

**HB**

**20**

**HFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/23/95

FURTHER:

DATE TURNED INTO OFFICE: 5-8-95

Finance Committee considered CS FOR HOUSE BILL NO. 20(FIN) am

"An Act relating to conveyance of certain tide and submerged land to municipalities; and providing for an effective date."

and recommends:

- [ ] adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- [ ] attached amendment(s)
- [ ] adopt Letter of Intent by \_\_\_\_\_ Committee
- [ ] further referral to the \_\_\_\_\_ Committee
- new title  
 House Bill:  
 same title  
 technical change  
 new: SCR\* \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>Steve Rein</i>	✓		
		<i>REC'D E. HCC</i>	✓		
		<i>Govt. Affairs</i>	✓		
Co-Chair:					
Co-Chair: <i>Richard Halford</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
DNR	1/20/95		6.0
DCRA	1/24/95	0	
DNR	3/9/95	0	
DF+G	3/19/95		34.3

(1000)  
rev.  
red.

[ ] APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

No. 1  
 Bill Version: HB 20  
 (H) Publish Date: 2/3/95

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

Revision Date: Original Dept Affected: Natural Resources  
 Title: An Act relating to rights in certain BRU: Resource Development  
lands and submerged land Component: Information Resource Management  
 Sponsor: Representatives Moses, Kubina  
 Requestor: \_\_\_\_\_ Component Serial No. 427

Expenditures/Revenues	(Thousands of Dollars)					
	FY96	FY97	FY98	FY99	FY00	FY01
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	6.0					
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	6.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (1005)</b>						

FUND SOURCE	(Thousands of Dollars)					
	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts						
1003 GF Match						
1004 GF	6.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	6.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ None

POSITIONS	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

This bill will require the development of a new Land Administration System (LAS) casetype for these conveyances to municipalities. The actual notation of these conveyances to the status plats is considered regular work and will be absorbed by the component. The incremental work to develop a new casetype is estimated to be a one-time cost of \$6.0 in personal services.

Prepared by: Rich McMahon, Chief Phone: 762-2384  
 Division: Land Records Information Section Date: 26-Jan-95  
 Approved by Commissioner: Moses Date: 1/26/95  
 Agency: Natural Resources

# FISCAL NOTE

Revision Date: January 24, 1995 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to rights in certain tide and submerged land. BRU: none  
 Sponsor: Representative Moses Component: none  
 Requestor: House C & RA Committee COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

This legislation would give the Department of Natural Resources (DNR) the authority to convey tidelands and submerged land to municipalities. Presently, DNR can only issue leases (unless the municipality was incorporated before 1964). There is no fiscal impact on DCRA from this bill.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Division of Administrative Services Date: 1/24/95  
 Approved by Commissioner: *Melvin Swain* Date: (1/24/95)  
 Agency: Community & Regional Affairs

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# FISCAL NOTE

No. 4

Bill Version: CS HB 20 (FIN)

Publish Date: 3/14/95

## STATE OF ALASKA

### 1995 LEGISLATIVE SESSION

Revision Date: 9-Mar-95 Dept Affected: Natural Resources  
 Title: An Act relating to rights in certain BRU: Resource Development  
tides and submerged land Component: Land Development  
 Sponsor: Representatives Moses, Kubina  
 Requestor: \_\_\_\_\_ Component Serial No. 431

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.01	0.01	0.01	0.01	0.01	0.01
<b>CAPITAL EXPENDITURES</b>	0.01	0.01	0.01	0.01	0.01	0.01
<b>CHANGE IN REVENUES (1005)</b>	(100.01)	(100.01)	(100.01)	(100.01)	(100.01)	(100.01)

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.01	0.01	0.01	0.01	0.01	0.01

Estimate of any current year (FY95) cost: \$ None

POSITIONS	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME	01	01	01	01	01	01
PART-TIME	01	01	01	01	01	01
TEMPORARY	01	01	01	01	01	01

**ANALYSIS:** (Attach a separate page if necessary)

In addition to the general grant land entitlement under AS 29.65, qualified municipalities which were incorporated prior to 1964 have been conveyed tide and submerged land (22,948 acres). This legislation would authorize the department to convey improved bdeilands or land required for the accomplishment of a public or private development to all home rule, first and second class municipalities. Currently, the department can only issue leases that create a financial burden to the municipality and a liability to the state. This legislation will reduce the amount of lease monitoring and compliance activities currently required of the department on these existing leases, however the department anticipates no reduction in expenses due to the continuing effort to process and monitor other current and additional leases.

A zero fiscal note on expenditures is submitted assuming that staff would normally be processing leases to municipalities will be issuing conveyances instead.

The reduction of \$100.0 in general fund program receipts is a rough estimate of the amount of annual lease revenue that will be lost with the implementation of this legislation.

See attached proposed amendments.

Prepared by: Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 9-Mar-95  
 Approved by Commissioner: [Signature] Date: 3-9-95  
 Agency: Natural Resources

FISCAL NOTE ATTACHMENT  
CSEB20

Delete the phrase "or sale" from page 2, line 20. Tide, shore and submerged lands are all managed under the Public Trust Doctrine. This is a living doctrine that has evolved and continues to evolve over time. Other states and the courts have long found that the sale of these lands, while not necessarily violating the public trust doctrine at the time of sale, may be its use over time violate the doctrine at a later date.

In a recent survey conducted by the State of Washington, all 22 western states currently prohibit the sale or exchange of these lands. They have all found that short or long term leases (up to 55 years) provide the protection needed and allow the stipulations to be changed at periodic intervals.

Except in rare circumstances, the Department of Natural Resources cannot convey tide, shore or submerged lands to private individuals. This proposed legislation, however, would allow local municipalities that ability without any side boards or restrictions.

# FISCAL NOTE

No. 5  
 Bill Version: CS HB 20 (FIN)  
 (H) Publish Date: 3/14/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: 3/8/95 Dept. Affected: Fish and Game  
 Title: Rights in Tides/Submerged Land BRU: Habitat and Restoration  
 Component: Habitat  
 Sponsor: Representative Moses  
 Requester: House Finance COMPONENT SERIAL NO. 488

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	31.2	31.2	31.2	31.2	31.2	31.2
TRAVEL	1.8	1.8	1.5	1.8	1.8	1.8
CONTRACTUAL	1.0	1.0	1.0	1.0	1.0	1.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	34.3	34.3	34.3	34.3	34.3	34.3
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>	<b>34.3</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME	0.5	0.5	0.5	0.5	0.5	0.5
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

See attached page.

Prepared by: Ellen Fritta Phone: 485-1105  
 Division: Habitat and Restoration Date: 3/8/95  
 Approved by Commissioner: Nick Bombardieri Date: 3/9/95  
 Agency: Fish and Game

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HB 20

Fiscal note analysis

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**Analysis:**

Habitats on tidelands and submerged lands support nearly all of Alaska's fishery resources at various life stages, and many wildlife resources, including waterfowl and marine mammals. Tidelands and submerged lands are the focus of fish and wildlife harvest activities that are of enormous economic value to the state.

It is the Department of Fish and Game's responsibility to advise the Department of Natural Resources on land use decisions affecting fish and wildlife and public use of these resources. The Department of Fish and Game's comments to the Department of Natural Resources identify any management issues concerning the protection of sensitive fish and wildlife habitats and public uses of fish and wildlife, that may be affected by a municipal conveyance.

To fulfill the department's responsibilities in the land conveyance process proposed by this legislation, the Division of Habitat and Restoration will need funding equivalent for half of a full-time habitat biologist position. This additional funding will be used to bring an existing part-time habitat biologist to a full-time status to review applications for municipal submerged land and tideland conveyances from an unknown, but potentially large number of municipalities.

# Cross-Ref to HB 20

BILL: SB 56      SHORT TITLE: RIGHTS IN TIDE/SUBMERGED LAND  
BILL VERSION:  
SPONSOR(S): SENATOR(S) LEMAN

CURRENT STATUS: (S) FIN      STATUS DATE: 03/09/95  
                  THEN RLS

TITLE: "An Act relating to rights in certain tide and submerged land."

01/27/95	105	(S)	READ THE FIRST TIME - REFERRAL(S)
01/27/95	105	(S)	CRA, RES
02/21/95	348	(S)	CRA RPT CS 4DP 1NR      NEW TITLE
02/21/95	348	(S)	FISCAL NOTES (DNR-2)
02/21/95	348	(S)	ZERO MUNICIPAL FISCAL NOTE (DCRA)
03/09/95	555	(S)	RES RPT CS 2DP 3DNP 2NR      NEW TITLE
03/09/95	555	(S)	FN TO CS (F&G)
03/09/95	555	(S)	PREVIOUS FNS (DNR-2)
03/09/95	555	(S)	PREVIOUS ZERO FN (DCRA)
03/09/95	555	(S)	ADDITIONAL REFERRAL TO FIN
03/09/95	555	(S)	REFERRED TO FINANCE

Fiscal Notes

HB 20 - CONVEY TIDE/SUBMERGED LAND TO MUNICIPALITY

<u>No.</u>	<u>Dept.</u>	<u>Date</u>	<u>Amount</u>
1.	DNR(Info.Mgmt.)	1/26/95	6.0
3.	DC&RA	1/24/95	0
4.	DNR(Land Dev.)	3/09/95	0
			(100.0) rev.loss
5.	DF&G	3/09/95	<u>34.3</u>
Total			40.3
			<u><u>(100.0) rev.loss</u></u>

# Alaska State Legislature

## Representative Carl E. Moses



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### SPONSOR STATEMENT

HB 20 provides opportunities for coastal communities who have not received their tide and submerged land to obtain portions of these lands necessary for specific development projects such as a dock or boat harbor. Passage of the bill will help communities with local economic development.

Prior to 1964, conveyance of tide and submerged land was given to 1st class and home rule cities incorporated at that time which gave these communities ownership. This bill would allow conveyances of portions of tide and submerged land to municipalities incorporated after 1964 so long as certain criteria is met and unless the state's interest outweigh the municipal interest.

#### Criteria for conveyed land:

Land must be within or contiguous to the municipal boundaries;

Conveyance must not interfere with navigation or public access; tide and submerged land is subject to the public trust doctrine

Land must not be subject to a shore fisheries lease or be in the best interest of the state to convey the land subject to a lease;

Land must be classified for waterfront development or another use with the municipality's proposed use; and must be consistent with a land use plan adopted by the municipality, the department or the Alaska Coastal Policy Council;

Land must be the subject of a lease or have been approved for a lease.

There are additional restrictions on land which has been legislatively designated that require concurrence by the ADF&G Commissioner to be certain the proposed use is compatible with the designation.

Conveyed land cannot be sold to third parties and reverts back to the state upon dissolution of the municipality.

HB 20 is supported by the Alaska Municipal League, the Port Administrators and coastal communities of Alaska. I would appreciate your support.

CS HB 20(FIN) am, An Act relating to conveyance of certain tide and submerged lands

Amendments in House Finance to HB 20.

The CS HB 20 (FIN) amendments:

1. Clarified mineral and subsurface rights are not transferred to municipalities: Sec 1, L7.
2. Clarified that the public has access along tidelands: P4, L3.
3. Removed the "or sale" language, so tide and submerged lands can't be conveyed to private parties but remains in state or municipal ownership: P3, L26.
4. Clarified that the conveyed land is land within or contiguous to municipal boundaries: P2, L25.
5. Added new language in addition to restrictions required by law, including AS 38.05.127 OR those required to support a best interest finding: P3, L 30-31.
6. Excluded conveyance of lands that have an existing shore fishery lease unless the Commissioner determines it is in the best interest of the state to convey the land: P2, L 30-31; P 3, L1.
7. Title change that tightens the title to conveyance of tide and submerged land to municipalities: New title.
8. Immediate effective date: Sec. 3; P4, L12.

3/19/95 1:45 PM

House Floor Amendments:

1. Added F&G concurrence on legislatively designated lands only: P 3, L 14-17, 19.
2. Assures the State retains shore fishery leasing program: P 4, L 3-6.

3/23/95 1:58 PM