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Alaska Statutes

Title 38. Public Lands.

Chapter

05. Alaska Land Act (§§ 38.05.005 — 38.05.370)
06. Alaska Royalty Oil and Gas Development Advisory Board (§§ 38.06.010 — 38.06.080)
07. Clearing and Draining of Agricultural Land (§§ 38.07.010 — 38.07.060)
08. Homesites (§§ 38.08.010 — 38.08.120)
10. Transfer of Tide and Submerged Lands (§§ 38.10.010 — 38.10.050)
12. Preservation of Sites of Historical or Scientific Interest (Repealed)
15. Miscellaneous Provisions (Transferred)
20. The Alaska Coordinate System (§§ 38.20.010 — 38.20.110)
25. Historical Sites and Monuments (Repealed)
30. Alaska Native Claims State Settlement Act of 1968 (Repealed)
35. Right-of-Way Leasing Act (§§ 38.35.010 — 38.35.260)
40. Local Hire Under State Leases (§§ 38.40.010 — 38.40.090)
50. Exchange of State Land (§§ 38.50.010 — 38.50.170)
95. Miscellaneous Provisions (§§ 38.95.010 — 38.95.140)

Chapter 05. Alaska Land Act.

Article

1. Administration (§§ 38.05.005 — 38.05.040)
2. Sale of Lands (§§ 38.05.045 — 38.05.069)
3. Leasing of Lands Other than for the Extraction of Natural Resources (§§ 38.05.070 — 38.05.107)
4. Disposal of Timber and Materials (§§ 38.05.110 — 38.05.120)
5. Reservation of Rights to Alaska (§§ 38.05.125 — 38.05.130)
6. Leasing of Mineral Lands (§§ 38.05.135 — 38.05.184)
7. Mining Rights (§§ 38.05.185 — 38.05.280)
8. Multiple Mineral Development of the Same Tracts (§ 38.05.285)
9. Land Selection (§ 38.05.290)
10. Parks and Recreation Areas (§ 38.05.295)
11. Miscellaneous Provisions (§§ 38.05.300 — 38.05.349)
12. General Provisions (§§ 38.05.350 — 38.05.370)

Chapter enacted pursuant to Alaska State, Sup. Ct. Op. No. 1284 (File Nos. 2551, Const., art. VIII, § 10. — See Moore v. 25871, 563 P.2d 8 (1976).

Alaska MUNICIPAL League

TELEPHONES
907) 586-1323
586-8526

204 N FRANKLIN ST.
JUNEAU, ALASKA 99801

May 14, 1981

to: House Community & Regional Affairs Committee

from: Ginny Chitwood *G.C.*

re: HB 551 - Loans for Municipal Land Disposal Programs

Alaska Municipal League supports the concept of a land disposal loan program as established in HB 551.

Even without a state loan and/or grants program, municipalities are planning residential disposals of large portions of their entitlements. With the loan program, however, they will be able to accomplish the disposals at an accelerated rate, without the necessity of all local tax payers subsidizing a disposal program that will benefit a limited number of people, many of whom may live outside the municipality at the time they purchase a parcel of subdivided municipal entitlement.

We concur with the technical changes suggested by Lee Sharp in his 5/13/81 letter.



ombudsman

Frank Flavin

State of Alaska

May 14, 1981

TO: Rep. Mike Miller, Chairman
and Members
House State Affairs Committee

FROM: Frank Flavin *FF*

SUBJECT: HB 546 -- PROFESSIONAL SERVICES CONTRACTS

- Reply to:
- 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 270-4011
 - Pouch W0
Juneau, Alaska 99811
(907) 465-4970
 - P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

On March 27, 1981, I issued Special Report 81-3, Proper Use of Professional Services Contracts, which explained problems with the current system in the Executive Branch and recommended possible solutions for legislative consideration. HB 546, by the State Affairs Committee by request, resulted from this Special Report.

Following a preliminary hearing by your committee on the bill, the administration prepared a proposed committee substitute. We have used this proposed CS as a mark-up bill to integrate its language with some sections in the original HB 546. The proposed CS mirrors HB 156, the legislative contracting bill which recently passed the House, with some notable exceptions.

Below are our suggested changes to the proposed committee substitute and attached is our proposed committee substitute which incorporates these changes.

Proposed Changes to Proposed CS HB 546 (Administration)

- page 1 title change
- line 10 change in chapter title
- line 12 insert "professional"
- line 16 add language in HB 156 re written justification
- line 18 add language in HB 156 re less than \$5,000
- line 20 insert sections from HB 546 re contractors register and solicitation of services
- line 20 renumber
- line 22 delete "solicitation" and insert "request for proposals"
- line 24 delete "Solicitations to" and insert "Proposals from"

- line 25 delete "extended" and insert "solicited"
- line 26 delete "Solicitations to" and insert "Proposals from"
- line 27 delete "extended" and insert "solicited"
- line 27 - 31 delete language beginning with "Formal advertising . . ."

- page 2
 - line 1 renumber and delete "solicitation of services" and insert "request for proposals"
 - line 5 delete "solicitation for services" and insert "request for proposals"
 - line 7 delete "of administration"
 - line 8 delete "of administration"
 - line 13 delete "of administration"
 - line 17 delete "or by a municipality"
 - line 18 delete "solicitation" and insert "request for proposals"
 - line 20 delete "solicitation" and insert "request for proposals"
 - line 23 delete "of administration"

- page 3
 - line 5 insert sections from HB 546 re monitoring and evaluation of contracts
 - line 8 delete "request for services" and insert "request for proposals"
 - line 9 delete "requests for services" and insert "a request for proposals"
 - line 10 delete section and replace with section from HB 546 re APA regulations
 - insert section from HB 546 to include definitions
 - insert section from HB 546 to include penalty
 - insert section from HB 546 to include effective date



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT 586-3300

May 19, 1981

Representative Ben Grussendorf
Chairman
House Community and Regional
Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

File: Legislature - 1981 - HB 551

Subject: Proposed Substitute for Subsection (c)

Dear Chairman Grussendorf:

Attached is a proposed substitute for subsection (c) of HB 551. I believe this language deals with the concerns expressed both during and after the hearing on the bill.

Between this language and the new language which I have previously suggested for subparagraph (d) I believe the bill will provide for a loan system which will give the municipalities the ability to propose loan terms which can be tailored to meet their individual disposal programs while at the same time it will give DNR the authority to approve only those applications which are for viable subdivisions and for which there is a realistic prospect for repayment of the loan. In addition, DNR will be authorized, but not required, to implement a loan forgiveness program to the extent municipalities grant discount for state residency. Such a system would encourage municipalities to give residency discounts similar to those granted by the state. However, DNR could not forgive loan amounts in excess of discounts which the state would have given had the sale been made by the state.

The proposed language incorporates comments which David Rogers kindly provided to me; however, at this writing, the proposed language had not been submitted to anyone else in DNR for comment.

Sincerely,

Gerald L. Sharp
City-Borough Attorney

GLS: jr
Enclosure

cc: David Rogers



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

LAW DEPARTMENT - 586-3300

May 13, 1981

House Community and Regional
Affairs Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

File: Legislature - 1981 - HB 551

Subject: Support for House Bill 551

Gentlemen:

The Assembly of the City and Borough of Juneau supports a system of loans and grants to assist municipalities in subdividing land to be made available for sale to the public. The assembly, therefore, supports the loan program which would be established under House Bill 551.

We do suggest that you consider two changes to the bill. First, subsection (b) which begins at line 1 on page 2, provides for loans for improvements in subdivisions. As the bill is drafted, the subdivision plat would have to be recorded before the loan application could be made. This requirement will create problems for municipalities which require certain improvements for all new subdivisions. The mechanism for insuring that the required improvements are made is to withhold final approval of the plat until either the improvements have been constructed or a bond or other guarant^e has been posted which ensures the construction of the improvements. In Juneau, for example, a private developer obtains approval of his preliminary plat. This establishes the size and arrangement of lots, streets and other features of the subdivision. The subdivider may not receive approval of the final plat until the lots have been surveyed, appropriate survey monuments established, and the required subdivision improvements installed. Only then may the Platting Board sign the plat which may then be recorded. Thus, under the bill, it would appear that we would be caught in a "Catch-22." We cannot record the plat until the improvements have been installed and we cannot get the loan for the improvements until the plat has been recorded. This problem can be overcome if line 9 on page 2 is changed to read:

"(1) a copy of the approved preliminary plat of the land to be".

There is a slight inconsistency between the purposes for which the loan may be obtained as set forth beginning in line 4 on page 2 and

the promise which the municipality must make which is set forth in lines 13 through 15 on page 2. The loan application may be made for access roads yet the municipality must promise to use the proceeds of the loan "exclusively for installing improvements on a subdivision of land." Many communities use the term "access road" to refer to a road which is necessary to get to the subdivision rather than the roads which are used to get around within the subdivision. The latter types of roads are often referred to as subdivision roads as opposed to access roads. The promise of the municipality under lines 13 through 15 is that it will use proceeds of the loan solely for subdivision roads and not for roads outside the subdivision. If it is the intent of the committee that loan proceeds may also be used to finance construction of access roads to subdivisions then I suggest the following changes. In line 4, on page 2, after the word "access" insert the phrase "and subdivision" and in line 14 on page 2, after the word "installing" add the phrase "access roads to and".

The pledge of security for the loan should be given careful thought. The Alaska Constitution prohibits a municipality from incurring debt unless authorized for capital improvements by its governing body and ratified by a majority of those voting on the question of the debt. An exception to this prohibition appears in Article IX, Section 11 which provides that a municipality may contract for debt through the issuance of revenue bonds by a public enterprise or a public corporation "when the only security is the revenues of the enterprise...." This is the exception used by municipal utilities when they issue revenue bonds. I presume that the intent expressed in the bill is that loans made for subdivisions would be revenue type bonds rather than general obligation bonds. Note that the exception to the requirement for a vote applies when the only security for the loan is the revenues of the enterprise. Under the bill, the security is an encumbrance upon the property. Thus, it would appear that the loan would not qualify under the constitutional exception and would have to be ratified by the voters. However, if it is not the intent of the bill that the general revenues of the municipality be liable for the repayment of the loan, then there should be no reason for a vote on the issue. Therefore, I would suggest that subsection (d) beginning at line 22 on page 2 be deleted and that it be replaced with language of the following nature:

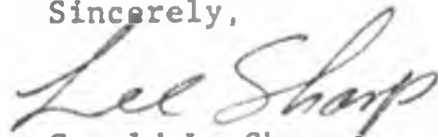
(d) The department may approve a loan under (a) or (b) upon a showing that the probable revenues from the sale of the subdivision lots will be sufficient to retire the loan under the proposed terms and conditions of the loan. The only security for the loan shall be the revenues derived from the sale of the subdivision lots.

Municipalities are all eager to dispose of lands which they will be receiving as a part of their municipal entitlement. These lands will have to be subdivided in accordance with the municipality's own platting

May 13, 1981

ordinances. Many of these require improvements as a condition of plat approval. Such improvements represent a substantial investment. The mere fact that it is difficult for the municipality to raise funds for such improvements is no excuse for a municipality to waive its own subdivision requirements for itself while requiring all other subdividers to meet the requirements. Requirements for subdivision improvements are generally adopted only after a municipality has suffered through a series of problems which are the result of subdivisions which are established without improvements. In order to make its own land available without creating further problems for itself, municipalities require assistance in financing necessary subdivision improvements. State assistance in this area is probably the only assistance available. Without it, municipalities will have a difficult time making available enough of its land to meet the needs of its citizens for land. We urge you to pass out HB 551 with the changes suggested above; we also urge you to insure that funding is provided for the loan program.

Sincerely,



Gerald L. Sharp
City-Borough Attorney

GLS:jr

cc: Jim Wakefield, Chairman
Assembly Legislative Committee

Ginny Chitwood, Executive Director
AML

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 551
 Title An Act relating to planning & improvement loans
 Requested by House C&RA Date 5-14-81

II. FISCAL DETAIL

Agency Affected Natural Resources
 Program Category Affected NRMEC
 BRU, Program, or Subprogram(s) Affected Land Management
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

| | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|--------------------------|-------|------------------|------------------|-------------|-------|-------|
| 100 PERSONAL SERVICES | | 118.9 | 118.9 | | | |
| 200 TRAVEL | | 10.0 | 10.0 | | | |
| 300 CONTRACTUAL | | 5.0 | 5.0 | | | |
| 400 COMMODITIES | | .6 | .6 | | | |
| 500 EQUIPMENT | | 12.0 | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC. | | 100,000.0 | 100,000.0 | | | |
| TOTAL | | 100,146.5 | 100,132.5 | same | | |

FUNDING (Thousands of Dollars)

| | | | | | |
|-----------------------------|-----------|-----------|--|--|--|
| GENERAL FUND | 100,146.5 | 100,132.5 | | | |
| FEDERAL FUNDS | | | | | |
| OTHER (Specify Fund Source) | | | | | |

POSITIONS

| | | | | | |
|-----------|--|---|---|--|--|
| FULL TIME | | 4 | 4 | | |
| PART TIME | | | | | |
| TEMPORARY | | | | | |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

1. Demand assessment will be done as part of SB 531 or HB 31 requirement - no additional fiscal impact.
2. One LMO III in each district is required to process loan applications and prepare background information for commissioner and/or legislative approval.
3. One Acctg Tech II will be required to maintain loan files, send bills, and transmit receipts.
4. Loan requirements are estimated at \$100,000,000 for first two years.

IV. DATE 5/14/81 PREPARED BY Thad Sh...
 AGENCY _____
 PHONE _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Original sponsors: Grussendorf, Duncan
and Gardiner

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 551 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 BILL

6 For an Act entitled: "An Act relating to planning and improvement loans for
7 municipalities to implement land disposal programs;
8 and providing for an effective date."

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

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

11 Sec. 38.05.048. FINANCIAL ASSISTANCE FOR DISPOSAL OF MUNICIPAL
12 LAND. (a) A home rule, general law, or unified municipality may apply
13 to the department for a loan to plan a program to dispose of municipal
14 land to the public. The loan application may include amounts to finance
15 the expenses of identifying and classifying land for disposal, survey-
16 ing land for subdivisions, designing subdivision plats, planning
17 improvements, and platting and recording a subdivision of land to be
18 disposed of to the public. An application for a loan must be accom-
19 panied by a plan for disposal of municipal land including

20 (1) an estimate of the amount of land to be disposed of;

21 (2) an estimate of the period of time during which the land
22 will be disposed of;

23 (3) a general description of the land to be studied for
24 possible subdivision and disposal or a copy of a proposed subdivision
25 plat of land to be disposed of;

26 (4) a resolution by the governing body of the municipality
27 that the purpose of the proposed subdivision is to make land available
28 to the public and that the loan will be applied exclusively to the
29 costs of subdividing land for disposal to the public.

1 (b) A home rule, general law, or unified municipality may apply
2 to the department for a loan to install improvements on a subdivision of
3 land to be disposed of to the public. The loan application may include
4 amounts to finance the installation of access roads, subdivision roads,
5 street paving, sewer and water, and other improvements that are required
6 by subdivision ordinances of the municipality or by regulation of the
7 municipal platting board adopted under AS 29.33.150. An application
8 for a loan must include

9 (1) a copy of the preliminary subdivision plat of the land
10 to be disposed of to the public which has been approved by the governing
11 body of the municipality;

12 (2) an estimate of the costs of improvements for the sub-
13 division;

14 (3) a resolution by the governing body of the municipality
15 that the loan will be used exclusively for installing improvements in
16 accordance with this subsection on a subdivision of land to be disposed
17 of to the public and that the proceeds of the sale of lots in the
18 subdivision will be used to repay the loan.

19 (c) Repayment of a loan made under (a) or (b) of this section
20 must begin after disposal of the land or three years after receipt of
21 the loan, whichever is earlier. A loan must be repaid over a period of
22 not more than 20 years with interest not to exceed six percent.

23 (d) A loan made under (a) or (b) of this section becomes an
24 encumbrance on all lots in a subdivision developed with money from the
25 loan which has priority over all other encumbrances. The total sales
26 price of all lots in the subdivision may not be less than 105 percent
27 of the balance of the loan unpaid at the time the first lot is sold,
28 and proceeds of sale of each lot shall be used to repay the loan until
29 the entire balance including interest is repaid. The encumbrance on an

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individual lot in the subdivision shall be released when payment for the lot is received by the department.

(e) An amendment to the plat of a subdivision which has been developed with money from a loan made under (a) or (b) of this section shall be subject to approval by the department until the loan is entirely repaid.

(f) The department may adopt regulations under the Administrative Procedure Act (AS 44.62) necessary to administer the loan programs established by (a) and (b) of this section.

* Sec. 2. This Act takes effect July 1, 1981.

Introduced: 5/4/81
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE

BY GRUSSENDORF, DUNCAN AND
GARDINER

2 HOUSE BILL NO. 551

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to planning and improvement loans for
7 municipalities to implement land disposal programs;
8 and providing for an effective date."

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

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

11 Sec. 38.05.048. FINANCIAL ASSISTANCE FOR DISPOSAL OF MUNICIPAL
12 LAND. (a) A home rule, general law, or unified municipality may apply
13 to the department for a loan to plan a program to dispose of municipal
14 land to the public. The loan application may include amounts to finance
15 the expenses of identifying and classifying land for disposal, survey-
16 ing land for subdivisions, designing subdivision plats, planning
17 improvements, and platting and recording a subdivision of land to be
18 disposed of to the public. An application for a loan must be accom-
19 panied by a plan for disposal of municipal land including

20 (1) an estimate of the amount of land to be disposed of;

21 (2) an estimate of the period of time during which the land
22 will be disposed of;

23 (3) a general description of the land to be studied for
24 possible subdivision and disposal or a copy of a proposed subdivision
25 plat of land to be disposed of;

26 (4) a resolution by the governing body of the municipality
27 that the purpose of the proposed subdivision is to make land available
28 to the public and that the loan will be applied exclusively to the
29 costs of subdividing land for disposal to the public.

1 (b) A home rule, general law, or unified municipality may apply
2 to the department for a loan to install improvements on a subdivision of
3 land to be disposed of to the public. The loan application may include
4 amounts to finance the installation of access roads, street paving,
5 sewer and water, and other improvements which are required by sub-
6 division ordinances of the municipality or by regulation of the
7 municipal platting board adopted under AS 29.33.150. An application
8 for a loan must include

9 (1) a copy of the recorded subdivision plat of land to be
10 disposed of to the public;

11 (2) an estimate of the costs of improvements for the sub-
12 division;

13 (3) a resolution by the governing body of the municipality
14 that the loan will be used exclusively for installing improvements on a
15 subdivision of land to be disposed of to the public and that the
16 proceeds of the sale of lots in the subdivision will be used to repay
17 the loan.

18 (c) Repayment of a loan made under (a) or (b) of this section
19 must begin after disposal of the land or three years after receipt of
20 the loan, whichever is earlier. A loan must be repaid over a period of
21 not more than 20 years with interest not to exceed six percent.

22 (d) A loan made under (a) or (b) of this section becomes an
23 encumbrance on all lots in a subdivision developed with money from the
24 loan which has priority over all other encumbrances. The total sales
25 price of all lots in the subdivision may not be less than 105 percent
26 of the balance of the loan unpaid at the time the first lot is sold,
27 and proceeds of sale of each lot shall be used to repay the loan until
28 the entire balance including interest is repaid. The encumbrance on an
29 individual lot in the subdivision shall be released when payment for

*as per
105%
utility*

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the lot is received by the department.

(e) An amendment to the plat of a subdivision which has been developed with money from a loan made under (a) or (b) of this section shall be subject to approval by the department until the loan is entirely repaid.

(f) The department may adopt regulations under the Administrative Procedure Act (AS 44.62) necessary to administer the loan programs established by (a) and (b) of this section.

* Sec. 2. This Act takes effect July 1, 1981.

MUNICIPAL LAND DISPOSAL PROGRAM

HB 551

The Municipal Land Disposal Program allows for two separate loans; an initial loan for identification, surveying, platting designing and recording of land available for disposal for public use and, a second loan for actual construction of improvements to the subdivided land. Either loan may be applied for and is not contingent upon the other.

Included with each application by the municipality to the Department of Natural Resources must be a Resolution passed by the governing body explaining the use of the requested funds and the municipality's intent as to the preparation necessary for land distribution to the public. The Resolution process is to reassure notification to the public as to the distribution of municipally owned land, and confirm the intent of distribution on the part of the governing body.

The Department of Natural Resources may adopt necessary regulations to administer the programs. However, under HB 551, the following guarantees are set out as guidelines:

1. Loans are encumbrances on developed lots and have priority over all other encumbrances.
2. Repayment begins after disposal of land or three years after receipt of loan(whichever is earlier).
3. Maximum 20 year loan at 6%.
4. Total sales price of all lots in subdivision may not be less than 105% of the unpaid balance at the time of the first lot sale.
5. Proceeds of individual lots must be used to repay the full balance of the loan including interest fees.
6. Encumbrances shall be released on individual lots when payment is received by the Department of Natural Resources.
7. Amendments to plats of subdivisions are subject to approval by the Department of Natural Resources until the entire loan is repaid.