

CS FOR HOUSE BILL NO. 49(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/20/23

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the Department of Natural Resources to lease land for carbon**
2 **management purposes; establishing a carbon offset program for state land; authorizing**
3 **the sale of carbon offset credits; authorizing the use of land and water within the Haines**
4 **State Forest Resource Management Area for a carbon offset project; authorizing the**
5 **undertaking of carbon offset projects on land in legislatively designated state forests;**
6 **and providing for an effective date."**

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

8 * **Section 1.** AS 36.30.850(b) is amended by adding a new paragraph to read:

9 (51) contracts between third parties and the Department of Natural
10 Resources under AS 38.95.400 - 38.95.499.

11 * **Sec. 2.** AS 37.05.146(c) is amended by adding a new paragraph to read:

12 (85) revenue from the carbon offset program under AS 38.95.400 -
13 38.95.499.

1 * **Sec. 3.** AS 38.05.075(a) is amended to read:

2 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, **38.05.081,**
3 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this
4 section, when competitive interest has been demonstrated or the commissioner
5 determines that it is in the state's best interests, leasing shall be made at public auction
6 or by sealed bid, at the discretion of the director, to the highest qualified bidder as
7 determined by the commissioner. A bidder may be represented by an attorney or agent
8 at a public auction. In the public notice of a lease to be offered at public auction or by
9 sealed bid, the commissioner shall specify a minimum acceptable bid and the lease
10 compensation method. The lease compensation method shall be designed to maximize
11 the return on the lease to the state and shall be a form of compensation set out in
12 AS 38.05.073(m). An aggrieved bidder may appeal to the commissioner within five
13 days for a review of the determination. The leasing shall be conducted by the
14 commissioner, and the successful bidder shall deposit at the public auction or with the
15 sealed bid the first year's rental or other lease compensation as specified by the
16 commissioner, or that portion of it that the commissioner requires in accordance with
17 the bid. The commissioner shall require, under AS 38.05.860, qualified bidders to
18 deposit a sum equal to any survey or appraisal costs reasonably incurred by another
19 qualified bidder acting in accordance with the regulations of the commissioner or
20 incurred by the department under AS 38.04.045 and AS 38.05.840. If a bidder making
21 a deposit of survey or appraisal costs is determined by the commissioner to be the
22 highest qualified bidder under this subsection, the deposit shall be paid to the
23 unsuccessful bidder who incurred those costs or to the department if the department
24 incurred the costs. All costs for survey and appraisal shall be approved in advance in
25 writing by the commissioner. The commissioner shall immediately issue a receipt
26 containing a description of the land or interest leased, the price bid, and the terms of
27 the lease to the successful qualified bidder. If the receipt is not accepted in writing by
28 the bidder under this subsection, the commissioner may offer the land for lease again
29 under this subsection. A lease, on a form approved by the attorney general, shall be
30 signed by the successful bidder and by the commissioner.

31 * **Sec. 4.** AS 38.05 is amended by adding a new section to read:

1 **Sec. 38.05.081. Leases of state land for carbon management purposes. (a)**

2 The commissioner may lease state land for carbon management purposes. A lease
3 agreement under this section must include land use restrictions and authorizations
4 consistent with the carbon management purpose of the lease.

5 (b) A person may apply to lease land for a carbon management purpose by
6 submitting an application to the department. An application to lease land must include

7 (1) the specific location, description, and amount of land the applicant
8 wants to lease;

9 (2) a detailed summary of the proposed purpose the land will be used
10 for; and

11 (3) additional information and requirements established by the
12 department in regulation, including any application fees.

13 (c) If the director receives two or more applications for the same land, the
14 director shall award the lease to the most qualified applicant. In determining the most
15 qualified applicant, the director shall consider whether the applicant has previous
16 experience with carbon management, the anticipated lease term, how the proposed use
17 would accommodate concurrent use of the land, consistency with existing state area or
18 management plans, and any additional requirement established by the department in
19 regulation. If one or more applicants have proposed different carbon management
20 purposes, the director may evaluate each applicant's proposal and determine which
21 proposed use is more appropriate for the selected state land. An aggrieved applicant
22 may appeal to the commissioner for a review of the director's determination within 20
23 days after receiving notice of the determination.

24 (d) A lease under this section may not exceed a period of 55 years. If during
25 the term of the lease the commissioner determines that the land is not being used for
26 the carbon management purpose approved by the commissioner, the commissioner
27 may terminate the lease.

28 (e) A lessee under this section is not entitled to a preference right to purchase
29 the leased land.

30 (f) Compensation for a lease under this section

31 (1) shall be designed to maximize the return to the state and be a form

1 of compensation provided under AS 38.05.073(m);

2 (2) shall be separately accounted for under AS 37.05.142; and

3 (3) may be used by the legislature to make appropriations to the
4 department to carry out the purposes of this section.

5 (g) The provisions of AS 38.05.070 and 38.05.095 concerning subleasing,
6 assignment, lease renewals, and lease extensions apply to leasing under this section.

7 (h) Before entering into a lease of land under this section, the director must
8 find under AS 38.05.035(e) that leasing the land for the proposed carbon management
9 purpose is in the best interests of the state. The findings must include

10 (1) reasonably foreseeable effects that a project may have on the state
11 or local economy; and

12 (2) anticipated annual revenue that the lease will yield to the state.

13 (i) State land used for carbon management purposes must, to the extent
14 practicable, remain open to the public for access, hunting, fishing, and other generally
15 allowed uses as determined by the department.

16 (j) In this section, "carbon management" means a greenhouse gas mitigation
17 measure or nongeologic carbon sequestration project.

18 * **Sec. 5.** AS 38.05.102 is amended to read:

19 **Sec. 38.05.102. Lessee preference. Except for a lease under AS 38.05.081, if**
20 [IF] land within a leasehold created under AS 38.05.070 - 38.05.105 is offered for sale
21 or long-term lease at the termination of the existing leasehold, the director may, upon
22 a finding that it is in the best interest of the state, allow **a** [THE] holder in good
23 standing of **the existing** [THAT] leasehold to purchase or lease the land for its
24 appraised fair market value at the time of the sale or long-term lease.

25 * **Sec. 6.** AS 38.95 is amended by adding new sections to read:

26 **Article 8. Carbon Offset Program.**

27 **Sec. 38.95.400. Carbon offset program.** (a) A carbon offset program is
28 established in the department to undertake carbon offset projects on state land.

29 (b) The commissioner shall adopt regulations to implement AS 38.95.400 -
30 38.95.499.

31 (c) The commissioner may enter into contracts with third parties to carry out

1 the purposes of AS 38.95.400 - 38.95.499.

2 (d) Nothing in AS 38.95.400 - 38.95.499 may be construed to prevent a
3 private landowner from participating in a registry or exchange or to impose additional
4 legal requirements on a private landowner undertaking the landowner's own carbon
5 offset project.

6 **Sec. 38.95.410. Carbon offset project criteria; evaluation; best interest**
7 **finding.** (a) The commissioner shall adopt criteria for evaluation of a proposed carbon
8 offset project on state land. The evaluation criteria must include, if applicable,

9 (1) consideration of a project's baseline and predicted additionality;

10 (2) whether registry protocols, including validation and verification
11 requirements, are consistent with applicable state law;

12 (3) whether a project would be consistent with AS 38.95.400 -
13 38.95.499 and applicable regulations; and

14 (4) reasonably foreseeable effects that a project may have on the state
15 or local economy.

16 (b) Except as otherwise provided in statute or regulation, state land shall be
17 available for carbon offset projects.

18 (c) Legislatively withdrawn land may not be used for a carbon offset project
19 without approval by the legislature or as otherwise provided by law. In this subsection,
20 "legislatively withdrawn land" means land set aside by the legislature under
21 AS 16.20.010 - 16.20.162, 16.20.300 - 16.20.360, AS 41.21, or AS 41.23.

22 (d) A carbon offset project may be undertaken on state land if the director,
23 with the consent of the commissioner, makes a written finding that the project will
24 best serve the interests of the state under AS 38.05.035(e).

25 (e) A carbon offset project term may not exceed 55 years.

26 (f) State land used for a carbon offset project must remain open to the public
27 for access, hunting, fishing, and other generally allowed uses as determined by the
28 department.

29 **Sec. 38.95.420. Registration and sale of carbon offset credits; records.** (a)
30 After a written finding under AS 38.95.410(d), the director may enter into an
31 agreement to register the carbon offset project to generate revenue from the sale of

1 carbon offset credits.

2 (b) The department shall maintain records for a carbon offset project
3 undertaken by the department under AS 38.95.400 - 38.95.499 for the project term and
4 any additional amount of time required by the registry. The records must include, for
5 each carbon offset project,

6 (1) the project term;

7 (2) the anticipated annual carbon offset credits that the carbon offset
8 project will yield;

9 (3) registry agreements; and

10 (4) project administration and technical documentation associated with
11 the valuation of baseline, valuation of additionality, project validation, and project
12 verification.

13 **Sec. 38.95.430. Carbon offset revenue fund.** (a) The carbon offset revenue
14 fund is established as a separate fund outside the general fund for the purpose of
15 providing funding for the carbon offset program. Revenue from the carbon offset
16 program shall be deposited in the carbon offset revenue fund.

17 (b) The legislature may appropriate money in the fund to implement
18 AS 38.95.400 - 38.95.499.

19 (c) On June 30 of each year, the unobligated amount in the carbon offset
20 revenue fund in excess of \$10,000,000 lapses into the general fund.

21 **Sec. 38.95.499. Definitions.** In AS 38.95.400 - 38.95.499, unless the context
22 requires otherwise,

23 (1) "additionality" means the reduction in greenhouse gas emissions or
24 increase in carbon storage represented by a carbon offset project that is in addition to
25 the baseline;

26 (2) "baseline" means the amount of carbon sequestration that would
27 occur if the present situation is maintained in the absence of a carbon offset project;

28 (3) "carbon offset credit" means a transferrable instrument issued by a
29 registry for a validated and verified project that represents an emission reduction of
30 one metric ton of carbon dioxide or other greenhouse gases;

31 (4) "carbon offset project" includes seaweed farming, afforestation,

1 reforestation, and similar land and resource management measures that mitigate
2 greenhouse gases by increasing the carbon stock on state land;

3 (5) "commissioner" means the commissioner of natural resources;

4 (6) "department" means the Department of Natural Resources;

5 (7) "director" means the director of the division of lands;

6 (8) "greenhouse gas" includes carbon dioxide, methane, nitrous oxide,
7 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other gases that trap
8 and emit radiant energy in the earth's atmosphere;

9 (9) "project term" means the length of time required by a registry for a
10 carbon offset project to yield carbon offset credits;

11 (10) "registry" means an organization or program that brokers carbon
12 offset credits and develops standardized protocols for

13 (A) registering, validating, and verifying carbon offset projects;

14 and

15 (B) issuing carbon offset credits for validated and verified
16 carbon offset projects;

17 (11) "shoreland" means land covered by nontidal water that is
18 navigable under the laws of the United States up to ordinary highwater mark as
19 modified by accretion, erosion, or reliction;

20 (12) "state land" means all land, including shoreland, tideland, and
21 submerged land, or resources belonging to or acquired by the state;

22 (13) "submerged land" means land that is covered by tidal water
23 between the line of mean low water and seaward to a distance of three geographical
24 miles or further as may be properly claimed by the state;

25 (14) "tideland" means land that is periodically covered by tidal water
26 between the elevation of mean high water and mean low water;

27 (15) "validate" or "validation" means a registry's initial approval of a
28 project plan before verification of the project;

29 (16) "verify" or "verification" means a third party's review of a
30 validated project to confirm the project's greenhouse gas net emission reduction or
31 removals for the issuance of carbon offset credits by the registry that has validated the

1 project.

2 * **Sec. 7.** AS 41.15.300 is amended by adding a new subsection to read:

3 (c) The state land and water designated within the Haines State Forest
4 Resource Management Area under AS 41.15.305(a) may be used for a carbon offset
5 project under AS 38.95.400 - 38.95.499.

6 * **Sec. 8.** AS 41.15.315(d) is amended to read:

7 (d) The state land and water described in AS 41.15.305(a) are closed to sale
8 under state land disposal laws. The commissioner may lease the land described in
9 AS 41.15.305(a) under AS 38.05.070 - 38.05.105 for a purpose consistent with
10 AS 41.15.300(a) and a municipality may select land in the Haines State Forest
11 Resource Management Area under law. **The commissioner may manage the land
12 and water described in AS 41.15.305(a) for purposes consistent with AS 38.95.400
13 - 38.95.499.**

14 * **Sec. 9.** AS 41.15.315 is amended by adding a new subsection to read:

15 (e) A carbon offset project under AS 38.95.400 - 38.95.499 undertaken on
16 land identified in AS 41.15.305 must be consistent with the applicable management
17 plan under AS 41.15.320, and the management plan must identify the land appropriate
18 for the carbon offset project. The department may amend a management plan under
19 AS 41.15.320 to allow for a carbon offset project.

20 * **Sec. 10.** AS 41.17.200 is amended by adding a new subsection to read:

21 (c) A carbon offset project under AS 38.95.400 - 38.95.499 may be
22 undertaken on land identified in AS 41.17.200 - 41.17.230.

23 * **Sec. 11.** AS 41.17.220 is amended to read:

24 **Sec. 41.17.220. Management of state forests.** Land within a state forest or
25 within a unit of a state forest shall be managed under

26 (1) the sustained yield principle;

27 (2) this chapter; [AND]

28 (3) a forest management plan prepared by the department; **and**

29 **(4) if applicable, a carbon offset project undertaken by the**
30 **department under AS 38.95.400 - 38.95.499.**

31 * **Sec. 12.** AS 41.17.230(a) is amended to read:

1 (a) The commissioner shall prepare a forest management plan consistent with
2 AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to
3 assist in meeting the requirements of this chapter. An operational level forest
4 inventory shall be completed before a forest management plan for the state forest or
5 the unit of a state forest is adopted. The forest management plan shall be adopted,
6 implemented, and maintained within three years of the establishment of a state forest
7 by the legislature. To the extent they are found to be compatible with the primary
8 purpose of state forests under AS 41.17.200, the forest management plan must
9 consider and permit uses of forest land for **other** [NONTIMBER] purposes, including
10 **a carbon offset project under AS 38.95.400 - 38.95.499**, recreation, tourism, mining,
11 mineral exploration, mineral leasing, material extraction, consumptive and
12 nonconsumptive uses of wildlife and fish, grazing and other agricultural activities, and
13 other traditional uses. If the commissioner finds that a permitted use is incompatible
14 with one or more other uses in a portion of a state forest, the commissioner shall
15 affirmatively state in the management plan that finding of incompatibility for the
16 specific area where the incompatibility is anticipated to exist and the time period when
17 the incompatibility is anticipated to exist together with the reasons and benefits for
18 each finding.

19 * **Sec. 13.** AS 41.17.230 is amended by adding a new subsection to read:

20 (g) A carbon offset project undertaken under AS 38.95.400 - 38.95.499 within
21 a state forest must be consistent with the applicable forest management plan, and the
22 applicable forest management plan must identify the land appropriate for the carbon
23 offset project. The department may amend a forest management plan to allow for a
24 carbon offset project.

25 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).