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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *HB 542*
BILL NAME: *Relating to leasing land for refuse disposal*
SPONSOR(S): *Shultz* RELATED BILLS PENDING:
DATE INTRODUCED: *1/27/84*
REFERRALS: *Resources*
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED: SUMMARY BY LEGAL DIVISION:
SPONSOR CONTACTED FOR DEPT. OF LAW SUMMARY:
BACKUP MATERIALS: FISCAL NOTE:
AGENCY RESPONSE: OTHER INTERESTED SENATORS OR REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:
RESPONSES FROM INTERESTED PERSONS/GROUPS:
OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED: DATE AND PLACE SET:
STAFF MEMO TO COMMITTEE: TELECONFERENCE:
BACKGROUND MATERIAL DISTRIBUTED: PSA/PRESS RELEASE:
LIST OF WITNESSES: SUGGESTED AMENDMENTS/COMMITTEE SUBSTITUTES DRAFTED:

DNR - need met in there to testify
Rep Shultz -
John Goddard, AA to Shultz - one or the other will be there to testify.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



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STATE CAPITAL
JUNEAU, ALASKA 99811
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Senate

Committee on Resources

M E M O R A N D U M

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 2, 1984

DATE: March 29, 1984

On Monday, April 2nd, at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

HB 542, An Act relating to leasing land for refuse disposal.

Current statute (AS 38.05.315) allows the Department of Natural Resources to lease land for less than its appraised value to a municipality, a federal agency, an electric or telephone co-op, or a registered non-profit entity. HB 542 would amend this provision to include leases to public utilities in unorganized communities for refuse disposal sites.

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

CSHB 576 (Res) would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier has an extremely limited land base to enable future community growth. All lands in the City core area have been developed or are in the hands of the Alaska Railroad, the U.S. Army, or the State. Whittier received no entitlement from the State under AS 29.18.190, which allowed municipalities to select 10% of all vacant and unappropriated State land within their boundaries, as when this law was enacted there were no State lands within Whittier's boundaries.

An amendment (attached) will be proposed to clarify that Chugach Natives, Inc. is eligible for 100 acres in the Shotgun Cove area per their 1982 Settlement Agreement.

ANALYSIS OF HB 542

1. Section 1---AS 38.05.315 is amended to allow the State of Alaska to lease land not located within the boundary of a municipality to a licensed public utility authorized to collect and dispose of garbage or trash at less than its appraised value.
2. Provides for the Commissioner to determine the annual rental after considering the purpose for which the land will be used.
3. Provides that a licensed public utility may not construct permanent improvements on land leased for refuse unless improvements are directly related to the purpose of the lease.

RURAL COMMUNITIES IN UNORGANIZED BOROUGH OR COMMUNITIES WITHOUT CENTRAL GOVERNMENT HAVE BEEN AT A DISADVANTAGE IN OBTAINING PROPERTY FOR REFUSE DISPOSAL. UNDER PRESENT STATUTES, THE COST OF STATE LAND FOR THIS PURPOSE IS PROHIBITIVE AND UNIVERSITY OF ALASKA IS ADAMANT ABOUT NOT LEASING^{their} LAND FOR ANYMORE REFUSE PURPOSES. THE STATE OF ALASKA CAN DEED LAND TO CO-OPS FOR ELECTRICAL SERVICE OR TRANSMISSION LINES--TO MUNICIPALITIES AND TO NON PROFIT ENTITIES BUT AN UNORGANIZED BOROUGH PAYS FULL PRICE FOR ITS LAND REGARDLESS OF ITS EVENTUAL USE. NON PROFIT ENTITIES ARE RELUCTANT TO SUBLEASE AN LAND THEY MAY HAVE FOR THIS PURPOSE BECAUSE OF THE REDTAPE AND PAPER WORK DEMANDED BY IRS AND THE RESPONSIBILITY OF SUPERVISING THE USE OF THE LAND IN ORDER TO COMPLY WITH DEC REGULATIONS. THEY DO NOT WANT TO BE IN THE BUSINESS OF GARBAGE COLLECTION THEMSELVES BECAUSE THEY ARE NOT EQUIPPED NOR DO THEY HAVE THE EXPERTISE OF MAINTAINING A DUMP AREA OR OF COLLECTION.

THIS BILL SOLVES THIS PROBLEM IN THAT IT CHANGES THE STATUTE TO ALLOW LICENSED PUBLIC UTILITIES TO PURCHASE STATE LAND DESIGNATED FOR REFUSE DISPOSAL BY DEPT. OF NATURAL RESOURCES FOR LESS THAN THE APPRAISED VALUE.

THIS BILL IS IN NO WAY MEANT TO PROVIDE A SUBSIDY FOR AN UNORGANIZED BOROUGH TO CONTINUE INDEFINITELY TO MAINTAIN ITS PRESENT POSITION.

MOST COMMUNITIES ARE NOW SUPPORTING A LICENSED PUBLIC UTILITY (LICENSED GARBAGE COLLECTOR--IF YOU WILL). FOR A UTILITY TO CONTINUE TO PROVIDE A NEEDED SERVICE AND MAINTAIN A DUMP REQUIRES CAPITAL. IF A UTILITY IS REQUIRED TO LEASE LAND AT THE APPRAISED VALUE THEN THEY CANNOT AMORTIZE THIS LEASE THRU CHARGES TO THEIR CUSTOMERS BUT IF THE LAND WERE LEASED TO A UTILITY AT LESS THAN THE APPRAISED VALUE THE UTILITY WOULD BE ABLE TO GIVE SERVICE TO CUSTOMERS, MAINTAIN THE DUMP ACCORDING TO DEC REGULATIONS AND AMORTIZE THE LEASE THRU REASONABLE CHARGES TO CUSTOMERS.

THIS BILL IS ALSO SUPPORTED BY THE DEPARTMENT OF NATURAL RESOURCES AND WHEN PASSED WILL ASSIST MANY RURAL AREAS IN OBTAINING A GARBAGE DUMP AND ALSO PROTECTING OUR ENVIRONMENT.

Sec. 38.05.315. Public and charitable use. (a) The lease, sale, or other disposal of state land or resources may be made to ~~any person or corporation, partnership, or subdivision~~, or the lease, sale, or disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for ~~less than the appraised value~~ as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

(b) Notwithstanding AS 38.05.070 — 38.05.080 and 38.05.095, the director, upon application filed by an applicant eligible under (b) — (d) of this section, may, by negotiation and without public auction in the manner prescribed in (b) — (d) of this section, lease state land for a ~~term of not more than 55 years~~. Before leasing, the director shall prepare a ~~lease use plan and land classification~~ to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b) — (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner ~~may establish limitations on the acreage~~ which may be leased under (b) — (d) of this section to an applicant.

(c) Eligible applicants under (b) — (d) of this section are limited to ~~nonprofit~~ corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development. No lease of land may be granted under this section for a project closed to the use and enjoyment of the general public. In every case the applicant shall submit evidence that it is exempt from payment of federal income tax. As a condition of and in consideration of the rights acquired under a lease granted under (b) — (d) of this section, each eligible organization and its parent or subsidiary organizations shall (1) maintain and preserve books, accounts, and records that the director prescribes by regulation as necessary and appropriate; and (2) accord at all reasonable times to the state and its authorized agents and auditors the right of access to those books, accounts and records for the purpose of inspecting, examining and copying them. Any information provided the state in the course of an audit becomes a matter of public record.

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for

which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on lands acquired primarily for development, or less than five percent of the fair market value on university or acquired lands. Rent may not be charged for state land leased for a youth encampment. For the purposes of this subsection, "youth encampment" shall be defined by the commissioner by regulation. Renewal leases may be issued at the discretion of the director upon the expiration of a primary or renewal term. Each lease shall contain a provision for its termination as to all or part of the lands upon a finding by the director that the land or a part of it has not been used by the lessee for the purpose specified in the lease for a period of two years. No lease may be assigned or subleased except with the consent of the director, and in any case may only be transferred to an applicant eligible under (b) — (d) of this section. A lessee may not change the use specified in the lease to another or additional use except with the consent of the director. If, at any time after the land is leased, the lessee attempts to assign the lease or transfer control over the land to another, or if the land is devoted to a use other than that for which the land was leased without the consent of the director, the lease automatically terminates.

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license.

(f) The commissioner shall lease ~~state land for telephone or electric transmission and distribution lines for less than the appraised value of the land if the lessee is a nonprofit cooperative association organized under AS 10.25.010 — 10.25.650. Before he determines the annual rental, the commissioner shall consider the nature of the public service rendered by the nonprofit cooperative association and the terms of the grant under which the land was acquired by the state.~~ A nonprofit cooperative association may not construct improvements other than transmission or distribution lines and substations on land leased under this subsection. (§ 4 art III ch 169 SLA 1959; am § 1 ch 155 SLA 1960; am § 1 ch 137 SLA 1962; am § 1 ch 36 SLA 1976; am § 12 ch 257 SLA 1976; am § 1 ch 76 SLA 1980; am §§ 34, 35 ch 113 SLA 1981)

Effect of amendments. — The 1980 amendment added subsection (f).

The 1981 amendment added "and" preceding "38.05.095" and deleted "and AS 38.05.100" preceding "the director" in the first sentence of subsection (b). In subsection (d), the amendment substituted "the"

for "but in no case may the" preceding "rental," added "may not" preceding "be less than one," deleted "school" preceding "university" and deleted "mental health" preceding "or acquired lands" in the second sentence and added the present third and fourth sentences.



Official Business

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

BACKGROUND of HB 542

Rural communities in unorganized boroughs or any community without a central government have been handicapped in obtaining property to be used as a land refuse. This has been due to the inability of the Department of Natural Resources to allow lease of the land for less than the appraised value to any one other than a municipality, a Co-op or a registered non-profit entity. Non-profit entities are discouraged from participating in this lease program due to the amount of paper work involved and the University of Alaska is becoming adamant about not leasing any more of their land for refuse disposal.

Co-ops can not use their leased land for garbage disposal.

THIS BILL will permit DNR to lease State owned land at less than the appraised value to licensed public utilities who are authorized to collect and dispose of garbage and refuse in their area. The public utilities --under this bill--will be able to make a minimal charge to their customers to amortize their release rather than a prohibitive one.

This bill will benefit all residents of an unorganized community and solve a very difficult and impossible situation with regard to obtaining land for garbage disposal.

When this bill is enacted, it is predicted the air pollution problem will be improved in many parts of Alaska.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-485-2400

OFFICE OF THE COMMISSIONER

April 3, 1984

The Honorable Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy:

I am writing in response to questions that you raised at the April 2 Senate Resources Committee hearing on HB 542, Leasing of Refuse Sites.

Your question was whether the bill needed amendment to allow sub-fair-market-value leasing of state land for refuse sites to other than licensed public utilities. Your concern was that second-class cities and communities might be excluded from cost saving.

The authority already exists, in AS 38.05.315(a), to lease state land at reduced rates to "a state or federal agency or political subdivision," which would include second-class cities and, according to the Department of Community and Regional Affairs, tribal governments (IRA's), which are considered federal political subdivisions. In AS 38.05.315(c) there is further authority to lease lands at reduced rates to "nonprofit corporations, associations, clubs, or societies operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare."

These existing authorities, in combination with the proposed legislation before you, permit the Department to lease land at reduced rates for refuse disposal at any community in the state, but only to political subdivisions, nonprofit entities, and licensed utilities. In unchartered communities, one of the latter two would have to exist for the Department to provide lands, unless a willing state agency were designated and funded to take care of solid waste management.

Thank you for your interest in the bill. Please contact me if you need any further information.

Sincerely,

Bob Arnold

E Esther C. Wunnicke
Commissioner

cc: Representative Dick Schultz
Senator Bettye Fahrenkamp
Tom Hawkins, Director,
Division of Land and Water Management

APR 6 1984

Alaska State Legislature

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Senate

Committee on Resources

MINUTES

April 2, 1984
3:07 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Paul Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

HB 542, An Act relating to leasing land for refuse disposal.

CSHB 576(Res)

Representative Bette Cato, sponsor of the bill, explained that this bill would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier received no entitlement under AS 29.18.190, and desperately needs land for settlement.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, spoke in support of the bill.

Senator Sturgulewski recommended changing the words "critical public purposes" to "community development and expansion", and including language in the letter of intent to clarify that land needed for the Shotgun Cove Road right-of-way would be excluded from those lands granted to the City of Whittier.

Margo Knuth, Department of Law, explained that the Constitutional prohibition against local and special legislation did not apply to this bill because of Whittier's unique situation.

Reed Stoops, Chugach Natives, Inc., spoke in support of the bill as it allows for cooperative future development of Shotgun Cove by the City of Whittier and Chugach Natives, Inc.

HB 542

Representative Dick Shultz, sponsor of the bill, explained that this bill would allow licensed public utilities in unorganized communities to lease land from the Department of Natural Resources at less than its appraised value for refuse disposal sites.

Ned Farquhar testified in support of the bill.

Senator Mulcahy moved HB 542 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:45 pm.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 542
Title: An Act ...leasing Land for
Reuse disposal.
Sponsor: Rep. Schnitz
Requestor: House Resources
Date of Request: 2/29/84

FISCAL DETAIL

Agency Affected: DNR
Program Category Affected: NRMEC
BRU, Program or Subprogram(s) Affected:
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No Fiscal Impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar *NF* Phone: 465-2400
Division: Commissioners' Office Date: 2/29/84

MH Approved by Commissioner: *Wm D Arnold, Design* Date: _____
Agency: Natural Resources 2/29/84

Distribution (by Agency preparing fiscal note):

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12/1/83