

CS FOR HOUSE BILL NO. 98(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 5/1/21

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to forest land use plans; relating to forest land use plan appeals;**
2 **relating to negotiated timber sales; relating to emergency firefighters; and providing for**
3 **an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE INTENT. (a) It is the intent of the legislature that, when deliberating
8 whether a timber sale is in the best interests of the state under AS 38.05, the commissioner of
9 natural resources consider, in addition to any factors required by statute, the extent to which
10 the sale may provide

11 (1) economic benefits resulting from

12 (A) the local manufacture of high value-added wood products; and

13 (B) local processing of the timber undertaken by the purchaser,
14 including the local manufacture of other value-added wood products;

1 (2) the creation and maintenance of a stable local job base; and

2 (3) other foreseeable benefits to the state and local economy.

3 (b) It is the intent of the legislature that the state increase the areas available for
4 personal use firewood while ensuring that the additional areas provide equitable acreage
5 across the state in reasonable proximity to population areas and prioritize road access.

6 * **Sec. 2.** AS 38.05.035(e) is amended to read:

7 (e) Upon a written finding that the interests of the state will be best served, the
8 director may, with the consent of the commissioner, approve contracts for the sale,
9 lease, or other disposal of available land, resources, property, or interests in them. In
10 approving a contract under this subsection, the director need only prepare a single
11 written finding. In addition to the conditions and limitations imposed by law, the
12 director may impose additional conditions or limitations in the contracts as the director
13 determines, with the consent of the commissioner, will best serve the interests of the
14 state. The preparation and issuance of the written finding by the director are subject to
15 the following:

16 (1) with the consent of the commissioner and subject to the director's
17 discretion, for a specific proposed disposal of available land, resources, or property, or
18 of an interest in them, the director, in the written finding,

19 (A) shall establish the scope of the administrative review on
20 which the director's determination is based, and the scope of the written
21 finding supporting that determination; the scope of the administrative review
22 and finding may address only reasonably foreseeable, significant effects of the
23 uses proposed to be authorized by the disposal;

24 (B) may limit the scope of an administrative review and finding
25 for a proposed disposal to

26 (i) applicable statutes and regulations;

27 (ii) the facts pertaining to the land, resources, or
28 property, or interest in them, that the director finds are material to the
29 determination and that are known to the director or knowledge of which
30 is made available to the director during the administrative review; and

31 (iii) issues that, based on the statutes and regulations

1 referred to in (i) of this subparagraph, on the facts as described in (ii) of
2 this subparagraph, and on the nature of the uses sought to be authorized
3 by the disposal, the director finds are material to the determination of
4 whether the proposed disposal will best serve the interests of the state;
5 and

6 (C) may, if the project for which the proposed disposal is
7 sought is a multiphased development, limit the scope of an administrative
8 review and finding for the proposed disposal to the applicable statutes and
9 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
10 pertain solely to the disposal phase of the project when

11 (i) the only uses to be authorized by the proposed
12 disposal are part of that phase;

13 (ii) the disposal is a disposal of oil and gas, or of gas
14 only, and, before the next phase of the project may proceed, public
15 notice and the opportunity to comment are provided under regulations
16 adopted by the department;

17 (iii) the department's approval is required before the
18 next phase of the project may proceed; and

19 (iv) the department describes its reasons for a decision
20 to phase;

21 (2) the director shall discuss in the written finding prepared and issued
22 under this subsection the reasons that each of the following was not material to the
23 director's determination that the interests of the state will be best served:

24 (A) facts pertaining to the land, resources, or property, or an
25 interest in them other than those that the director finds material under (1)(B)(ii)
26 of this subsection; and

27 (B) issues based on the statutes and regulations referred to in
28 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
29 subsection;

30 (3) a written finding for an oil and gas lease sale or gas only lease sale
31 under AS 38.05.180 is subject to (g) of this section;

1 (4) a contract for the sale, lease, or other disposal of available land or
2 an interest in land is not legally binding on the state until the commissioner approves
3 the contract, but if the appraised value is not greater than \$50,000 in the case of the
4 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
5 interest in land, the director may execute the contract without the approval of the
6 commissioner;

7 (5) public notice requirements relating to the sale, lease, or other
8 disposal of available land or an interest in land for oil and gas, or for gas only,
9 proposed to be scheduled in the five-year oil and gas leasing program under
10 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

11 (A) before a public hearing, if held, or in any case not less than
12 180 days before the sale, lease, or other disposal of available land or an interest
13 in land, the director shall make available to the public a preliminary written
14 finding that states the scope of the review established under (1)(A) of this
15 subsection and includes the applicable statutes and regulations, the material
16 facts and issues in accordance with (1)(B) of this subsection, and information
17 required by (g) of this section, upon which the determination that the sale,
18 lease, or other disposal will serve the best interests of the state will be based;
19 the director shall provide opportunity for public comment on the preliminary
20 written finding for a period of not less than 60 days;

21 (B) after the public comment period for the preliminary written
22 finding and not less than 90 days before the sale, lease, or other disposal of
23 available land or an interest in land for oil and gas or for gas only, the director
24 shall make available to the public a final written finding that states the scope of
25 the review established under (1)(A) of this subsection and includes the
26 applicable statutes and regulations, the material facts and issues in accordance
27 with (1) of this subsection, and information required by (g) of this section,
28 upon which the determination that the sale, lease, or other disposal will serve
29 the best interests of the state is based;

30 (6) before a public hearing, if held, or in any case not less than 21 days
31 before the sale, lease, or other disposal of available land, property, resources, or

1 interests in them other than a sale, lease, or other disposal of available land or an
 2 interest in land for oil and gas or for gas only under (5) of this subsection, the director
 3 shall make available to the public a written finding that, in accordance with (1) of this
 4 subsection, sets out the material facts and applicable statutes and regulations and any
 5 other information required by statute or regulation to be considered upon which the
 6 determination that the sale, lease, or other disposal will best serve the interests of the
 7 state was based; however, a written finding is not required before the approval of

8 (A) a contract for a negotiated sale **of timber in an amount**
 9 **equal to or less than 500,000 board feet or equivalent other measure**
 10 authorized under **AS 38.05.118** [AS 38.05.115];

11 (B) a lease of land for a shore fishery site under AS 38.05.082;

12 (C) a permit or other authorization revocable by the
 13 commissioner;

14 (D) a mineral claim located under AS 38.05.195;

15 (E) a mineral lease issued under AS 38.05.205;

16 (F) an exempt oil and gas lease sale or gas only lease sale under
 17 AS 38.05.180(d) of acreage subject to a best interest finding issued within the
 18 previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under
 19 AS 38.05.180(w) of acreage subject to a best interest finding issued within the
 20 previous 10 years, unless the commissioner determines that substantial new
 21 information has become available that justifies a supplement to the most recent
 22 best interest finding for the exempt oil and gas lease sale or gas only lease sale
 23 acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage;
 24 however, for each oil and gas lease sale or gas only lease sale described in this
 25 subparagraph, the director shall call for comments from the public; the
 26 director's call for public comments must provide opportunity for public
 27 comment for a period of not less than 30 days; if the director determines that a
 28 supplement to the most recent best interest finding for the acreage is required
 29 under this subparagraph,

30 (i) the director shall issue the supplement to the best
 31 interest finding not later than 90 days before the sale;

1 (ii) not later than 45 days before the sale, the director
 2 shall issue a notice describing the interests to be offered, the location
 3 and time of the sale, and the terms and conditions of the sale; and

4 (iii) the supplement has the status of a final written best
 5 interest finding for purposes of (i) and (l) of this section;

6 (G) a surface use lease under AS 38.05.255;

7 (H) a permit, right-of-way, or easement under AS 38.05.850;

8 (7) the director shall include in

9 (A) a preliminary written finding, if required, a summary of
 10 agency and public comments, if any, obtained as a result of contacts with other
 11 agencies concerning a proposed disposal or as a result of informal efforts
 12 undertaken by the department to solicit public response to a proposed disposal,
 13 and the department's preliminary responses to those comments; and

14 (B) the final written finding a summary of agency and public
 15 comments received and the department's responses to those comments.

16 * **Sec. 3.** AS 38.05.110(c) is amended to read:

17 (c) If a sale of timber may be offered under multiple provisions of
 18 AS 38.05.110 - 38.05.123, the commissioner shall determine the applicable provisions
 19 under which to offer the timber **by considering**

20 **(1) the best interests of the state under AS 38.05.035(e);**

21 **(2) the local timber market;**

22 **(3) specialized or developing foreign or domestic markets;**

23 **(4) the presence of underutilized timber;**

24 **(5) the economic constraints of the intended timber market;**

25 **(6) detrimental effects on the surrounding environment, including**
 26 **erosion, drainage, and riparian stability;**

27 **(7) effects on wildlife habitat; and**

28 **(8) any other reasonably foreseeable benefits to the state and local**
 29 **economy from the sale.**

30 * **Sec. 4.** AS 38.05.112(a) is amended to read:

31 (a) **Except** [THE DEPARTMENT MAY NOT AUTHORIZE THE

1 HARVEST OF TIMBER, EXCEPT] for harvests of 20 [10] acres or less or timber
 2 salvaged from land cleared for a nonforest use, **the department may not permit the**
 3 **harvest of timber in a harvest unit** until a site-specific forest land use plan has been
 4 adopted. **A forest land use plan may authorize timber harvests for multiple**
 5 **harvest units included in a timber sale contract. The department is not required**
 6 **to adopt the forest land use plan before awarding a timber sale contract** [A
 7 FOREST LAND USE PLAN IS REQUIRED WHETHER OR NOT A REGIONAL
 8 OR AREA LAND USE PLAN UNDER AS 38.04.065(a) OR A FOREST
 9 MANAGEMENT PLAN UNDER AS 41.17.230 HAS BEEN ADOPTED. THE
 10 REQUIREMENTS OF AS 38.04.065(b) SHALL APPLY TO A LAND USE PLAN
 11 ADOPTED UNDER THIS SECTION ONLY IF A REGIONAL OR AREA LAND
 12 USE PLAN UNDER AS 38.04.065(a) OR A FOREST MANAGEMENT PLAN
 13 UNDER AS 41.17.230 HAS NOT BEEN ADOPTED].

14 * **Sec. 5.** AS 38.05.112 is amended by adding new subsections to read:

15 (d) A forest land use plan is required whether or not a regional or area land use
 16 plan under AS 38.04.065(a) or a forest management plan under AS 41.17.230 has been
 17 adopted. The requirements of AS 38.04.065(b) shall apply to a land use plan adopted
 18 under this section only if a regional or area land use plan under AS 38.04.065(a) or a
 19 forest management plan under AS 41.17.230 has not been adopted.

20 (e) Notwithstanding AS 44.37.011, a person may not seek reconsideration of
 21 or appeal to the commissioner a decision to adopt a forest land use plan.

22 * **Sec. 6.** AS 38.05.115(a) is amended to read:

23 (a) The commissioner shall determine the timber to be sold and the
 24 limitations, conditions, and terms of sale. The limitations, conditions, and terms shall
 25 include the utilization, development, and maintenance of the sustained yield principle,
 26 subject to preference among other beneficial uses. [THE COMMISSIONER MAY
 27 NEGOTIATE SALES OF TIMBER WITHOUT ADVERTISEMENT AND ON THE
 28 LIMITATIONS, CONDITIONS, AND TERMS THAT ARE CONSIDERED TO BE
 29 IN THE BEST INTERESTS OF THE STATE. WITHIN A ONE-YEAR PERIOD,
 30 THE COMMISSIONER MAY NOT NEGOTIATE A SALE WITHOUT
 31 ADVERTISEMENT TO THE SAME PURCHASER OF MORE THAN 500 M.B.M.

1 OR EQUIVALENT OTHER MEASURE OF TIMBER.]

2 * **Sec. 7.** AS 38.05.118(a) is amended to read:

3 (a) Notwithstanding **AS 38.05.120 and 38.05.123** [AS 38.05.115 AND
4 38.05.120], and upon a finding that **a** [THE] sale is in the best interest of the state, the
5 commissioner may negotiate a sale of timber [TO A LOCAL MANUFACTURER OF
6 WOOD PRODUCTS OR A USER OF WOOD FIBER] at appraised value. The period
7 of a contract for a sale of timber negotiated under this section may not exceed 25
8 years. The contract shall provide that the appraised value of timber remaining to be
9 harvested under the provisions of the contract shall be redetermined at least once every
10 five years.

11 * **Sec. 8.** AS 38.05.118(b) is amended to read:

12 (b) Notice of intent to negotiate a contract authorized by (a) of this section **for**
13 **the sale of timber in an amount greater than 500,000 board feet or equivalent**
14 **other measure** shall be given in accordance with AS 38.05.945.

15 * **Sec. 9.** AS 38.05.118 is amended by adding new subsections to read:

16 (d) Within a one-year period, the commissioner may not negotiate additional
17 timber sales to the same purchaser for an amount greater than 500,000 board feet or
18 equivalent other measure. Negotiated sales in an amount equal to or less than 500,000
19 board feet or equivalent other measure are exempt from the requirements of
20 AS 34.15.150.

21 (e) If the commissioner determines that additional analysis is necessary to
22 complete the best interest finding for a sale under this section, the commissioner may
23 require a prospective purchaser to retain and pay for the services of a contractor to
24 assist the commissioner in evaluating the proposed sale and financial and technical
25 data related to the proposed sale. The contractor shall be selected by the prospective
26 purchaser from a list of consultants in forestry and timber economics provided by the
27 commissioner. If the commissioner requires a prospective purchaser to retain the
28 services of a contractor under this subsection, the commissioner shall determine the
29 scope of the work to be performed by the contractor.

30 * **Sec. 10.** AS 38.05.123(a) is amended to read:

31 (a) Notwithstanding the provisions of **AS 38.05.118** [AS 38.05.115] and

1 38.05.120, and upon a finding that the sale is in the best interest of the state, the
 2 commissioner may negotiate a sale of timber for use in the local manufacture of high
 3 value-added wood products **or other value-added wood products**. A timber sale
 4 contract entered into under this section may provide for a harvest of up to 10,000,000
 5 board feet of timber each year, consistent with sustained yield principles, and may be
 6 for a term of up to 10 years. Initial stumpage rates for a contract under this section
 7 shall be determined by negotiation but may not be less than the base price for the area
 8 as established under regulations adopted by the commissioner. A contract under this
 9 section must provide that stumpage rates shall be redetermined by negotiation at least
 10 once every three years during the term of the contract, to reflect changes in market
 11 conditions; the redetermined rates may not be less than the base price for the area as
 12 established under regulations adopted by the commissioner. The commissioner shall
 13 by regulation set a maximum number of contracts, but not less than two, per region of
 14 the state that may be negotiated each year under this section.

15 * **Sec. 11.** AS 38.05.123(c) is amended to read:

16 (c) The commissioner may negotiate a sale of timber under this section if the
 17 prospective purchaser agrees to use to the maximum extent commercially practicable
 18 the timber subject to the sale for the local manufacture of high value-added wood
 19 products. [THE COMMISSIONER SHALL DETERMINE THE MAXIMUM
 20 AMOUNT OF THE TIMBER BEING SOLD THAT IS COMMERCIALY
 21 PRACTICABLE TO USE FOR THOSE PURPOSES AND MAKE THE USE OF
 22 THAT PERCENTAGE OF THE TIMBER FOR THOSE PURPOSES A TERM OF
 23 THE CONTRACT.] In evaluating proposals, the commissioner shall take into account
 24 the proposed manufacture of other value-added wood products to be produced under a
 25 negotiated contract.

26 * **Sec. 12.** AS 41.15.030(b) is amended to read:

27 (b) The commissioner may hire emergency firefighting personnel, and shall
 28 establish classifications and rates of pay for the emergency firefighting personnel
 29 consistent with the compensation paid by other firefighting agencies. The
 30 commissioner may adjust the classifications and rates based on findings of the federal
 31 Bureau of Land Management for Alaska. The commissioner may assign emergency

1 firefighting personnel to conduct fire suppression, hazard reduction, fire prevention,
2 habitat restoration or improvement, and other related activities in emergency and
3 nonemergency circumstances. The assignment of emergency firefighting personnel to
4 nonemergency activities may not be used to replace permanent or seasonal state
5 employees. [THE COMMISSIONER MAY NOT USE APPROPRIATIONS TO THE
6 DEPARTMENT FROM STATE GENERAL FUNDS FOR EMERGENCY
7 FIREFIGHTING PERSONNEL ENGAGED IN NONEMERGENCY ACTIVITIES
8 UNDER THIS SECTION.]

9 * **Sec. 13.** AS 41.23.470(b) is amended to read:

10 (b) The commissioner may conduct [ONLY] a negotiated timber sale under
11 AS 38.05.118 only [AS 38.05.115] to provide for personal use, including house logs
12 and firewood, or for a use incidental to the construction of access, or for habitat
13 enhancement.

14 * **Sec. 14.** AS 38.05.115(b), 38.05.115(c), and 38.05.123(e) are repealed.

15 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).