

HB

42

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HC+RA 4-8-85 3:00 P.M.
3-1-85 3:00 P.M.

Introduced: 1/14/85
Referred: Community & Regional Affairs
and Resources

1 IN THE HOUSE

BY SHULTZ AND GRUSSENDORF

2

HOUSE BILL NO. 42

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the disposal of state land within
7 a community; and providing for an effective date."

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

9 * Section 1. AS 38.95 is amended by adding a new section to read:

10 ARTICLE 1A. DISPOSAL OF STATE LAND WITHIN A COMMUNITY.

11 Sec. 38.95.020. DISPOSAL OF STATE LAND WITHIN A COMMUNITY. The

12 Department of Natural Resources may not offer to dispose of state land
13 within a community except ^{with the approval} ~~on the nomination~~ of the land by the commun-
14 ity. This section applies to each disposal of state land within a
15 community, whether or not the disposal is for the use of the community
16 but does not apply to transfers from the Department of Natural Re-
17 sources to another agency of the state for the execution of a state
18 program.

19 * Sec. 2. This Act takes effect July 1, 1985.

PROPOSED AMENDMENT TO HB 42

Offered by: SEALASKA CORPORATION

Sec. 38.95.020. DISPOSAL OF STATE LAND WITHIN A COMMUNITY.

The Department of Natural Resources may not offer to dispose of state land within a community except ^{with the approval} on ~~the nomination of the~~ land by the community. This section applies to each disposal of state land within a community, whether or not the disposal is for the use of the community but does not apply to the leasing of ^(by upland owners) tide or submerged lands, under AS 38.05.070-105, or to transfers from the Department of Natural Resources to another agency of the state for the execution of a state program.

Bradley
4/8/85 ✓

Original sponsors: Shultz and
Grussendorf

1
2 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

3 CS FOR HOUSE BILL NO. 42 (C&RA)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the disposal of state land within
8 a community; and providing for an effective date."

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

10 * Section 1. AS 38.95 is amended by adding a new section to read:

11 ARTICLE 1A. DISPOSAL OF STATE LAND WITHIN A COMMUNITY.

12 Sec. 38.95.020. DISPOSAL OF STATE LAND WITHIN A COMMUNITY. The
13 Department of Natural Resources may not offer to dispose of state land
14 within a community except with the approval of the community. This
15 section applies to each disposal of state land within a community,
16 whether or not the disposal is for the use of the community but does
17 not apply to the leasing of tide or submerged land by an upland owner
18 under AS 38.05.070 - 38.05.105 or to transfers from the Department of
19 Natural resources to another agency of the state for the execution of
20 a state program.

21 * Sec. 2. This Act takes effect July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No.: HB 42
 Title: Community Nominations of
Land Disposals
 Sponsor: Shultz
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Although this bill would have no direct fiscal impact, it would cause higher costs per land disposal for administration, travel, meetings, and other associated actions. At the same time, because the state would sell substantially less land, there would be an undetermined revenue loss through future years, perhaps amounting to tens of millions of dollars per year.

Prepared By: Med Farquhar Phone: 465-2400
 Division: Commissioner's Office Date: March 1, 1985
 Approved by Commissioner: Wm D Amey Date: March 1, 1985
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

ANALYSIS
HOUSE BILL NO.42

1. Provides for a land disposal policy
2. Amends current land disposal policy by adding protective policy for communities and cities directly effected by disposal.
3. Provides for an effective date.

BACKGROUND FOR HB NO. 42

This bill is the result of requests by many constituents in District 17 and residents of other areas of the State of Alaska.

Due to land disposals by DNR, small communities have been unable to carry out their own plans for development. By having the authority to make the decision as to where and when a land disposal will be held, the residents of the community will have full influence as to where their community will grow and the type of growth that will benefit it the most. This bill will give the members of the community the right to decide their own destiny. By directing the disposal, the members of the community will be able to prevent remote land ownership and speculative purchasing of land. Speculative purchasing of land leaves land in a dormant state for as long as the speculator wishes. The present land disposal policy has a negative economic impact on the State because of requests for construction and maintenance of roads, additional school bus routes, electrical distribution lines and increased social services. None of these services are in place at the time of the disposal. By referring to the above it is evident the present disposal policy has a negative economic impact to the communities involved as well.

This bill also will protect an incorporated city from having an undesirable industry locate immediately outside it's city limits. Under our present land disposal program there is little protection for the City if the State so desires to locate an industry that would be incompatible with the city's development plans. Under present policy a city has little say in controlling the acquisition of State land outside of it's city limits by private individuals. This is an unhealthy situation for any city that has future plans for development.

The present land disposal program in and around small communities has been

detrimental for the above reasons and this bill will help correct this.



March 1, 1985

HAND-DELIVERED

Representative Peter Goll
Chairman, House Community
& Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Re: House Bill 42

Dear Representative Goll:

On March 1, 1985 the House C&RA Committee will begin consideration of HB 42 -- a bill which, as written, would give every local government in the state veto authority over any state land disposal within the municipality's boundaries. Because of the fundamental policy issues which this bill raises, and its far-reaching consequences, Sealaska Corporation would hope that your committee would seek out the views of all interested parties before action is taken on the bill.

The purpose of this letter is to share with you Sealaska's views on HB 42, and to transmit a proposed amendment. From Sealaska's perspective, HB 42 as written could present a substantial impediment to timber development in Southeast Alaska, and could prejudice Sealaska's ability to develop its own resources on its own lands. Our enclosed amendment is intended to prevent this from happening.

In most instances, Sealaska can develop its privately-owned uplands only if a tidelands lease is obtained from the Department of Natural Resources. The lease is necessary both to gain access to our uplands, and to market timber or other resources removed. The procedures for obtaining a tidelands lease are already lengthy, and involve close coordination between DNR, other state agencies and interested local governments.

Under HB 42, the tidelands leasing process within municipal boundaries would be severely complicated. In fact, a second, potentially lengthy decision-making process would be created, since Sealaska would be required to obtain the permission of local government for the disposal.

Significantly, the bill provides no standards or guidelines which local governments must follow in deciding whether to approve a state land disposal within its boundaries. Thus, Sealaska -- and others who depend

Representative Goll

March 1, 1985

Page -2-

upon periodic state land disposals -- may find themselves at the mercy of a local government which is free to deny the corporation access to its own lands for literally no reason at all.

This particular aspect of the bill illustrates a potentially serious constitutional problem with the legislation. Under the Alaska Constitution, the legislature is required to provide for the disposal of state land "for the maximum benefit of its people." See Alaska Const., Article VIII, §2, 6. Under the bill, however, the legislature would abdicate this authority, and confer upon local governments the unbridled right to prohibit the disposal of state land at their virtual whim.

If it is the legislature's desire to nonetheless enact HB 42, Sealaska would urge that the legislature include the enclosed amendment, which would exempt tidelands leases from the bill's coverage. Our understanding is that the leasing of tidelands is not the kind of disposal which prompted the introduction of this bill. Thus, the inclusion of Sealaska's amendment will avoid the problems raised in this letter -- at least with respect to that segment of the Alaska economy which may be most dependent upon tidelands leasing -- while at the same time not doing violence to the bill's basic intent.

Thank you for your consideration of both Sealaska's comments, and the enclosed amendment.

Sincerely,

SEALASKA CORPORATION

A handwritten signature in black ink, appearing to read "Bob" with a stylized flourish underneath.

Robert W. Loescher
Vice President Resource
Management

RWL/JKT/rig

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99815
PHONE: 907-485-2400

February 28, 1985

The Honorable Peter Goll
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Goll:

Re HB 42 (disposal of state land within a community)

I have reviewed HB 42, which will be heard in your committee this week, and have strong reservations about the bill. In addition to my other comments and questions below, the bill brings to mind this major question: Should "public interest" as used in the Alaska Constitution, Article VIII, Sec. 1 be narrowly defined by the Legislature to mean "local interest"?

Before entering into questions and criticisms of the bill, I wish to point out that the Department of Natural Resources has in recent years adopted new land disposal procedures to encourage and accommodate full local participation in the selection and design of state land disposals. Last year I strongly supported statutory changes that require the department to hold meetings in communities affected by state land disposals (AS 38.04.005(e)), and I see these meetings as providing important guidance to the department in meeting statewide land disposal needs and in considering local interests.

Opportunities for community participation are available within the department's Land Availability Determination System (LADS). Under the LADS process a public meeting must be held early in the process to receive community comments. This is followed by two public notices pursuant to AS 38.05.945. Finally, AS 38.05.050 requires that the auction, lottery, or homesite disposal be held in the community nearest the land to be disposed.

In addition, I would point out that under our regulations and statutes regarding land disposals, we do provide notice of proposed land disposals to communities located within six miles (AS 38.04.060(a); AS 38.05.945; 11 AAC 67.030(c)). We regard these as minimal requirements and have made sincere efforts to see community involvement in our land disposal program.

For communities within municipalities there are additional safeguards. The state must comply with local subdivision ordinances, under statutory changes that I supported last year (see AS 38.04.045(b) and AS 29.33.150). AS 38.04.900(b) gives a municipality standing to appeal a decision of the commissioner with respect to classification, disposal, or management of state land outside its corporate boundaries to protect its interests.

The bill appears to react mostly to past concerns with the department's land disposal program. I understand these concerns, because past land disposals -- accomplished under a statutory land offerings quota with inadequate planning and administration -- did work a hardship on entry persons and communities across the state. But it has been a major emphasis during my tenure as commissioner to improve our land disposal procedures and prevent the occurrence of such hardships in future years. At the same time, however, I recognize that an insufficient land offerings program could cause the resurgence of a land rush environment with quotas for land offerings and recurrent hardships. I am sure that other state policymakers share my concern that the state meet land disposal demands in Alaska so that public pressure for quotas and fire-sale disposals does not develop.

Along this same line, the department is just now completing both the Tanana Basin Area Plan and the Susitna Area Plan in which well over one hundred public meetings have helped to define our land disposal program for the next twenty years. These plans, along with others complete or nearly complete, have provided substantial opportunity for public involvement in decisions about where state land will be offered for sale in the future.

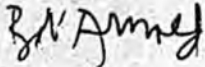
I also see a variety of technical problems with the language in the bill. What is a community? Who speaks for the community? By what process would a community nominate land? What number (or percentage) of local persons can represent local concern? How is the exterior boundary of the community defined? How would this local concern be balanced with statewide interests in authorizing a major economic development project such as a pipeline right-of-way lease?

February 28, 1985

The bill's total prohibition on disposals not nominated by the community would be difficult to interpret. Although there is no definition of "land disposal" in statute, the applicable regulation for disposals (11 AAC 67.002) includes land sales, leases, agricultural interests, materials sales, mineral leaseholds, and even some permits (remote cabins). Thus local opposition to a major economic development project such as a pipeline right-of-way lease could halt the project.

I recognize the concern that led to this bill and want to contribute constructively to discussion and consideration of this concern. Please contact me if there is anything further I may provide.

Sincerely,



E Esther C. Wunnicke
Commissioner

cc: Representative Grussendorf
Representative Shultz

League of Women Voters of Alaska

9151 Skywood Lane
Juneau, Alaska 99801
February 26, 1985

The Honorable Peter Goll, Chairman
House Community and Regional
Affairs Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 42: Disposal of State Land Within a Community

Dear Representative Goll:


The League of Women Voters of Alaska supports the concept of giving local communities a good deal of say in the matter of whether and how State land disposals occur within their areas. For example, we have in the past supported legislation that would require State land disposals within municipalities to comply with all subdivision and other pertinent ordinances of those municipalities.

We think that HB 42, however, requires additional work and development before we can give it our unconditional support.

For example (speaking for a moment as an attorney), the word "community" needs a clear legal definition. Secondly, we think that it may be "overkill" to prohibit absolutely State land disposals unless the adjoining community has nominated the land in question for disposal. Instead, we think a mechanism should be established whereby DNR, as a part of its routine land disposal process, takes on the local community almost as a full partner in the designing of how and when the land disposal should occur, and what kinds of provisions should be attached to the land disposal in order to prevent undue adverse impacts and unacceptable future financial obligations on the part of the existing local community.

We shall follow with interest the evolution of the text of HB 42, as these problems are addressed by the sponsors and, hopefully, the committees which consider the bill.

Sincerely,



Elizabeth Cuadra, Board Member
(Natural Resources Portfolio)

DEC:sd

cc: Committee Members (Wallis, Koponen, Gruenberg, Phillips,
Furnace, and Marrou)
Sponsors (Shultz and Grussendorf)
Commissioner Esther Wunnicke (DNR)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 8, 1985

SUBJECT: Disposal of land within a "community"
(CSHB 42 (C&RA))

TO: Representative Peter Goll
Chairman, House Community and Regional
Affairs Committee

FROM: Richard A. Bradley B
Legislative Counsel

You have requested a committee substitute for HB 42. The bill provides that the Department of Natural Resources may not dispose of state land within a "community" except with the approval of the "community."

I confess that I do not know what a "community" is nor could I recognize its approval when I saw it since I do not know who is authorized to speak for it.

While a municipality has boundaries, a community does not and therefore it may be difficult to tell when land is being disposed of within it and when the community's approval is required.

While a municipality has a state established council or assembly to speak for it, a community does not and therefore it may be difficult to determine whether the correct spokesmen for the community have approved the disposal.

The bill would also establish no standards for the action by the community; legally capricious and logically inconsistent determinations by the community seem inevitable.

If I may be of further assistance, please advise.

RAB:csh
c3/092

COMMITTEE REPORT
HOUSE

4/10

(7)

FURTHER: Resources

1/14/85

Date: _____

The Committee on Community and Regional Affairs has had HB 42

"An Act relating to the disposal of state land within a community; and providing for an effective date.

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 42 (CRA) same title
- new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- in analysis Sup #45*
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] N.L.

[Signature]

CHAIRMAN



RECORDS



CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date