and water areas as state forests. The primary purpose in the establishment of state  
2 forests is the development of commercial forest land under the principles of  
3 sustained yield and multiple use while perpetuating [PERPETUATION OF]  
4 personal, commercial, and other beneficial uses of resources through multiple-use  
5 management.

6 \* Sec. 7. AS 41.17.200 is amended by adding a new subsection to read:

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

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

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

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

14 \* Sec. 8. SEVERABILITY. Under AS 01.10.030, if AS 38.05.122(d)(11) or (g)(2)(F), or  
15 the application of those provisions to any person or circumstance, is held invalid, the  
16 remainder of this Act and its application to other persons or circumstances shall not be  
17 affected.

18 \* Sec. 9. AS 41.17.060(b)(4) is repealed.