

ALASKA DEPARTMENT OF REVENUE

2860

SRES

SB 375

2860

AS 38.05.070 establishes 55 years as the maximum term of a lease.

In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.

AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.

AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings.

AS 38.05.075(e)-(i) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW

SB 375

AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.

Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.

AS 38.05.321 limits the disposal of agricultural land to transfer of only the agricultural rights.

A fee simple conditional title, requiring agricultural development, would be issued.

The following changes were made in the House-passed version of SB 375, An Act relating to land disposal and management. Page and line references are to the House-passed version.

page 1, lines 10-14 is amended to read:

In classifying and making state land available for private use and settlement, the director shall consider the natural resources and conditions present on the land and shall seek to minimize the adverse effect of private settlement on wildlife, fishery, mineral, timber and other significant resources (and scenic quality) of the land.

page 2, line 1 is amended to read:

hold public meetings in the communities most affected

page 3, line 17 is amended to read:

include an analysis and an assessment of the (determination that there is) market demand for the land proposed for disposal

page 4, line 28 is amended to read:

comply with municipal (local) ordinances

page 5, line 3 is amended to read:

minimize adverse effect on wildlife, fishery, public recreation, timber, or other significant resources in the area

page 5, lines 20-25 are amended to read:

For enabling isolated cabin development in remote locations where survey and conveyance is impractical, or where disposal of land would cause potential conflicts with other resources and uses (require additional conditions), or where a long-range interest in public ownership and use exist, a system for cabin permits on public land may be used.

page 6, lines 10-12 add the following language:

except that the commissioner may waive this requirement on a determination that topographic features, diffuse settlement, or the public interest do not justify this requirement.

RATIONALE:

Allows the Department flexibility. Current statute requires that no land may be conveyed unless it is within 2 miles from a survey control monument. This amendment would allow a waiver of this requirement under certain conditions.

page 7, line 16 delete the following language:

(The commissioner may retain in state ownership public lands to maintain present and future public access.)

RATIONALE:

The Commissioner is currently authorized to dispose of land or not dispose of land, which by definition also grants the authority to retain land in state ownership.

page 7, line 14 is amended to read:

An easement or right-of-way reserved under this section may include (established) trails that have an established history of use (traditionally used) for commerce, recreation, or transportation.

page 8, lines 22-25 add the following language:

waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if the land is inaccessible by road and transportation, marketing, and development costs render the required development uneconomic.

RATIONALE:

Current statute authorizes the Commissioner to require a development plan for sales of state agricultural land. The amendment would allow modification of development requirements under specified conditions. This is intended to address the recipients of agricultural land in Gustavus who because of their isolated location and lack of transportation to markets are unable to economically develop their farms.

page 10, lines 4-7 and lines 13-14, add the following language:

the date of acquisition by the state of the land; or
the date of a court decision or settlement nullifying a
disposal of state land

RATIONALE:

Clarifies the time period during which a preference right may be applied for.

page 13, lines 4-6, add the following language:

- (4) a mineral claim located under AS 38.05.195;
- (5) a mineral lease issued under AS 38.05.205; or
- (6) a production license issued under AS 38.05.207.

RATIONALE:

Clarifies that a best interest finding is not required for a mining claim or lease.

page 13, lines 7-27 adds new preference right language. Provisions:

- 5 acre parcel
- erected a building on the land
- used land for business purposes for 5 years under federal permit or without the need for a permit
- earned 25% of total income from the business
- fair market value
- may deny if interferes with public use by residents

RATIONALE:

Preference would usually apply to hunting and fishing guides. The Department estimates 100 claimants statewide.

page 14, line 14 is amended to read:

70 (85)% of the appraised fair market value of the land.

RATIONALE:

Would allow bidding at public auction to begin at 70% of fair market value.

page 16, lines 20-29 and page 17, lines 1-23 add new language.

Simply clarifies the foreclosure procedure added in the Senate version of the bill. The effect of both versions is the same, in that a notice of breach procedure for contract violations is established.

page 18, lines 21-29 and page 19, lines 1-13 deletes language.

Removes the Department's authority to convey interests beyond the agricultural interests in state lands.

page 19, lines 17-18, add the following language:

The director shall preserve reasonable and traditional access to state land and water.

RATIONALE:

Clarifies that in issuance of leases, public access be preserved.

page 25, line 7 is amended to read:

The receipt shall be accepted (acknowledged) in writing by the bidder.

page 26, line 5 delete the following language:

(retain in state ownership to ensure access to navigable and public waters)

RATIONALE:

The Commissioner is currently authorized to dispose of land or not dispose of land, which by definition also grants the authority to retain land in state ownership.

page 29, lines 6-10 is amended to read:

Notice of one or more actions described in this section shall be given (by more than one of the following methods) at least 30 days before the action by publication in newspapers and one or more of the following methods

page 29, line 25 deletes the following language:

(negotiated sales of timber not exceeding 25,000 board feet or materials not exceeding 2500 cubic yards under AS 38.05.115).

RATIONALE:

Current statute exempts negotiated sales of timber and materials from public notice requirements. Senate version would have required notice for larger sales; House version maintains the status quo.

page 34, lines 2-4 is amended to read:

2 years (90 days) unless tenure was shortened due to a service connected disability or due to receiving an early separation upon return from a tour of duty overseas

RATIONALE:

Veterans' discount on purchase of state land will be granted only to those so qualified.

page 34, line 14 is amended to read:

A discount under this section may not be used toward the purchase of land offered at a restricted sale.

RATIONALE:

Clarifies that a qualified veteran may purchase land under a preference (per current statute, AS 38.05.067) or at a discount, but may not exercise both options at one sale.

page 34, lines 22-29 adds new language. Provisions:

Allow holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.

page 35, lines 10-11 is amended to read:

complete a survey before disposing of (designating) state land for homestead entry

page 36, lines 1-3 are amended to read:

cultivate either 25% of the land classified for agricultural use or 50% of the land having class II or III soils, whichever is less

RATIONALE:

Clarifies that only that homestead land which has agricultural potential need be cultivated.

page 45, lines 1-7 is amended to read:

An exchange or a final agreement to exchange is subject to legislative review under AS 38.50.140 if the exchange or a final agreement to exchange involves state land having an appraised or estimated fair market value of \$5,000,000 or is for other than equal appraised fair market value.

RATIONALE:

Would provide a formal opportunity for legislative oversight of major exchange actions.

page 47, lines 3-8 is amended to read:

For an exchange of (more than 500 acres of state land or) state land having an appraised or estimated fair market value of more than \$5 million (\$100,000), there shall be at least three (one) public hearings in one or more municipalities close to the state land proposed for exchange before it is submitted to the legislature for approval.

RATIONALE:

Current statute allows the Commissioner to hold public hearings on land exchanges "as appropriate". Senate version required one hearing for larger exchanges. House version requires three, and specifies that they must be in nearby municipalities.

page 47, lines 21-24 is amended to read:

conclude a proposed exchange agreement upon approval by the legislature of the proposed exchange agreement (unless either house of the legislature by simple resolution disapproves of the exchange within 60 days).

RATIONALE:

Would require that the legislature pass a bill approving larger exchanges.

page 52, after line 27 insert:

"For homesite entry permits issued by the commissioner of natural resources under AS 38.08.040 before July 1, 1983, the person may be granted 10 years to accumulate the 35 months of residence required under AS 38.08.060(a)(1) and may be granted eight years to erect a habitable, permanent, single family dwelling on the homesite required under AS 38.08.060(a)(2)."

RATIONALE:

Current statute provides for a 7 year permit term and 5 years in which to construct a dwelling. The intent of the amendment is to allow for an extension of the dwelling and occupancy requirements if conditions have not allowed the applicant to meet the current terms.

Alaska State Legislature



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Senate

Committee on Resources

MEMORANDUM

TO: All Members of the House of Representatives

FROM: Senator Fahrenkamp, Chairman
Senate Resources Committee *Bettye*

RE: SB 375, Relating to land disposal and management

DATE: May 28, 1984

SB 375, An Act relating to land disposal and management is in the House Rules Committee awaiting calendaring on the House floor.

This bill is the product of a comprehensive review of Title 38 undertaken by the Senate Resources Committee. Our review began in August, when we solicited comments from a working group of over 80 user organizations and concerned individuals, including associations as diverse as the League of Women Voters, the Farmers and Stockgrowers Association, the Alaska Miners Association, the Departments of Fish and Game and Natural Resources, the Center for the Environment, United Fishermen of Alaska, the Society of American Foresters, the Alaska Federation of Natives, and the Alaska Oil and Gas Association.

Following public hearings in Fairbanks in September and in Anchorage in October, legislation that focused on the problems that had been identified was drafted and sent out for two more rounds of public review. The review resulted in several recommendations that clarify and revise land management procedures and allow for more efficient implementation of the State's land disposal program. SB 375 was formally introduced in January, and was further refined through three public hearings held by the Senate Resources Committee in February and March.

SB 371, which revises sections of Title 38 dealing with mining, received House approval on May 16 and has been transmitted to the Governor for signature into law. This is a companion bill to SB 375. Passage of both will facilitate the reprinting of the Title 38 pamphlet scheduled to take place this summer.

A summary of the revisions to Title 38 that SB 375 proposes is attached. I would like to emphasize that the bill is the product of thorough public review, and urge your support.



Alaska Environmental Lobby, Inc.

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FEBRUARY 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 1

Page 1, Section 1, Line 13-14. Add:
minimize the effect of private use and settlement on wildlife
fishery, public recreation, scenic, mineral, timber, and other
significant resources and uses of the land;

Rationale:

DNR should consider the effects of private use and settlement on other uses of land as well as on the resources.

Recreation should be mentioned at the very beginning of this section since scenic values and public recreation are all too often neglected in spite of their importance to Alaskans and their economic benefits.

Public Use Cabins

- ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB
- ALASKA WILDERNESS GUIDES ASSOCIATION • ANCHORAGE AUDUBON SOCIETY
- ARCTIC AUDUBON SOCIETY • DENALI CITIZENS' COUNCIL • FRIENDS OF THE EARTH
- JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY • KENAI AUDUBON SOCIETY
- KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
- SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 2

Page 1, Section 2, Line 27. Retain existing language of AS 38.04.005(e)

Involvement of municipalities and local residents is essential in the decision-making process which leads to making state land available for private use.

Rationale:

The existing broader language should be retained because it emphasizes the importance of municipal and local resident involvement at all stages of the decision-making process, not just the formal public hearing stage.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 3

Page 2, Section 3, Lines 7-11 Add:

The seasonal recreation use or low density settlement shall have sufficient separation between proposed and existing residences so that

(1) public services will not be necessary or expected; and
(2) resources such as timber, firewood, fish and wildlife, and water in the area are sufficient to accomodate the intended private uses.

(c) The department shall ensure for all land disposals that, where appropriate, resources such as timber, firewood, fish and wildlife, and water in the area are sufficient to accomodate the intended private uses.

Rationale

- 1) Both "proposed and existing" residences should be considered when designing disposals for seasonal recreational use and for low density settlement.
- 2) "Fish and wildlife" should be specifically since it is a primary use in most low-density settlements.
- 3) The language, "The department shall" is intended to protect existing users of natural resources unless it is intended that high density settlements will rely on commercial timber, water etc.



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SENATE RESOURCES COMMITTEE

Amendment 4

Page 3, Section 4, After line 7, insert new language.

(6) for preparation of the written assessment required under(f) of this section.

(7) for determination whether a person seeking patent has complied with the requirements of sale.

Rationale:

Both of the above items should be considered in the annual appropriation to the management of the land disposal program. For item (7), as entrants in increasing numbers begin to seek patents, a greater burden will be placed on the department to see that sales requirements such as occupancy and the construction of a habitable dwelling have been met.



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SENATE RESOURCES COMMITTEE

Amendment 5

Page 3, Section 5, Lines 9-11 Insert new language.

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market [FOR STATE LAND IN THE DIFFERENT REGIONS OF THE STATE] in the different regions of the state for state land prices at fair market value.

Rationale:

It is important that the department assess the value of land at fair market value, not subsidized or discounted land. This will ensure that the true demand will be assessed, not a false or artificially inflated demand.

Page 3, Section 5, Lines 14-18 Delete and insert.

The assessment must include a survey of the supply of privately owned land offered for sale, municipal land [FOR WHICH A DISPOSAL PLAN HAS BEEN COMPLETED] intended for early disposal, and federal land available for sale, lease, or permit for specific activities.

Rationale:

As previously written the language was too restrictive and would have resulted in an underassessment of the municipal land market. Even if municipal land is not immediately available, it is likely to be more accessible and more desirable than the state's land. There is no reason to dispose of state land which might be better retained in public ownership if municipal land will soon become available.

continued

Amendment 5 (con't)

Page 3, Section 5, Add a sentence

If the amount of land to be disposed of yearly differs from the amount of the demand as determined by the assessment, the commissioner shall provide the legislature with a written justification for the amount of land proposed for disposal.

Rationale:

Assessing demand is difficult. Many people feel that the assessments to date have been flawed in one way or another. Consequently the department does not determine the amount of disposal acreage on the basis of the assessment alone. If the department's disposals were justified in writing, it would be a benefit to both legislators and the public.

Recommendation:

The department should be required to submit to the legislature yearly, an assessment of the annual and cumulative impacts of the proposed state land disposals. The assessment could be modeled after the SEEA's (Social, Economic and Environmental Analysis) already prepared for oil and gas lease sales, lease sales which in some instances will have fewer long-lasting effects than the developing pattern of land disposals.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 6

AS 38.04.065 Add:

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local government participation shall be signed and dated by the commissioner. After adoption of an official regional or area plan, land classification plans, In areas where regional or area plans are underway and are scheduled to be completed within one year, actions such as land disposals which will significantly affect the area shall be postponed pending plan approval.

Rationale:

This language is intended to protect the integrity of the planning process by disallowing land disposals during the final development of area land use plans.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 7

Page 12, Section 27-AS 38.05.050, Line 7. Add new section:

(b) The commissioner shall appoint a minimum of three citizens advisory boards to provide advice on the disposal of state lands, including the location and amounts of such disposals. Regional boards shall be established, or existing bodies shall be utilized, in areas where boards shall be established or existing bodies shall be utilized in areas where planned disposals are expected to be controversial, or where otherwise appropriate.

Rationale:

Citizen advisory boards could provide valuable advice prior to the formal, sometimes adversarial public hearings.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 8

Page 16, Section 27, lines 18-23. Add:

(2) upon finding that the body of water or waterway is navigable or public water, provide for the the retention in state ownership of a minimum of 200 feet along ocean coastlines, lake shorelines, and on both sides of waterways. The commissioner may waive this requirement and provide for easements or rights-of-way instead only after finding in writing that the body of water or waterway does not have substantial values for fish and wildlife or other environmental purposes and does not receive nor is expected to receive substantial public use for access or other purposes. the commissioner may waive all of these requirements only after finding in writing that regulation or limiting access is necessary for other more important beneficial uses or public purposes. [SPECIFIC EASEMENTS, RIGHTS-OF-WAY, OR RETENTION OF LAND IN STATE OWNERSHIP, REASONABLY NECESSARY FOR OTHER BENEFICIAL USES OR PUBLIC PURPOSES.]

Rationale:

Easements are generally not adequate to protect fish and wildlife habitats and other natural resources and their use. Easements are also generally ill-defined or subject to varying interpretations, and may often provide for access only, and not for standing on the bank and fishing for example.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 9

Page 19, Section 34, Lines 16-18 Amended:

(b) Notice of one or more actions described in (a) of this section shall be given by mailing a copy of the notice to persons who have asked to be placed on a mailing list and by more than one of the following methods.....

Rationale:

The department should be required to maintain a mailing list to notify persons interested in land disposals. This would be the most effective way to reach people with a continuing interest in the land disposal program.



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February 20, 1984

SENATE RESOURCES COMMITTEE

Amendment 10

Page 19, Section 34, Lines 25-27. Amend:

affected persons. A notice shall contain sufficient information to inform the public of the nature of the action and the opportunity of the public to comment on the action, including somewhere other than in the legal section of newspapers a list in lay terms of the names and locations of all lands to be affected.

Rationale:

Few people regularly read the legal section, and when they do, the legal descriptions of property proposed for disposal are practically indecipherable. Newspaper ads, media ads, and posters are sufficient to advertise hearings but fail to inform people exactly where the proposed disposal land is located.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

To: Senator Bettye Fahrenkamp
From: Senator Frank R. Ferguson *FRF*
Date: February 21, 1984
Subject: Land Amendment

Due to the significant policy implications of the amendments I have put forward for Senate Bill 375, I will withdraw the proposed amendments.

I look forward to working with you to accomplish the intent of the proposed amendments when the appropriate bill is in your committee.

FERGUSON AMENDMENTS:

- Sec. 1 Repeal policy statement on transfer of state land into private ownership.
- Sec. 2 Require that current, substantial uses of state land be preserved. In the unorganized borough, would establish that subsistence uses of state land constitute valid economic uses.
- Sec. 3 Removes deadline for classifying land outside of municipality for retention in state ownership.
- Sec. 4 Current DNR market assessments of private land must recognize only land comparable in terms of sale. This amendment would require assessment of all land available on the private market.
- Sec. 5 The priority use of survey funds would be in making the greatest number of parcels of land available to the greatest number of buyers.
- Sec. 6 In developing land use plans, priority would be given to preservation of current uses of state land for economic purposes.
- Sec. 7 In developing land use plans, would require that DNR give consideration to local comprehensive plans and regional strategies in place in the unorganized borough.
- Sec. 8 Would require that no land be disposed of for settlement purposes prior to completion of an official area plan by DNR.
- Sec. 9 Would require that the Commissioner issue a written finding prior to any disposal in the unorganized borough that fully considers demographic, economic, social and cultural impacts of the disposal. Consideration would be given to studies completed by ADF&G on the subsistence uses in the vicinity.
- Sec. 10 Would amend sections 32 and 53 of CSSB 375 to establish that appraisals be valid for 6 months rather than 1 year as is proposed in CSSB 375.

Amendments to SB 375

* Section 1. - repeal AS 38.04.005 (d) [Private land use rights are integral to the material well-being of the people of Alaska and our society.]

RATIONALE: This section should be repealed; as the basic policy statement on the transfer of state land into private ownership, it does two things: 1) it provides guidance to the Department of Natural Resources (DNR) as to legislative intent for the land disposal program: 2) it does not? recognize that private ownership of land may have potential impacts detrimental to the material well-being of many Alaskans.

* Section 2. - AS 38.04 is amended by the addition of a new section:

Sec. 38.04.017. Best interest determination of the uses of state land. In the absence of a written finding by the commissioner to the contrary, any current use of state land for substantial economic purposes shall be considered to be in the best public interest. A finding to the contrary must show that a specific potential use of a land parcel or area will yield greater economic benefits to the public than current uses. In the unorganized borough such a finding shall include a determination under the requirements of AS 38.05.301. Absent a finding that potential alternative use is of greater economic value to the public than current uses, current land uses shall be preserved by classification per AS 38.04.065(b)(3). If an alternative best use is

"consider effect the disposal may have on population density, and potential for conflicts with traditional uses of the land. If necessary, DNR shall develop plan to resolve or mitigate the conflicts."

P. 2
Ferry

identified, the parcel or area may be classified for use according to that alternative.

RATIONALE: The addition of this section would define best interest use of state land which is currently left to DNR without adequate guidelines. This section would require that current, substantial economic uses of state land be preserved. In the case of the Unorganized Borough, it would establish that subsistence uses of state land (which would have to be shown to exist per AS 38.05.301, see section 9) constitute valid and vital economic uses. If DNR could not demonstrate that the potential for the public benefit would be better served by an alternative use of an area currently in use for subsistence purposes, that area would have to be classified to preserve present subsistence uses.

* Section 3. - AS 38.04.020(c) is amended to read:

(c) Land to be retained in state ownership may be classified under AS 38.05.300. [LAND OUTSIDE A MUNICIPALITY TO BE RETAINED IN STATE OWNERSHIP CONSISTS OF LAND CLASSIFIED FOR RETENTION IN STATE OWNERSHIP BY THE COMMISSIONER BY JULY 1, 1985.] Land conveyed to the state by the federal government that is retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

P. 7
Ferry

RATIONALE: Repeal of this language is required to allow responsible, considered completion of area or regional plans, which is addressed in section 8 of these amendments. Current language requires that land outside a municipality to be retained in public ownership be classified before its use in relationship to other lands in the region is fully known, which means that DNR must pursue many classification efforts that will have to be revised once area plans are completed.

* Section 4. - AS 38.04.020(f) is amended to read:

(f) The request of the commissioner under (e) of this section shall be based on an annual written assessment by the commissioner of the market for state land in the different regions of the state. If the state land is in or adjacent to municipalities or unincorporated communities, the assessment shall be developed in the consultation with the municipalities or unincorporated communities. The assessment must include a survey of the supply of privately owned land offered for sale, municipal land for which a disposal plan has been completed, and federal land available for sale, lease, or permit for specific activities. The assessment of the market for state land shall be based on the analysis of the amount of private, municipal, and federal land available for disposal at fair market value or less than fair market value [ON TERMS EQUIVALENT TO THOSE USED IN COMPARABLE STATE LAND DISPOSAL PROGRAMS] and shall include the length of the time land remains on the market before it is sold. The assessment must include findings regarding the amount and general location of state land, in addition to land offered by private landowners or available from a municipal government or the federal government, that is necessary to meet the statewide demand for at least five fiscal years immediately after the year in which the

P. 9
Ferg.

assessment is made. The assessment must also state the general location of land proposed for disposal in the next fiscal year and recommendations for the method of disposal under which the land will be offered to the public;

RATIONALE: This amendment recognizes the fact that there are separate markets for land in Alaska. Land available from other sources is not generally comparable in terms or program design to land available from the state. By requiring that DNR's market assessments recognize only land comparable in terms of sale or acquisition to state land in assessing the supply of land available from other sources, land that is available at fair market value is excluded from consideration. This has served to support the notions that only the state has land for sale in a particular region or that other land is overpriced, when there may well be land available from other sources at fair market terms.

* Section 5 - Sec. 38.04.045 is amended by the addition of a new section:

(c) Funds for surveys shall be utilized in a manner which maximizes their effectiveness in making the greatest number of parcels of land available to the greatest number of prospective buyers.

RATIONALE: This section would require that DNR use its survey budget in a manner designed to provide the best value for the dollar in terms of cost per parcel. In other words, less expensive parcels should be surveyed prior to more expensive parcels. The department would have to establish

P. Ferg

a set of priorities to guide its survey efforts.

* Section 6 - AS 38.04.065(b)(3) is amended to read:

(3) give priority to planning and classification for preservation of current uses of state land for substantial economic purposes and in areas of potential settlement and critical environmental concern;

RATIONALE: This amendment is necessary to preserve the intent established in section 2 of these amendments. It would give priority to planning for the preservation of current substantial economic uses of land identified per section 2 as best interest uses of state land.

* Section 7 - AS 38.04.065(b) is amended by adding a new subsection:

(9) in developing plans for land use in the unorganized borough, consider and give equal weight to such local and regional plans as already are in existence as is given to other relevant considerations. The testimony of local residents shall also be given equal weight.

RATIONALE: This addition would require that DNR give proper consideration to land use plans, such as local comprehensive plans and regional strategies, currently in place in the Unorganized Borough. DNR has stated that it will follow the proscriptions of local zoning and subdivision ordinances

p. 6
Ferg

in municipalities; this provision would allow those parts of the Unorganized Borough which have planning efforts in place some measure of equal protection. It also requires that DNR give due weight to local testimony in planning for local land use. This also will serve to give additional protection to citizens of the state not represented by a local government.

* Section 8 - AS 38.04.065(d) is amended to read:

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and local governmental participation shall be signed and dated by the commissioner. After adoption of an official regional or area plan, land classifications shall be made in accordance with those official plans. No disposal of state land for settlement purposes shall be made in a region or area prior to the completion or substantial completion of an official plan.

RATIONALE: This revision would require that DNR's official area or regional plan for a particular region be completed prior to disposal of state land for settlement purposes in that region. The completion of area plans is necessary for two reasons: 1) Area plans will accurately identify supply, need, and demand for land in a particular region and 2) area plans will help to identify both land use patterns in a long range, regional context and the potential impacts of land disposals on a variety of social, cultural, and economic systems. Site specific

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planning is not a proper substitute for comprehensive, long range area planning and evaluation of land uses. There is simply not enough information gathered in the former process to allow full understanding of the implications of settlement disposals on local and regional land uses.

* Section 9 - AS 38.05.301 is amended to read:

Sec. 38.05.301. Land disposal in the unorganized borough.

Before a sale, lease under AS 38.05.070 - 38.05.105, or the disposal of state land in the unorganized borough, the commissioner shall issue a finding on [CONSIDER] the effect that the sale, lease or other disposal may be expected to have on the density of the population in the vicinity of the land and potential for conflicts with traditional uses that could result from the sale lease or disposal. The commissioner shall, in arriving at a finding, consider possible demographic, economic, social and cultural impacts of the sale, lease or disposal. A finding on conflicts with traditional uses shall include consideration of completed studies of the habitat values and subsistence uses in the vicinity by the Department of Fish and Game. [IF HE FINDS IT NECESSARY, THE COMMISSIONER SHALL DEVELOP A] A plan to resolve or mitigate the conflicts identified, if any, in a manner consistent with the public interest and the provisions of AS 38.05.005 - 38.05.370 shall be developed by the commissioner.

RATIONALE: This amendment would require that DNR fully evaluate the impact of settlement disposals on traditional land uses and associated cultural,

P. 8
Ferg.

social, and economic systems in the Unorganized Borough. Currently, a significant portion of the population of rural Alaska depends heavily on traditional land and resource uses for economic survival. In turn, social and cultural systems are based upon these uses. Little is known about the impact of land disposals upon these uses and systems. Past disposals have not been studied to determine what the impacts, if any, have been. Such study, in conjunction with a proper area planning process, should be completed prior to disposals for settlement purposes in the Unorganized Borough.

*Section 10. - Section 32 of SB 375 should amend AS 38.05.310(a) to establish that appraisals required for the sale or lease of state land are valid for six months rather than amend it one year as it does in its current form. For consistency's sake the amendment contemplated in section 53 of SB 375 should be deleted, so that appraisals required for land exchanges remain valid for six months.

RATIONALE: Standard appraisal techniques suggest that six months is a generally accepted period over which an appraisal is considered to remain valid. A period as long as a year could lead to situations in which state lands could be sold or exchanged for significantly less than their full value.

Alaska State Legislature

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



Senate

Committee on Resources

February 9, 1984

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Superseded

CS SB 375, An Act relating to land disposal and management

- Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resources values and uses.
- Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.
- Sec. 3 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.
- Sec. 4 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.
- Sec. 5 Requires that the demand assessment include demand for public services and capital improvements.

CS SB 375 - Language governing demand assessments remains unchanged. An accurate analysis of demand is difficult and has had little impact on legislative appropriations for disposal programs. Adding another aspect to the demand assessment, such as identifying demand for public services and capital improvements, will be time consuming and costly. In past years, DNR has budgeted up to \$60,000 for the assessment.

- Sec. 6 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.
- Sec. 7 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

- Sec. 8 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.
- Sec. 9 Expand the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.
- Sec. 10 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.
- Sec. 11 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.
- Sec. 12 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.
- Sec. 13 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.
- Sec. 14 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.
- Sec. 15 Clarifies the procedure for issuing a best interest finding.
- Sec. 16 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.
- Sec. 17 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.
- Se 18 Authorizes bidding at auctions to begin at 85% of the current appraised fair market value of the land, rather than the current 100%.

Sec. 19 Establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract.

Sec. 20
and 21 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.

CS SB 375 adds a new section:
Increases from \$250/year to \$5,000/year the value of a lease that may be negotiated. This reflects the increase in land values since this statute was enacted in 1962.

CS SB 375 adds a new section:
Increases the maximum term of a lease from 55 to 99 years, to ensure that a lease can be issued for the useful life of the intended activity.

Sec. 22 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.

Sec. 23
thru 26 Technical: Substitute "commissioner" for "director".

Sec. 27 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to allow access to and along navigable and public waters.

Sec. 28 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.

Sec. 29 Modifies notice requirements for mineral leases.

CS SB 375 restores this section to its original language. By statute, the lease is granted as a right, and simple notice that a lease will be issued is provided.

Sec. 30
and 31 Technical: substitute "commissioner" for "director" and "land" for "lands".

- Sec. 32 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.
- Sec. 33 This section is a drafting error and needs to be amended to read [AS 38.05.034(a)(14)] AS 38.05.035(e) CS SB 375 makes this amendment.
- Sec. 34 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that more than one, rather than just one, of the following notice methods be used: newspaper, electronic media, posting, notification of interested parties.
- Sec. 35 Requires that notice be given of negotiated sales.
- CS SB 375 would limit this notice to negotiated sales of timber exceeding 25,000 board feet or of materials exceeding 2500 cubic yards
- Sec. 36 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.
- Sec. 37 Allows the purchase of a homesite parcel at fair market value at the end of the permit term if all requirements except the ones for occupancy have been met.
- CS SB 375 would allow purchase within 7 years of issuance of the permit; to be consistent with homestead purchase requirements.
- Sec. 38 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program.
- Sec. 39 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.
- Sec. 40
thru 51 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.
- Sec. 52 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.

- Sec. 53 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.
- Sec. 54 Passage by the 1983 Legislature of SB 41, which awarded the University of Alaska ownership and management over certain state lands, has rendered this reference obsolete.
- Sec. 55
and 56 Streamlines the notice requirements for land exchanges involving less than 640 acres of land or appraised at less than \$100,000. Notice would be given as outlined in Sec. 34.
- Sec. 57 A public hearing would be required for a land exchange only if the exchange is of more than 640 acres or valued at more than \$100,000. The Commissioner maintains discretion to hold hearings for other exchanges.
- Sec. 58 Clarifies which land exchanges require legislative approval.
- Sec. 59 Gives the Commissioner discretion in issuing trapping cabin permits.
- Sec. 60
and 62 Requires compliance with local subdivision ordinances which require capital improvements.
- CS SB 375 would exempt from compliance those subdivision plats submitted to the platting board prior to the effective date of this Act
- Sec. 61 Conforming amendment per repealed sections.

Sec. 63 Repealers:

- AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.
- AS 38.04.025 Requires demand assessment, redundant to .04.020(f)
- AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.
- AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).
- AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41
- AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).
- AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).
- AS 38.05.345(e) Conforming amendment regarding notice of mineral leases.
- AS 38.05.350 Settlement policy embodied in .04.005-.015.
- AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
- AS 38.05.365(20) Definition of University lands.

Sec. 64 Effective date July 1, 1984.

Alaska State Legislature

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



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
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Superseded

Senate

Committee on Resources

January 30, 1984

SB 375, An Act relating to land disposal and management

- Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resources values and uses.
- Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.
- Sec. 3 Requires that sufficient separation be maintained between residences in "remote" areas so that resources in the area are sufficient to accomodate the intended private uses.
- Sec. 4 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophloe" which allowed for submittal of a schedule for obtaining cost estimates.
- Sec. 5 Requires that the demand assessment include demand for public services and capital improvements.
- Sec. 6 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.
- Sec. 7 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.
- Sec. 8 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.

- Sec. 9 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.
- Sec. 10 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.
- Sec. 11 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.
- Sec. 12 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.
- Sec. 13 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.
- Sec. 14 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.
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- Sec. 36 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.

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- Sec. 38 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program.
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- Sec. 58 Clarifies which land exchanges require legislative approval.

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AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.

Sec. 64 Effective date July 1, 1984.

at-Su says state should help pay for its actions

G O'HARRA
vs reporter

MER — This spring, Vilma Robert Anderson and their four n plan to move from Anchor o their log home in the Fetters subdivision at Mile 13 of the ville Road.

ir relocation, and that of other es with children moving there nto the nearby Kenny Creek vision, has the Matanuska Susit-rough complaining about state disposal policies.

Anderson's count, at least 11 l-age children will live in the when school begins next fall. etween the subdivisions and the

nearest school is about 10 miles of the Petersville Road, which isn't plowed in winter and is impassably muddy at breakup.

Anderson has asked the Mat-Su Borough either to build a school in the community or open the road. The borough is bound by law to educate the children.

For the borough, it is yet another example of the state creating a demand for costly local services by selling unimproved, partially accessible subdivision land.

"This is the whole problem," says Mat-Su planning director Bob Stickle. "The state is placing future obligations on the borough for future

expenditure of funds that we have no control over."

Talkeetna Assemblywoman Dorothy Jones said she often is asked about roads, services and schools from people like Anderson who are moving onto nearly 80 state land disposals in the Mat-Su Borough.

"They want to know: 'When? How? What do we do now?'" she says. "I am definitely for the lands going into the hands of the people, but don't just dispose of them for the sake of disposing. Do it in a manner that doesn't impact local government."

Although borough and state officials say getting Peters Creek children to school can be done by plow-

ing or improving Petersville Road, a solution to the larger issue will require changes in state law.

Under current land-use statutes, local governments can't disapprove state subdivisions because they don't meet local requirements. That allows the state to sell subdivisions in boroughs without roads or other improvements required of private subdividers.

But a bill introduced this session by Sen. Bettve Fahrenkamp, D-Fairbanks, would amend land-use law to require the state to comply with local subdivision regulations.

That bill, written as a result of public hearings this fall, also would

require the state to have public hearings in the community nearest the proposed land disposals.

The Department of Natural Resources has proposed regulations to accomplish the same thing. Where borough ordinances require subdividers to build roads, the state would have to provide access road like any other developer.

Paying for the roads would be the responsibility of the legislature.

Under another bill, proposed by Senate President Jalmar Kerttula, D-Palmer, the state would pay a \$200 "impact payment" to local governments for each acre sold.

Alaska State Legislature

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



Senate

Committee on Resources

May 10, 1984

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
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Superseded

SUMMARY OF MAJOR PROVISIONS OF HCS CS SB 375 (Res)

Access

EXISTING LAW

AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."

AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.

Costs

EXISTING LAW

Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020 (e).

SB 375

Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.

This exemption would be removed.

SB 375

Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.

Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW

SB 375

AS 38.50.020(a) provides for legislative review of exchanges for other than equal appraised fair market value.

Legislative approval would be required for any land exchange involving more than 500 acres of state land or valued at more than \$1 million. The current review provision is repealed.

AS 38.50.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.

At least three public hearings would be required for exchanges involving more than 500 acres or having an appraised value of \$1 million or more.

AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.

Notice requirements for land exchanges involving less than 500 acres or appraised at less than \$100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW

SB 375

Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.

Notice must be given by newspaper plus one other method.

See also "Land Exchanges."

Preference Rights

EXISTING LAW

SB 375

AS 38.05.035(b) (2) allows for granting of preference rights to correct errors or omissions of a state or federal agency.

Would limit the right to apply for a preference to 5 years from the time of error.

AS 38.05.035(b) (3) allows for granting of preference rights to correct errors or omissions of others.

Would limit the right to apply for a preference to 3 years from the time of error.

Adds a new preference, to be granted to long-term landholders who have derived business income from the land.

AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.

Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW

SB 375

AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.

Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.

The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.

AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.

Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.

Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.

Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.

Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erection of a dwelling within three years.

AS 38.09.090. would allow the purchase of a homestead parcel at fair market value prior to expiration of the entry permit if all but the occupancy requirements have been met.

AS 38.09.030(c) allows holders of homestead entry permits to transfer rights to another individual in the event of incapacitating illness or injury.

Grants homesite permit holders the same right to transfer.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.

Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW

AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.

No general land discounts are currently offered.

SB 375

AS 38.05.055 would allow bidding at auctions to begin at 70% of the appraised value of the land.

AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW

AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.

SB 375

Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument, and allows DNR to waive the 2-mile requirement.

Leasing Procedures

EXISTING LAW

AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of \$250/year.

SB 375

Increases the value of a lease that may be negotiated to \$5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.

In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.

AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.

AS 38.05.075(c) provides a mechanism for JNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings.

AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Agriculture

EXISTING LAW

AS 38.05.020(b)(6) authorizes DNR to require development plans of participants in agricultural development projects.

AS 38.05.321 limits the disposal of agricultural land to transfer of only the agricultural rights.

SB 375

Would allow DNR to waive, postpone, or modify agricultural development requirements if certain conditions are present.

A fee simple conditional title, requiring agricultural development, would be issued.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

February 16, 1984

Mr. Pat Marquis, Chairman
Kenai Chapter
Alaska Society of Professional
Land Surveyors
P. O. Box 468
Soldotna, AK 99669

Dear Mr. Marquis:

Governor Sheffield has forwarded your comments on the Homestead Act survey and access requirements. Your comments are particularly significant right now because the Senate Resources Committee is just taking up revisions of Title 38.

I will provide your suggestions to the Committee, and our staff will review them. I am hesitant to recommend substantive changes to a new law but appreciate and understand your interest.

Please contact me with any further comments.

Sincerely,

Esther C. Wunnicke
fr Esther C. Wunnicke
Commissioner

cc: The Honorable Bettye Fahrenkamp
Chairperson, Senate Resources

Tom Hawkins, Director
Division of Land and Water Management

~~cc: Sandra Scheibert Sec. Resources~~

~~cc: Tom Hawkins
Jim Anderson~~

Alaska Society of Professional
Land Surveyors
P.O. Box 468
Soldotna, AK 99669

January 5, 1984

RECEIVED
JAN 11 1984

GOVERNOR'S OFFICE

The Honorable Bill Sheffield
Governor, State of Alaska
Pouch A, Mail Stop 0101
Juneau, AK 99811

Dear Governor Sheffield:

We wish to address the recently enacted Homestead Law and particulars included therein. We are hoping that our following comments might be included into any amendment or rewrite being considered for the upcoming legislative session.

1. We as a group feel the provision of access along section line easements is insufficient to provide real access under certain terrain conditions. We recommend the insertion into each eventual patent a blanket easement for access purposes. Our model is the currently utilized U.S. Government "47 Act" as it is commonly referred to. This would facilitate real access along pathways pioneered by the homesteaders.

2. We feel the requirement for survey within two years is too stringent. Merely having a final approved survey prior to patent seems sufficient for all concerned parties. Too strict a time requirement might jeopardize the intent of the law and create an exaggerated cost burden upon the entryman.

We respectfully submit these comments for your perusal and sincerely hope that they shall be considered in the light of any amending procedures.

Thank you.

Sincerely,
Scott Malone for Pat Marquis

Pat Marquis
Chairman
Kenai Chapter, A.S.P.L.S.

cc: Hugh Malone
Don Gilman
Paul Fischer
Milo Fritz
Rick Uehling
Pappy Moss

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
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POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 5-3834
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Senate

Committee on Resources

May 9, 1984

HCS CSSB 375, An Act relating to land disposal and management

- Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.
- Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities most affected by land classifications and disposals.
- Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.
- Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.
- Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.
- Sec. 6 Clarifies that DNR's budget request must include an assessment of the market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.
- Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.
- Sec. 8 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

- Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.
- Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.
- Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument, unless this condition is waived by the commissioner.
- Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivisions is required of the state.
- Sec. 13 Clarifies that trails with an established history of use may be reserved as easements or rights of way across private land.
- Sec. 14 Allows the Department to grant a lessee the right to restrict the use of an easement in order to protect public safety or property.
- Sec. 15 Allows for a waiver or modification of agricultural development requirements if certain conditions are present.
- Sec. 16 Requires that other state agencies notify DNR of any land disposals. This is currently required only for acquisitions, leases, and exchanges.
- Sec. 17 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.
- Sec. 18 Conforming amendment per University settlement agreement. (see Section 3)
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Cont. landowner unmanageable remnants of land. Such
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state ownership.

Provides a mechanism for correcting defects in the
state's title to land by authorizing DNR to quitclaim
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Sec. 20 Clarifies the procedure for issuing a best interest
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Sec. 22 Authorizes bidding at auctions to begin at 70% of the
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Sec. 23 Replaces the current "agricultural rights" provision
with a fee simple conditional title for agricultural
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be maintained as a term of the lease.

- Sec. 29 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.
- Sec. 30 Amends the surface leasing procedure to require applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.
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- Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.
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- Sec. 45 Conforming amendment per relocation in statute of the best interest finding requirement.
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- Sec. 48 Adds the definition of "multiple use" and "university lands" as used in AS 38.04 to AS 38.05.
- Sec. 49 Grants a 25% discount on the purchase price of state land to veterans.
- Sec. 50 Conforming amendment per University settlement agreement. (see Section 3)
- Sec. 51 Allows holders of homesite parcels to transfer rights to another individual in the event incapacitating illness or injury prevents the landholder from fulfilling residency requirements. This conforms with current homestead provisions.
- Sec. 52 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.
- Sec. 53 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.
- Sec. 54 Provides that the amount of land to be cleared under agricultural homesteading requirements be based on soil classifications.

- Sec. 55 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.
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- Sec. 70 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.
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- Sec. 73 and 74 Streamlines the notice requirements for land exchanges involving less than 500 acres of land or appraised at less than \$100,000.
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- Sec. 82 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)
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- Sec. 85 Specifies that the contract foreclosure procedure added in Section 22 applies only to contracts entered into after the effective date of this act.
- Sec. 86 Exempts from compliance with local subdivision ordinances those plats submitted to the platting board before the effective date of the Act. (see Sec. 84)
- Sec. 87 Repealers:
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AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.
AS 38.05.365(20) Definition of University lands.
- Sec. 88 Provides that the veterans' discount (see Sec. 49) is retroactive to the time of repeal of the State's general discount program.
- Sec. 89 Immediate effective date for Sections 19, 37 and 44.
- Sec. 90 July 1, 1984 effective date for remainder of bill.

Alaska State Legislature

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Committee on Resources

May 19, 1984

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May 4, 1984

The Honorable John Ringstad
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Ringstad:

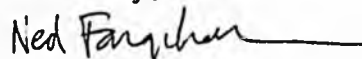
Your staff have asked whether the Department supports certain amendments to CS SB 375 (Res), now before the Committee on Resources, that are put forward by Representative Goll, and I have been asked to communicate in writing the Department's position on these amendments.

Our staff have assisted Representative Goll in drafting the amendments so that his concerns would be presented in the best possible language to accomplish his objectives. However, the Department's position on all amendments to the proposed legislation has been to support the Senate version of the bill, with some exceptions for technical amendments. We concur with Senator Fahrenkamp, who at last week's hearing on the bill indicated that the bill generally represents a balance of interests in land and resource management.

We have worked closely with your staff in reviewing the amendments presented by various members of the House. Without exception, we have supported only technical amendments that do not disturb the balance already represented in SB 375.

Thank you for your interest. Please contact me if more information would be useful.

Sincerely,



Ned Farquhar
Special Assistant to
the Commissioner

cc: Representative Goll

HCS CS HB 375 (Resources)

12

29

Add a subsection (4)

(4) a mineral claim located under AS 38.05.195, a mineral lease issued under AS 38.05.205 or a production license issued under AS 38.05.207.

RATIONALE:

AS 38.05.185 provides that state land may be restricted to mining under lease upon a determination that potential use conflicts on the land exist. AS 38.05.205 provides that the lease must be issued prior to production. Approximately 20% of all state-owned land is designated for lease only (for example, land that has been conveyed to a third party, such as the University or a municipality; land designated for development projects, such as timber sales or industrial sites; and state parks).

Section 5, ch. 108, SLA 1981 allows the Department of Natural Resources until January 1, 1985 to implement a leasing program, and implementing regulations are currently being promulgated. 11 AAC 86.306 of the draft regulations would require that a best interest finding be made before a lease could be issued. This regulation is based on an interpretation of AS 38.05.035(e) which requires a written finding that the best interests of the state will be served prior to a sale, lease, or other disposal of land. The statute does not distinguish between mining leases and other leases, and is being interpreted through regulation to apply to mining leases.

It was never the intent of the Senate Resources Committee to require individual determinations for hardrock mineral leases. In addition, the Department of Natural Resources has concerns about making a separate finding for each lease. Competing land uses would be more appropriately addressed at the time the land is designated "lease only".

Adoption of the proposed amendment will ensure that the lease statute is implemented without unnecessarily burdening the administration or the mining industry.

Alaska State Legislature

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Senate

Committee on Resources

March 5, 1984

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SUMMARY OF MAJOR PROVISIONS OF CS SB 375 (Res)

Access

EXISTING LAW

SB 375

AS 38.04.055 requires reservation of easements and rights-of-way across private land to reach public water and public and private land.

Would allow for retention of land in state ownership across or adjacent to private land.

AS 38.04.050 requires that wherever state land is surveyed for private use, adequate rights-of-way and easements be reserved to each parcel. Further, the director is required to arrange for the development of surface access "where necessary and appropriate."

Would specify that legal and feasible access be provided within subdivisions, and that surface access must meet local ordinances for subdivisions.

AS 29.33.150 exempts the state from compliance with local subdivision ordinances which require capital improvements.

This exemption would be removed.

Costs

EXISTING LAW

SB 375

Funds for implementation of land disposal programs and for grants to municipalities are provided through annual legislative appropriation, based on a request pursuant to AS 38.04.020(e).

Proposed AS 38.04.022 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land.

AS 38.05.310(a) limits the length of time an appraisal is valid to 120 days.

Extends the length of time an appraisal is valid to one year.

Land Exchanges

EXISTING LAW

SB 375

AS 38.05.120(a) gives the commissioner discretion in holding public hearings on proposed land exchanges.

At least one public hearing would be required for exchanges involving more than 640 acres or having an appraised value of \$100,000 or more.

AS 38.05.110 establishes notice procedures (in addition to those required under AS 38.05.345) for land exchanges: provide notice to legislators, municipalities and Native Corporations in the area of the proposed exchange, the Governor's Office, and all state departments.

Notice requirements for land exchanges involving less than 640 acres or appraised at less than \$100,000 would be only as required under AS 38.05.345 (electronic media, newspaper, posting, personal contact).

Notice

EXISTING LAW

SB 375

Under AS 38.05.345, public notice for classification, sale, lease, or disposal of state lands must be provided by one of the following methods: newspaper, electronic media, posting, or personal contact.

More than one notice method would be required.

AS 38.05.345(d) exempts negotiated sales from notice requirements.

Notice must be provided on negotiated sales of timber exceeding 500,000 board feet or materials exceeding 25,000 cubic yards.

See also "Land Exchanges."

Preference Rights

EXISTING LAW

SB 375

AS 38.05.035(b) allows for granting of preference rights to correct errors or omissions of a state or federal agency.

Would limit the right to apply for a preference to 3 years from the time of error.

AS 38.05.069(a) grants owners or lessees of agricultural land a first option to purchase or lease unoccupied adjacent land and establishes a procedure for determining priority if more than one applicant is eligible for the option. This option must be exercised within 60 days after the auction.

Options must be exercised at the time of the auction. A single recipient would be selected by the drawing of lots.

Program Features

EXISTING LAW

SB 375

AS 38.04.020(h) establishes subdivision parcel size at five acres unless topographical features or water and sewage considerations suggest otherwise.

Would allow for consideration of resource values and land uses in determining parcel size.

AS 38.04.020(g)(2) requires that 20% of subdivision parcels be disposed of as homesites.

The number of subdivision parcels disposed of as homesites would be left to the discretion of the commissioner.

AS 38.04.035(4) limits issuance of remote cabin permits to areas where survey and conveyance is impractical.

Permits could also be issued in areas where resource and use conflicts, or a long-range interest in public ownership, exist.

Under AS 38.08.060, the following conditions must be met before a homesite patent can be obtained: Occupancy for 35 months within seven years, erection of a dwelling within five years, payment to the state for survey and platting.

Patent could be obtained prior to expiration of the entry permit through purchase at fair market value if all but the occupancy requirements have been met.

Under AS 38.09, the following conditions must be met before a homestead patent can be obtained: Occupancy for 25 months within five years, survey within two years, erection of a dwelling within three years.

AS 38.09.090. would allow the purchase of a homestead parcel at fair market value prior to expiration of the entry permit if all but the occupancy requirements have been met.

Under AS 38.45.080(a), a trapping cabin permit must be issued if the applicant meets certain conditions.

The commissioner would have discretion in issuance of trapping cabin permits.

AS 29.18.210 authorizes the state to contract with a municipality to conduct an auction of state lands, and allows the municipality to retain expenses from the proceeds of the auction.

Clarifies that capital expenses may also be retained from auction proceeds. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.

Price of Land

EXISTING LAW

SB 375

AS 38.04.035 requires that, unless otherwise provided, lands be sold at fair market value.

AS 38.05.055 would allow bidding at auctions to begin at 85% of the appraised value of the land.

No general land discounts are currently offered.

AS 38.05.940 would grant a 25% discount on land sales to veterans.

Survey

EXISTING LAW

SB 375

AS 38.04.045(b) requires that all land disposed of must be within two miles of a survey monument. AS 38.09.010(b) requires that land made available for homestead entry be within one mile of a survey monument.

Eliminates the requirement that land made available for homestead entry be within one mile of a survey monument.

Leasing Procedures

EXISTING LAW

SB 375

AS 38.05.070(b) establishes the conditions of a negotiated lease at a 15 year maximum term, and with a maximum appraised value of \$250/year.

Increases the value of a lease that may be negotiated to \$5000/year, and the term to 10 years.

AS 38.05.070 establishes 55 years as the maximum term of a lease.

AS 38.05.075 establishes surface leasing procedures. Leasing is made at auction to the highest qualified bidder.

In setting the term of a lease, requires the Commissioner to consider the useful life of any approved activities.

AS 38.05.075(c) provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland owners without competitive biddings.

AS 38.05.075(e)-(h) authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.

Alaska State Legislature

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



Senate

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 485-3834
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Superseded

Committee on Resources

March 5, 1984

CS SB 375, An Act relating to land disposal and management

- Sec. 1 Spells out a policy for managing and disposing of state land which takes into account a range of resource values and uses.
- Sec. 2 Spells out the policy of soliciting the views, including the holding of local public hearings when appropriate, of the residents of communities affected by land classifications and disposals.
- Sec. 3 Passage by the 1983 legislature of SB 41, which awarded the University of Alaska ownership and management of certain state lands, has rendered this provision obsolete.
- Sec. 4 Requires that in determining sufficient separation between residences in "remote" areas, the resources in the area shall be considered.
- Sec. 5 Requires that a cost estimate for access roads and capital improvements within disposal areas (as may be required by municipal ordinance) be submitted annually. This deletes the "loophole" which allowed for submittal of a schedule for obtaining cost estimates.
- Sec. 6 Clarifies that DNR's budget request must include a determination that there is a market demand for the land proposed for disposal. No annual, statewide demand assessment would be required, as this type of analysis is difficult and has had little impact on legislative appropriations for disposal programs.
- Sec. 7 Repeals the arbitrary requirement that certain percentages of subdivision land be made available through the homesite method. This will allow disposal methods to better reflect market demand and public policy.
- Sec. 8 Allows flexibility in subdivision parcel size to better reflect resources and uses in the area.

- Sec. 9 Establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of state land. Funds would be used for implementation of land disposal programs and for grants to municipalities for their disposal programs.
- Sec. 10 Expands the authority in issuing remote cabin permits to allow their use where potential resource and use conflicts exist, or where a long-range interest in public ownership exists. Currently, these permits may be issued only where survey and conveyance is impractical.
- Sec. 11 Clarifies that all land to be conveyed must have been surveyed, either through monumentation of section corners or monumentation of control points, with no land to be conveyed if it is more than two miles from a survey monument.
- Sec. 12 Specifies that legal and feasible access must be provided within subdivisions, and that access meeting local ordinances for subdivision is required of the state.
- Sec. 13 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to maintain present and future public use and access.
- Sec. 14 Would allow an interest holder of state land to restrict the use of an easement with written approval of DNR.
- Sec. 15 Requires that other state agencies notify DNR of any land disposals. This is currently required for acquisitions, leases, and exchanges.
- Sec. 16 Clarifies that lands assigned by DNR to DOT may be transferred to DNR when they are no longer needed.
- Sec. 17 Conforming amendment per University settlement agreement. (see Section 3)
- Sec. 18 Limits the right to apply for a preference to three years from the date of error or state action in order to avoid long-standing claims with difficult record reconstruction.
- Gives DNR the authority to convey to an adjoining landowner unmanageable remnants of land. Such remnants may be unusable and expensive to maintain in state ownership.

- Sec. 18 (cont'd) Provides a mechanism for correcting defects in the state's title to land by authorizing DNR to quitclaim land to the federal government on a determination that the land was wrongly or erroneously conveyed to the state.
- Sec. 19 Clarifies the procedure for issuing a best interest finding.
- Sec. 20 Amends to require that disposals be held in the community, rather than the municipality, nearest the land to be disposed of, to take into account unincorporated locations.
- Sec. 21 Authorizes bidding at auctions to begin at 85% of the current appraised fair market value of the land, rather than the current 100%.
- Sec. 22 Establishes an appeal process for contract violations, followed by the prerogative of the commissioner to foreclose the interest of the purchaser if a determination is made that there has been a breach of the contract.
- Sec. 23 and 24 Simplifies the selection procedure for agricultural land options for adjacent landowners, by requiring that options be exercised at the time of the disposal and that a single recipient be selected by drawing of lots.
- Sec. 25 Increases from \$250/year to \$5,000/year the value of a lease that may be negotiated, which reflects the increase in land values since this statute was enacted in 1962. Increases the maximum term of a negotiated lease from 5 years to 10 years.
- Sec. 26 Specifies that the term of a lease, while not exceeding 55 years, be for the useful life of the approved activity.
- Sec. 27 Amends the surface leasing procedure to require applicants to deposit with DNR a sum equal to any survey or appraisal costs incurred by another bidder. The successful applicant's deposit would be credited against lease rental payments. Survey and appraisal are required prior to leasing. In the interest of time, lease applicants will often conduct survey and appraisal at their own expense.

- Sec. 28 Provides a mechanism for DNR to negotiate leases for tide and submerged lands with upland land owners without competitive bidding.
- Authorizes DNR to require prequalification of bidders for surface leases. Such a procedure is currently required administratively to ensure that applicants can meet the terms of the lease.
- Sec. 29 Requires that the assessment of timber and other materials on state lands, and the recommendation for the sale of materials, take into account the supplies of and markets for materials on nearby private land.
- Sec. 30
thru 33 Technical: Substitute "commissioner" for "director".
- Sec. 34 Clarifies that land quitclaimed back to the federal government (see section 18) and land transferred to the University in their settlement agreement (see Sec. 3) is not subject to the reservation of mineral rights to the state.
- Sec. 35 In addition to reservation of easements and rights-of-way, allows for retention of land in state ownership to allow access to and along navigable and public waters.
- Sec. 36 Provides that easements of rights-of-way to navigable and public waters for oil and gas and mineral leases need not be made until the leases are ready to be developed.
- Sec. 37
and 38 Technical: substitute "commissioner" for "director" and "land" for "lands".
- Sec. 39 Extends the length of time that an appraisal is valid from 120 days to one year, to avoid costly reappraisals in the event of a delay in selling or leasing lands.
- Sec. 40 Conforming amendment per University settlement agreement (see Sec. 3)
- Sec. 41 Exempts land quitclaimed back to the federal government (see Sec. 18) from the restriction on sale of agricultural land.
- Sec. 42 Conforming amendment per relocation in statute of the best interest finding requirement.

- Sec. 43 Amends the public notice requirements for classification, sale, lease, and disposal of state lands to require that more than one, rather than just one, of the following notice methods be used: newspaper, electronic media, posting, notification of interested parties.
- Sec. 44 Requires that notice be given of negotiated sales of timber exceeding 500,000 board feet or of materials exceeding 25,000 cubic yards. Currently no notice of negotiated sales is required.
- Sec. 45 Adds the definition of multiple use that is contained in AS 38.04 to AS 38.05.
- Sec. 46 Grants a 25% discount on the purchase price of state land to veterans.
- Sec. 47 Conforming amendment per University settlement agreement. (see Section 3)
- Sec. 48 Allows the purchase of a homesite parcel at fair market value within 7 years of issuance of the permit if all requirements except the ones for occupancy have been met.
- Sec. 49 Eliminates the requirement that land available for homestead entry be within one mile of a survey monument. This will allow for conversion of remote parcel lands to the homestead program. Authorizes DNR to waive the cadastral survey requirement if certain conditions are present.
- Sec. 50 Allows the purchase of a homestead parcel at fair market value within five years of issuance of the permit if all requirements except the ones for occupancy have been met.
- Sec. 51 thru 62 Amends the Alaska Coordinate System to reflect changes in the federal datum used as a base for this system.
- Sec. 63 Provides that the lessee of a pipeline right-of-way shall reimburse the state for costs not only in monitoring pipeline construction, but for processing an application and for monitoring operation, maintenance, and removal of the pipeline.
- Sec. 64 Extends the length of time that an appraisal for a land exchange is valid from six months to one year to permit the execution of trades which involve considerable administrative work and public review.

- Sec. 65
and 66 Conforming amendments per University settlement agreement. (see Section 3)
- Sec. 67
and 68 Streamlines the notice requirements for land exchanges involving less than 640 acres of land or appraised at less than \$100,000. Notice would be given as outlined in Sec. 34.
- Sec. 69 A public hearing would be required for a land exchange only if the exchange is of more than 640 acres or valued at more than \$100,000. The Commissioner maintains discretion to hold hearings for other exchanges.
- Sec. 70 Clarifies which land exchanges require legislative approval.
- Sec. 71 Gives the Commissioner discretion in issuing trapping cabin permits.
- Sec. 72
thru 75 Conforming amendments per University settlement agreement. (see Section 3)
- Sec. 76 Clarifies that when the state contracts with a municipality to conduct an auction of state lands, the municipality may retain from the proceeds of the auction capital and other expenses. This will allow for joint disposals, whereby the municipality would construct the roads on state land and recoup its costs through auction proceeds.
- Sec. 77 Amends the definition section in Title 29 to clarify that the University has management responsibility for certain state lands. (see Section 3)
- Sec. 78
and 79 Requires compliance with local subdivision ordinances which require capital improvements. Exempts from compliance those subdivision plats submitted to the platting board prior to the effective date of this Act.

Sec. 80 Specifies that the contract foreclosure procedure acced in Section 22 applies only to contracts entered into after the effective date of this act.

Sec. 81 Repealers:

AS 29.33.150(e) Conforming amendment requiring compliance with local subdivision ordinances.

AS 38.04.025 Requires demand assessment, reduntant to .04.020(f)

AS 38.04.040 Authorizes sale of University lands. Obsolete with passage of SB 41 in 1983.

AS 38.04.045(a) Conflicts with subdivision parcel size limitations in .04.020(h).

AS 38.05.030(a) Sale of University lands - obsolete per passage of SB 41

AS 38.05.035(a)(14) Embodied in .05.035 (best interest finding).

AS 38.05.069(b) Agricultural preference option - embodied in 05.069(a).

AS 38.05.350 Settlement policy embodied in .04.005-.015.

AS 38.05.362 Classification of 650,000 acres of agricultural land by 9/79 completed.

AS 38.05.365(20) Definition of University lands.

Sec. 82 Effective date July 1, 1984.

Except for quitclaim sections which take effect immediately.

SB 375



THE CITY OF HAINES, ALASKA
P.O. BOX 576
HAINES, ALASKA 99827
(907) 766-2231

In Reply
Refer To:

March 20, 1984

Alaska State Senators
Thirteenth Legislature
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator:

The City of Haines strongly supports Senate Bill 375.

This bill contains provisions relating to Native allotments that are vital to our community, in that the status of Native allotment must be resolved to orderly develop and use our land for the benefit of Alaskans.

Passage of this legislation this year will enable the State of Alaska to keep its promise made to Alaska Natives over one and one-half years ago during the passing of Senate Bill 796.

Please review our attached position paper concerning this Senate Bill 375.

If we can be of any assistance, please let us know.

Sincerely,

Jon Halliwill
Mayor

MAR 22 1984

MERRILL PALMER
Consultant
City of Haines
Baranof Hotel, Rm. 609
Juneau, AK 99801
(907)586-2660

Position Paper Concerning

COMMITTEE SUBSTITUTE SENATE BILL 375
SENATE RESOURCES

The City of Haines has been involved in the development of Senate Bill 375. We support the passing of this legislation.

While we cannot offer expert testimony on all provisions of this bill, we can offer comments concerning certain sections that are of major concern to the Haines community.

These sections are identified as:

Section 18, provision 9, page 10, lines 17 through 20, which reads:

(9) Quitclaim land on or interest in land to the federal government on a determination that the land or the interest in land was wrongfully or erroneously conveyed by the federal government to the state.

Section 34, provision B.

Section 41, provision 2.

Section 82, which provides for an immediate effective date of Sections 18, 34, and 41.

The four sections will resolve, for the most part, certain Native allotment claims known as "Aguilar" type claims of which there are about 220 of these type claims statewide. Aguilar refers to a court case known as Aguilar vs. U.S.A. Whereas, the State of Alaska was deeded certain lands by the United States Bureau of Land Management that Natives claimed they used and occupied before the state selected the land.

The court held that if the land was used and occupied by the Natives, the land should not have been conveyed to the state if the Natives filed an allotment claim on the land before August 1971. However, the state does not have at this time the authority

to quitclaim the land back to the federal government to correct this situation.

The provisions of this bill that we support will give the state the authority to quitclaim the land back to the federal government, thus resolving many issues as herein listed:

1. The State of Alaska promised to help resolve the Haines Native allotment claims almost two years ago. As a result of this promise, certain Native organizations supported Senate Bill 796 that created the Haines State Forest and the Alaska Chilkat Bald Eagle Preserve. SB 796 was a State of Alaska priority piece of legislation. The State of Alaska has been unable to keep their promise to the Native, thus creating a lot of hard feelings and hardships for all concerned. This bill will allow the state to honor this most important promise. There are more than fifty Native allotments in the Haines area that would be affected by this legislation.

2. The state, where appropriate, could quitclaim the land back to the federal government, thus saving the state costly court proceedings.

3. The issue can be resolved in a timely manner, thus benefiting the Natives, state and other interest groups. It should be noted that the provisions we support are identical to Senate Bill 344 and House Bill 455, which we also support. The House passed HB 455 unanimously, 40-0, which properly reflects the importance of this issue.

In conclusion, we strongly support this legislation and encourage the legislature to pass the bill this year.

Date: 3/29/84

From: Sandra

Phone: _____

MEMORANDUM

From the Office of
Senator Bettye Fahrenkamp

To: Michael

Senator Mulcahy's

MESSAGE:

"One-pagers" on lands
bills as you requested.
Let me know if more
information is needed.

SB 375, An Act relating to Land Disposal and Management

SB 375 will allow for more efficient implementation of the State's land disposal program, and revise some land management procedures. (A sectional summary of the bill and a comparison to current statute of major provisions of the bill has been made available to committee members.)

In an effort to provide for orderly disposal of quality land, specific provisions of the bill are especially important. Current statute (AS 29.33.150(b)) exempts the State from compliance with local platting and subdivision ordinances that require capital improvements. This has placed a tremendous burden on the municipalities to provide access. Section 78 of the bill would require State compliance with subdivision ordinances.

To reduce the cost of compliance to the State, SB 375 would allow for "joint disposals". Section 76 clarifies that when the State contracts with a municipality to conduct an auction of state lands, the municipality may retain from auction proceeds capital and other expenses. Both the Fairbanks North Star Borough and the Municipality of Anchorage have expressed interest in such "joint disposals", whereby the municipality would construct roads on state land and recoup its costs through auction proceeds.

In addition, Section 9 establishes a revolving fund within the general fund for deposit and subsequent appropriation of revenues from the sale of State land. Though not intended to fully fund the State's disposal program, this would provide some assurance that sale proceeds would be applied to the direct costs of the state's disposal program.

SB 375 also

- 1) amends the State's surface leasing procedure by authorizing the Department of Natural Resources to negotiate leases for tide and submerged lands with upland owners without competitive bidding.
- 2) expedites the State's land exchange procedure by streamlining notice requirements for exchanges involving less than 640 acres of state land or valued at less than \$100,000.
- 3) provides a mechanism for correcting defects in the state's title to land by authorizing the Commissioner to quitclaim land back to the federal government upon a determination that the land was erroneously conveyed. This will allow for expedited settlement of many outstanding Native allotment claims.

SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for references to the Division of Lands and the Director of the Division of Lands.

SB 222 was prepared by the revisor of statutes in our Legislative Legal Division. The bill reflects changes in drafting style (the use of "Commissioner" rather than "Director", "Department" rather than "Division", "land" rather than "lands") and deletes obsolete references to "University lands" and repealed statutes. Before approval by the Senate Resources Committee, SB 222 was reviewed by our Legal Division to ensure that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375. Passage of SB 222 will facilitate work currently being done in preparation for the replacement of the Title 38 pamphlet later this year.