

HB

274

<TARGET><BILL>HB 274</BILL><SUBJECT>HB
274</SUBJECT><COMM>SRES29</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 4/11/16

FURTHER: Rules

DATE TURNED IN TO OFFICE: APR 13 2016

Resources Committee considered CS FOR HOUSE BILL NO. 274(RES)

HB 274-STATE LAND; EXCHANGES; LEASE EXTENSIONS

"An Act relating to extensions of certain state land leases; relating to the exchange of state land; and relating to the definition of 'state land.'"

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DNR			X	2

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note


SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Wielechowski				✓
	Coghill	✓			
	Stedman			✓	
CHAIR:	Giesel	✓			



REPRESENTATIVE CATHY MUÑOZ

MEMORANDUM

TO: Senator Cathy Giessel, Senate Resources Committee Chair

FROM: Representative Cathy Muñoz 

DATE: April 7, 2016

RE: Hearing Request for HB 274 Pending Referral – “An Act relating to extensions of certain state land leases; relating to the exchange of state land; and relating to the definition of state land.”

Please accept this request to schedule HB 274, pending referral, to the Senate Resources Committee at your earliest convenience.

Attached are:

1. HB 274, 29-LS0234\N
2. Fiscal Notes
3. Sponsor Statement
4. Explanation of Changes
5. Sectional Analysis
6. Back up Documents

I appreciate your time and consideration and look forward to presenting this bill to the Senate Resources Committee.

If you have questions regarding this request, you can also contact my staff, Crystal Koeneman at 465-3744.

Thank you.



REPRESENTATIVE CATHY MUÑOZ

SPONSOR STATEMENT CS FOR HOUSE BILL 274 (RES)

Since 2010, I have worked with a local non-profit and the State of Alaska to resolve a long-standing land exchange issue. Despite considerable effort to work within the Title 38 statutory framework, I have found that private land exchanges identified to be in the state's best interest are challenging to execute.

The most recent completed exchange involved state land in Skagway and federal land in Gustavus for the Falls Creek hydro project in 2006. Initial discussions between the National Parks Service and the Department of Natural Resources (DNR) began in 1980. The intent of House Bill 274 is to address the inherent inefficiencies under Title 38 private land exchanges and to help DNR in their ability to effectively manage state land resources.

The main changes made by House Bill 274 include:

- Exchange procedures will follow AS 38.05.035(e) decisions and AS 38.05.945 notice provisions and will follow state best interest findings.
- When determining whether the exchange is of equal value, the restriction of only considering the land is removed.
- Removes the one year limitation on the validity of an appraisal.

House Bill 274 maintains the legislative review and approval for exchanges that exceed \$5 million in state land value or for exchanges other than of "approximate equal value."

Thank you for the opportunity to present this legislation and I appreciate your support.



REPRESENTATIVE CATHY MUÑOZ

SECTIONAL ANALYSIS HOUSE BILL 274 – VERSION N

“An Act relating to extensions of certain state land leases; relating to the exchange of state land; and relating to the definition of state land.”

Section 1. Removes a reference in AS 38.05.030(c) to AS 38.05.090 which is repealed in sec. 13 of the bill.

Section 2. Adds two new subsections to AS 38.05.070. The first subsection permits the Department of Natural Resources (department) to extend certain existing land leases if it is in the best interest of the state and necessary while the department considers applications. The second subsection provides that the extensions are not subject to AS 38.05.035(e) and it requires public notice of a lease extension under the section.

Section 3. Applies existing notice standards to state land exchanges.

Section 4. Clarifies that in AS 38.05 the terms "state land " and "land" include shoreland and tideland.

Section 5. Amends AS 38.50.010 to add two new requirements: when the director disposes of state land or an interest in state land the disposal must be in the best interest of the state and the director must provide notice under AS 38.05.945.

Section 6. Adds three new subsections to AS 38.50.010 that establish procedures for the exchange of state land or an interest in state land and requires legislative review of exchanges valued at \$5,000,000 or more.

Section 7. Removes a requirement that the director, when negotiating a land exchange involving more than one party, "consider only the land and other consideration which the state would convey and receive if the exchange were executed."

Section 8. Removes an existing limitation, permitting the director to exchange or receive land or the mineral rights in the land separately, if the conveyance is authorized by the Constitution of the State of Alaska and applicable federal law.

Section 9. Amends AS 38.50.070 to provide that, unless waived, the appropriate state agency will continue to administer valid existing rights in land, or interests in land, conveyed under AS 38.50 and that revenue derived from existing rights in the land, or an interest in land, will continue to accrue to the state until the land is conveyed under AS 38.50 .150.

Section 10. Changes the requirement that the director hold three public hearings concerning the exchange of land valued at more than \$5,000,000 to a requirement that the director hold at least two public meeting, one of which must be held in person in a municipality close to the proposed land exchange.

Section 11. Conforms AS 38.50.140 to changes made in secs. 6 and 13 (repeal of AS 38.50.020). Makes de minimus editorial changes.

Section 12. Clarifies that in AS 38.50 the terms "state land " and "land" include shoreland and tideland.

Section 13 Repeals AS 38.50.020, 38.50.040, 38.50.080(b), 38.50.090, 38.50.100, 38.50.110, 38.50.120(b), and 38.50.130.



REPRESENTATIVE CATHY MUÑOZ

EXPLANATION OF CHANGES CS FOR HOUSE BILL 274(RES)

“An Act relating to extensions of certain state land leases; relating to the exchange of state land; and relating to the definition of state land.”

The CS for HB 274(RES) made the following change:

Section 10:

House Resources changed the number of public meetings for land exchanges over \$5 million from at least one (1) to at least two (2) public hearings. Public meetings under this subsection may be held telephonically, except at least one (1) meeting must be held in person in a municipality close to the proposed land exchange.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: HB 274
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB274CS(RES)-DNR-MLW-4-13-16
Title: STATE LAND; EXCHANGES; LEASE
EXTENSIONS
Sponsor: MUNOZ
Requester: House Resources Committee

Department: Department of Natural Resources
Appropriation: Fire Suppression, Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES	FY 2017	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2016) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 12/31/17

Why this fiscal note differs from previous version:

House Resources CS version.

Prepared By: <u>Brent Goodrum, Director</u>	Phone: <u>(907)269-8625</u>
Division: <u>Mining, Land and Water</u>	Date: <u>04/13/2016 12:00 AM</u>
Approved By: <u>Marty Rutherford, Acting Commissioner</u>	Date: <u>04/13/16</u>
Agency: <u>Department of Natural Resources</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. CSHB 274(RES)

Analysis

DNR does not anticipate any fiscal impact from this legislation.

Section 1: Conforming language due to changes in AS 38.50.

Section 2: Adds two new subsections to AS 38.05.070. The first subsection permits DNR to extend certain existing land leases if the lessee is in good standing, and only once for a period of two years, while DNR considers applications for three specific purposes. The second subsection provides that the extensions are not subject to AS 38.05.035(e) but requires public notice of the lease extension.

Section 3: Applies existing AS 38.05.945 public notice standards to state land exchanges.

Section 4: Modifies the terms shorelands and tidelands to those currently used.

Section 5: Amends AS 38.50.010 to add two new requirements for determining best interest and noticing in AS 38.05.945 as well as modifying language about which estates can be exchanged.

Section 6: Adds three new sections to AS 38.50.010 that establish procedures for the exchange of state land or an interest in state land, including following the AS 38.05.035(e) process, and keeps the requirement for legislative review of exchanges valued at \$5M or more.

Section 7: Removes a requirement that the director, when negotiating a land exchange involving more than one party, "consider only the land and other consideration which the state would convey and receive if the exchange were executed."

Section 8: Removes an existing limitation, revising the statute in a way that permits the director to exchange or receive land or the mineral rights in the land separately, if the conveyance is authorized by the State Constitution and applicable federal law.

Section 9: Amends AS 38.50.070 to provide that, unless waived, the appropriate state agency will continue to administer valid existing rights in land, or interests in land, conveyed under AS 38.50 and that revenue derived from existing rights in the land, or an interest in land, will continue to accrue to the state until the land is conveyed under AS 38.50.150.

Section 10: Changes the requirement that the director hold three public hearings concerning the exchange of land valued at more than \$5M to a requirement that the director hold at least two public meetings.

Section 11: Conforming language in AS 38.50.140 to changes made in sections 6 and 13.

Section 12: Conforms the terms of shoreland and tideland to AS 38.05.965.

Section 13: Repeals AS 38.50.020, AS 38.040, AS 38.080(b), AS 38.090, AS 38.100, AS 38.110, AS 38.120(b), and AS 38.130

Regulations: DNR anticipates that passage of this legislation will require revisions to existing regulations at 11 AAC 67.200 - 67.280, to implement the Exchange of State Land provisions of Sections 2- 13. Specifically, to repeal portions of those regulations made inconsistent with the revised statute. DNR will also be required to adopt new regulations in 11 AAC 58 to implement the lease extension provisions of Section 1. Costs for these efforts will be more than offset by savings in personal services resulting from the revisions made in this bill.

Dinyea Corporation
P.O. Box 71372
Fairbanks, AK 99707-1372

March 12, 2016

Representative Cathy Munoz
Alaska State Capitol, Room 501
Juneau, AK 99801

RE: Support for the Passage of HB 274

Dear Representative Munoz,

During a regular meeting held on March 12, 2016, the Dinyea Corporation Board of Directors voted to support passage of House Bill 274, relating to land exchanges.

The current process involving land exchanges within the State of Alaska is quite cumbersome, expensive and contains a one-year timeline for completing the transaction that is extremely difficult to meet. It is our understanding that hundreds of requests for land exchanges have been made since 1972, but only a few such requests have been brought to a successful conclusion.

We look forward to HB 274 addressing and overcoming the many challenges that are currently involved with land exchanges. Your efforts in making it easier for us to meet our duty to our Alaska Native shareholders to pursue responsible development of Alaska's land resources in order to improve their economic well-being and quality of life is greatly appreciated.

We enthusiastically join Seth-De-Ya-Ah Corporation and the Minto Development Corporation in urging the Legislature to pass HB 274 during this legislative session and will make representatives from our corporation available to assist you in this important endeavor.

Sincerely yours,



Michael L. Kelly
Chief Operating Officer
Dinyea Corporation

On Behalf of: Mary Derry
Vice Chairman
Dinyea Corporation

Minto Development Corporation

615 Bidwell Ave, Suite 405, Fairbanks AK 99701 • Phone: (907) 374-0968

February 3, 2016

Representative Cathy Munoz
Alaska State Capitol, Room 501
Juneau, AK 99801

RE: Support for the Passage of HB 274

Dear Representative Munoz,

In a special meeting held on January 30, 2016, the Minto Development Corporation Board voted to support the passage of House Bill 274, relating to land exchanges.

We consider the current law to be disadvantageous to the applicant which discourages private property owners, such as our parent corporation Seth-De-Ya-Ah Corporation, from making application. HB 274 would encourage private investment and economic development by making the application process much less onerous and the opportunity for exchange values much more equitable.

We urge the Legislature to pass HB 274 this legislative session and will make representatives from our Corporation available to assist you in this endeavor.

Sincerely,



Roxanne Frank
President of the Board of Directors

Cc: Representative David Talerico, House Resources Committee Co-Chair
Representative Benjamin Nageak, House Resources Committee Co-Chair

Seth-De-Ya-Ah Corporation



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Minto, AK 99758

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Toll Free: 1-866-798-7181

sethdeyaahcorp@gci.net



February 3, 2016

Representative Cathy Munoz
Alaska State Capitol, Room 501
Juneau, AK 99801

RE: Support for the Passage of HB 274

Dear Representative Munoz,

In a special meeting held on January 30, 2016, the Seth-De-Ya-Ah Corporation Board voted to support the passage of House Bill 274, relating to land exchanges.

Seth-De-Ya-Ah Corporation is the ANCSA village corporation for the federally recognized Native Village of Minto. The mission of Seth-De-Ya-Ah Corporation is two-fold: 1) to manage our land and affairs in a fiscally responsible manner to ensure a healthy and viable corporation and a reasonable and consistent return for our shareholders; and 2) to provide employment opportunities and training for, and to promote and retain the tradition, cultural values and customs of our shareholders and their descendants.

We consider the current law to be disadvantageous to the applicant which discourages private property owners, such as Seth-De-Ya-Ah Corporation, from making application. HB 274 would encourage private investment and economic development by making the application process much less onerous and the opportunity for exchange values much more equitable.

We urge the Legislature to pass HB 274 this legislative session and will make representatives from our Corporation available to assist you in this endeavor.

Sincerely,

A handwritten signature in blue ink that reads "Edna Riley".

Edna Riley

President of the Board of Directors

Cc: Representative David Talerico, House Resources Committee Co-Chair
Representative Benjamin Nageak, House Resources Committee Co-Chair

Reasons for the Repeal Sections from AS 38.50

The general purpose of repealing language within these sections is to replace procedures for land exchanges with federal agencies, Native corporations, and private entities with ones that allow for exchanges to be conducted efficiently, similar to other disposals of interest decisions conducted by DNR. These land exchanges will now fall under the standard public notice and decision process requirements of the Alaska Lands Act (AS 38.05.945 and AS 38.05.035(e)) that are currently used for most state land disposals, including oil and gas leasing and land sales. Therefore, some sections regarding public notice and decision process that deviate from AS 38.05.945 and AS 38.05.035(e) are repealed.

38.50.020 Value of properties exchanged. The majority of this section was retained under AS 38.50.010, except the requirement that the state must receive land that is equal to or exceeds the appraised fair market value of the land exchanged by the state. The unintended consequence of this requirement, along with some other provisions of AS 38.50, has created challenges to complete exchanges when considering other values of public benefit that will not be able to be appraised. This problem is fixed by using the procedures similar to those used for municipal land exchanges, which require the state to receive land with approximate equal value of the land it is exchanging. Repealing the old requirement will allow the state to evaluate the value of the property together with other public benefits to ensure that the land and value received by the state equals or exceeds the value of the property relinquished.

38.50.040 Land subject to exchange. This section does not appear to have any functional use. Regardless of this statutory provision, the state does not have the legal authority to violate a covenant or restriction on title that prevents a disposal or land exchange.

38.50.080(b) Prohibition against alienation of selection rights. The state has already selected land under the Alaska Statehood Act and has no further ability to select lands, therefore this subsection is no longer applicable.

38.50.090 Coordination with other state agencies. For consistency, this is replaced with the requirements under AS 38.05.035(e) which includes a requirement to provide a summary of agency and public comment obtained as a result of contacts with other agencies and efforts taken by the department to solicit public response.

38.50.100 Finding requirement as to alternatives. This is replaced with the process described under AS 38.05.035(e) which requires a written determination that the exchange will best serve the interests of the state.

38.50.110 Notice of proposed exchange. This notice section is replaced with the requirements of AS 38.05.945, which is the standard for most other disposals, including oil and gas leases, land sales, material sales, and other leases. AS 38.50.110 contains different language from AS 38.05.945, in that it requires that the notice to contain all of the pertinent information regarding the land exchange, which has the effect of requiring publication of a very lengthy public notice. AS 38.05.945 allows supporting materials to be provided along with the notice that accomplish this same purpose.

38.50.120(b) Public hearings. Modifications to AS 38.50.120(a) changed public hearings to public meetings. Typically DNR holds public meetings instead of formal hearings. Therefore subsection (b) is no longer necessary to clarify hearing procedures.

38.50.130 Report on proposed exchange. This reporting requirement is duplicative of existing requirements for publication of a best interest finding, and it adds cost and complexity to the exchange process. The best interest decision will lay out the considerations used in determining the value of the properties, the value of the exchange and what the benefits are of the exchange.