

SB

55



Official Business

ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

- Chair, Senate Resources Committee
- Vice-Chair, Senate State Affairs Committee
- Member, Community & Regional Affairs
- Member, Legislative Council
- Member, World Trade

Session: January - May

State Capitol, #427

Juneau, AK 99801

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Interim: May - December

145 Main Street Loop, Suite 226

Kenai, AK 99611

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Sponsor Statement SB 55 Agricultural Land

The Ross Miller family started homesteading twenty-seven acres of land in 1943 in Hope. The Millers leased fifteen acres of adjoining land from the Forest Service, in the early fifties, to use as pasture land. Due to the '64 earthquake, the Millers lost eighteen of their twenty-seven acre homestead. There was an earthquake exchange program set up and compensated the Millers for their loss by giving them only one acre of land. The state, after determining that the Millers had been treated unfairly, decided they were entitled to the fifteen acres of leased Forest Service land as relief. In 1978, agricultural rights to this land were conveyed as provided by former state law AS 38.05.321.

The Department of Natural Resources has declared that the state has no interest in retaining the remaining interest in this property, and support conveying the remaining land rights to the Millers. Unfortunately, DNR is not authorized to remove the agricultural restrictions under current statute.

SB 55 will make a minor statutory change to correct this situation. Anyone who received agricultural rights to land under sec. 6(a) of the Alaska Statehood Act, and the tracts of land were 15 acres or less, would be eligible for fee simple title if the owner pays the fair market value for the remaining interest.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 55
 (S) Publish Date: 2/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Agricultural Land RDU: Resource Development
 Component: Title Acquisition and Defense
 Sponsor: Senator Wagoner
 Requester: Senate Resources Component No.: 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	00	00	00	00	00	00
Travel	00	00	00	00	00	00
Contractual	00	00	00	00	00	00
Supplies	00	00	00	00	00	00
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 00
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)
 This bill requires DNR to convey title for the remaining interests in the land estate to an owner of the rights to that land for agricultural purposes if the land was conveyed to the state as a forest service grant under sec. (6) of the Alaska Statehood Act and the parcel is not more than 15 acres in size.

 ** This legislation would enable anyone meeting the law's conditions to purchase the state retained interests to property originally sold by the department as agricultural interest only lands. DNR supports this proposed measure. Other than a small but indeterminate amount of revenue expected to be generated from the sale of the agricultural interests, there is no anticipated significant fiscal impact associated with the implementation of this proposed legislation.

Prepared by: Bob Loeffler Phone: 269-8625
 Division: Mining, Land and Water Date/Time: 1/31/2005
 Approved by: Tom Irwin, Commissioner Date: 1/31/2005
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 55(FIN)
 (S) Publish Date: 1/19/06

Revision Date/Time (Note if correction): 1/17/06 Dept. Affected: Natural Resources
 Title: Agricultural Land RDU: Resource Development
 Component: Title Acquisition & Defense
 Sponsor: Senator Wagoner
 Requester: (S) FIN Component No.: 2459

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*** INDETERMINATE ***					

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*** INDETERMINATE ***					

Estimate of any current year (FY2006) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires DNR to convey title for the remaining interests in the land estate to an owner of the rights to that land for agricultural purposes if the land was conveyed to the state as a forest service grant under sec. (G) of the Alaska Statehood Act and the parcel is not more than 15 acres in size.

*** This legislation would enable anyone meeting the law's conditions to purchase the state retained interests to property originally sold by the department as agricultural interest only lands. DNR supports this proposed measure. Other than a small but indeterminate amount of revenue expected to be generated from the sale of the agricultural interests, there is no anticipated significant fiscal impact associated with the implementation of this proposed legislation.

Prepared by: Dick Mylius, Acting Director Phone: 907-269-8625
 Division: Mining, Land & Water Date/Time: 1/17/2006
 Approved by: Michael L. Menge Date: 1/17/2006
 Agency: Natural Resources

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

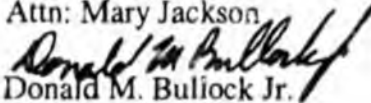
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 21, 2004

SUBJECT: Draft bill instructing the commissioner of natural resources to issue a patent in certain state land (Work Order No. 24-LS0287\A)

TO: Senator Tom Wagoner
Attn: Mary Jackson

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed with this memorandum is the draft bill you requested. The draft instructs the commissioner of natural resources to issue a patent for the remaining state interests in certain land used for agricultural purposes.

Land subject to the bill must meet three requirements:

- (1) the tract originally conveyed by the state is no more than 15 acres;
- (2) the state originally acquired the land from the national forests under the statehood act; and
- (3) the state received the land for purposes of community expansion.

The owner of the agricultural rights in the land would be required to pay the state the fair market value for the remaining interests conveyed by the commissioner.

You asked whether the bill runs the risk of violating the local or special acts prohibition under art. II, sec. 19, Constitution of the State of Alaska. Although the bill would be a general act, testimony on a similar bill in an earlier Legislature reported that only one tract fit the requirements repeated above. Although the application of the bill may be limited, in my opinion, it is likely that the bill would not violate art. II, sec. 19. However, the final determination of whether the bill passes constitutional scrutiny is left to the courts.

Drafting Language

Senator Tom Wagoner
December 21, 2004
Page 2

Art. II, sec. 19, reads as follows:

SECTION 19. Local or Special Acts. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

The bill is drafted as a general act in that it does not identify a particular state or situation to which would be applicable.

Although the draft bill does not specifically address a particular parcel of land, it may be that only one parcel in the state is affected by the legislation. Acts with limited application have survived challenges under art. II, sec. 19, when the court has found, after examining both the legislative goals and means to advance them, that the legislation bears a "fair and substantial relationship" to legitimate purposes.¹ Our state's supreme court has stated that legislation "need not operate evenly on all parts of the state to avoid being classified as local or special."² In other words, the identification of a substantial valid state interest in an act of limited application can remove the color of what may look like a possible local or special act.

In the course of enacting legislation, there are several levels at which the local or special nature of a bill may be examined. First, the bill may be drafted as a general act that reaches the intended result. Second, when considering the bill in committee and during debate, each legislator may make a decision on the appropriateness of the legislation under the constitution and public policy. Third, if enacted, the governor may review the constitutionality of the legislation along with other policy factors. Fourth, the legislation may be challenged in court where the constitutionality of the measure is ultimately determined.

Looking at the draft bill on its face, it is a general act that has application to any land in the state that meets the requirements in the bill. So long as there is a fair and substantial relationship to legitimate purposes, I believe the bill would not violate art. II, sec. 19, Constitution of the State of Alaska.

If I may be of further assistance, please advise.

Enclosure
DMB:jad
04-008.jad

¹ *State v. Lewis*, 559 P.2d 630, 643 (Alaska 1977).

² *Id.*

Alaska Statehood Act

Selection of public lands, fish and wildlife, public schools, mineral permits, mineral grants, confirmation of grants, internal improvements, submerged lands

Section 6

(a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within twenty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within twenty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: And provided further, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the following purposes or a combination thereof: A residence for the Governor, a State museum, or park and recreational use.

(d) Block 19, and the structures and improvements thereon, and the interests of the United State in blocks C and 7, and the structures and improvements thereon, in the city of Juneau, are hereby granted to the State of Alaska.

(e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U.S.C., sections 192-211), as amended, and under the provisions of the Alaska commercial fisheries laws of June 26, 1906 (34 Stat. 478; 48 U.S.C., sections 230-239 and 241-242), and June 6, 1907 (43 Stat. 465; 48

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND & WATER
OFFICE OF THE DIRECTOR

550 WEST 7TH AVENUE, SUITE 1070
ANCHORAGE, ALASKA 99501-3576
PHONE: (907) 269-8600
FAX: (907) 269-8904

January 21, 2005

The Honorable Tom Wagoner
State Senate
State Capitol,
Juneau, Alaska 99801-1182

RE: Support for SB 55

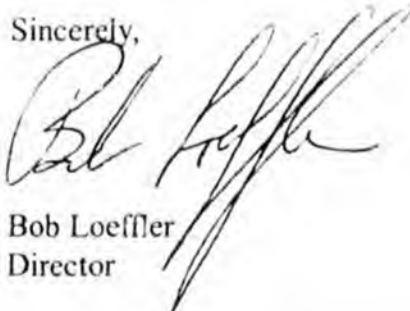
Dear Senator Wagoner:

I am writing to provide my support for SB 55. The Bill is essentially identical to SB 167, introduced by Senator Torgerson in 2001. The bill would enable anyone meeting the law's conditions, to purchase the state retained interests in property originally sold by the department as agricultural interest only lands. After review, it appears that there are few, if any, individuals other than the Miller Family would qualify.

The department reviewed that particular situation and determined that there is no compelling state interest in retaining the remaining interests in this small parcel of land. However, without SB 55 the department has no authority to convey the remaining interests in these properties. We support the bill. It would have no negative affect on the state interest and would help an Alaskan family gain equity in land they have used for many years.

If you need more information or would like to discuss this further, please call me at 269-8600 or Janet Burleson at 465-4730.

Sincerely,



Bob Loeffler
Director

Cc: Commissioner Tom Irwin
Special Assistant Janet Burleson

The Honorable Thomas Wagoner
State Senate
Alaska State Capitol
Juneau Alaska 99801-1182

Dear Senator Wagoner,

Amly asked for a statement of support for SB 55. We appreciate your efforts on getting this "problem" resolved. Many thanks.

Sincerely, Frank

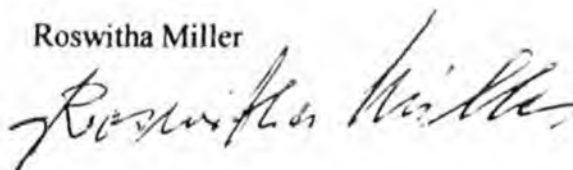
Statement of support for SB 55

We certainly support SB 55. This bill would give us the opportunity to purchase the remaining interest in a 15 acre parcel of land that we own in Hope, which is classified as agricultural rights only. Originally, the parcel was leased from the US Forest Service in the mid 1950's by my parents, Ross and Alma Miller. They wished to obtain those roughly 15 acres as a settlement for land "lost" after the 1964 Earthquake. Because of some errors and omissions by the State of Alaska, their request got lost. After a lengthy period of examination, they were given the option to purchase only ag rights to the 15 acres. At that time, it appeared the State had no interest in that parcel remaining agricultural only, which is still the case today. Being able to purchase full title to this parcel would solve the problems related to the agricultural restrictions and make the land much more usable to us.

Frank L Miller



Roswitha Miller



PO Box 39083
Ninilchik AK 99639



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource
Committee name

Committee on SB 55, dated 2-2-05
Bill/Subject

I fully support SB 55.
Since the Millers relocation from the earthquake induced floodplain in Hope the Family has enjoyed this special place for 3 generations. The Miller grandchildren are interested in this land, but the agricultural restrictions do not allow more than 1 dwelling on the 15 acre parcel.

Please consider helping to make this land a home again

Signed:

Michael Miller

Testifier

Representing (Optional)

P.O. Box 870586 Wasilla Alaska 99687

Address

907-355-5466

Phone number

Amy L. Seitz

From: POMS@legis.state.ak.us
Sent: Wednesday, February 02, 2005 9:33 AM
To: Sen. Tom Wagoner
Subject: New Pom:SB 55 Agricultural Land

Terry Mcghan
Po Box 873310

Wasilla 99687-3310,

357-2303

I support SB55 in regard to returning lands back to private ownership.

Amy L. Seltz

From: POMS@legis.state.ak.us
Sent: Wednesday, February 02, 2005 10:57 AM
To: Sen. Tom Wagoner
Subject: New Pom:SB 55 Agricultural Land

Timothy Mcghan
Po Box 520356

Big Lake 99652-0356,

I am in favor of SB 55.

Amy L. Seitz

From: POMS@legis.state.ak.us
Sent: Wednesday, February 02, 2005 10:54 AM
To: Sen. Tom Wagoner
Subject: New Pom:SB 55 Agricultural Land

Lindsey Mcghan
Po Box 520356

Big Lake 99652-0356.

Please pass SB 55. Thanks

Amy L. Seltz

From: POMS@legis.state.ak.us
Sent: Wednesday, February 02, 2005 2:44 PM
To: Sen. Tom Wagoner
Subject: New Pom:SB 55 Agricultural Land

Michael Mcghan
Po Box 870586

Wasilla 99687-0586,

Since the Miller's relocation from the 1964 earthquake induced floodplain in Hope, the family has enjoyed this special place for 3 generations. The Miller grandchildren are interested in the land but the agriculture restrictions do not allow more than one dwelling per 15 acres.
Help make this land a home.