

SENATE BILL NO. 48

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/27/23

Referred: Resources, Finance

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; and providing for an effective date."**

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

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

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

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

9 (85) revenue from the carbon offset program under AS 38.95.400 -
10 38.95.499.

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

12 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, **38.05.081,**
13 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this
14 section, when competitive interest has been demonstrated or the commissioner

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

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

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

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

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

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

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

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

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

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

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

26 (f) Compensation for a lease under this section shall be designed to maximize
27 the return to the state and be a form of compensation provided under
28 AS 38.05.073(m).

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

31 (h) Before entering into a lease of land under this section, the director must

1 find under AS 38.05.035(e) that leasing the land for the proposed carbon management
2 purpose is in the best interests of the state.

3 (i) In this section, "carbon management" means a greenhouse gas mitigation
4 measure or non-geologic carbon sequestration project.

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

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

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

13 **Article 8. Carbon Offset Program.**

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

16 (b) The commissioner shall adopt regulations to implement AS 38.95.400 -
17 38.95.499.

18 (c) The commissioner may enter into contracts with third parties to carry out
19 the purposes of AS 38.95.400 - 38.95.499.

20 (d) Nothing in AS 38.95.400 - 38.95.499 shall be construed as preventing a
21 private landowner from participating in a registry or exchange, or be construed as the
22 state instituting additional legal requirements on a private landowner undertaking their
23 own carbon offset projects.

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

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

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

30 (3) whether a project would be consistent with AS 38.95.400 -
31 38.95.499 and applicable regulations; and

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

3 (b) Except as otherwise provided in statute or regulation adopted by the
4 commissioner, state land shall be available for carbon offset projects.

5 (c) Legislatively withdrawn land may not be used for a carbon offset project
6 without approval by the legislature or as otherwise provided by law. In this subsection,
7 "legislatively withdrawn land" means land set aside by the legislature under
8 AS 16.20.010 - 16.20.170, 16.20.300 - 16.20.360, AS 41.21.110 - 41.21.990, and
9 AS 41.23.010 - 41.23.630.

10 (d) A carbon offset project may be undertaken on state land if the director,
11 with the consent of the commissioner, determines the project is in the best interests of
12 the state under AS 38.05.035(e).

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

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

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

21 (b) The department shall maintain records for a carbon offset project
22 undertaken by the department under AS 38.95.400 - 38.95.499 for the project term and
23 any additional amount of time required by the registry. Department records must
24 include, for each carbon offset project,

25 (1) the project term;

26 (2) the anticipated annual carbon offset credits that the carbon offset
27 project will yield;

28 (3) registry agreements; and

29 (4) project administration and technical documentation associated with
30 the valuation of baseline, valuation of additionality, project validation, and project
31 verification.

1 **Sec. 38.95.430. Carbon offset revenue fund.** (a) Revenue from the carbon
2 offset program shall be deposited in the carbon offset revenue fund. The carbon offset
3 revenue fund is established outside the general fund for the purpose of providing
4 funding for the carbon offset program. The carbon offset revenue fund consists of
5 money appropriated to the fund by the legislature, including program receipts from the
6 sale of verified carbon offset credits. Appropriations to the fund do not lapse.

7 (b) The commissioner may spend money appropriated to the fund for the
8 purposes of the carbon offset program and to pay the costs of administering the
9 program.

10 **Sec. 38.95.499. Definitions.** In AS 38.95.400 - 38.95.499, unless the context
11 requires otherwise,

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

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

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

20 (4) "carbon offset project" means a greenhouse gas mitigation measure
21 on state land that increases the land's carbon stock, including seaweed farming,
22 afforestation, reforestation, and similar land and resource management measures;

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

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

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

26 (8) "greenhouse gas" means a gas that traps and emits radiant energy in
27 the earth's atmosphere, including carbon dioxide, methane, nitrous oxide,
28 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride;

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

31 (10) "registry" means an organization or program that brokers carbon

1 offset credits and develops standardized protocols for

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

3 and

4 (B) issuing carbon offset credits for validated and verified
5 carbon offset projects;

6 (11) "state land" means all land, including shoreland, tideland, and
7 submerged land, or resources belonging to or acquired by the state; in this paragraph,

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

11 (B) "tideland" means land that is periodically covered by tidal
12 water between the elevation of mean high water and mean low water;

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

16 (12) "validate" or "validation" means a registry's initial approval of a
17 project plan prior to verification of the project;

18 (13) "verify" or "verification" means a third party's review of a
19 validated project to confirm the project's greenhouse gas net emission reduction or
20 removals for the issuance of carbon offset credits by the registry that has validated the
21 project.

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

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

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

27 (d) The state land and water described in AS 41.15.305(a) are closed to sale
28 under state land disposal laws. The commissioner may lease the land described in
29 AS 41.15.305(a) under AS 38.05.070 - 38.05.105 for a purpose consistent with
30 AS 41.15.300(a) and a municipality may select land in the Haines State Forest
31 Resource Management Area under law. **The commissioner may manage the land**

1 **and water described in AS 41.15.305(a) for purposes consistent with AS 38.95.400**
 2 **- 38.95.499.**

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

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

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

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

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

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

15 (1) the sustained yield principle;

16 (2) this chapter; [AND]

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

18 **(4) a carbon offset project undertaken by the department under**

19 **AS 38.95.400 - 38.95.499.**

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

21 (a) The commissioner shall prepare a forest management plan consistent with
 22 AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to
 23 assist in meeting the requirements of this chapter. An operational level forest
 24 inventory shall be completed before a forest management plan for the state forest or
 25 the unit of a state forest is adopted. The forest management plan shall be adopted,
 26 implemented, and maintained within three years of the establishment of a state forest
 27 by the legislature. To the extent they are found to be compatible with the primary
 28 purpose of state forests under AS 41.17.200, the forest management plan must
 29 consider and permit uses of forest land for nontimber purposes, including **a carbon**
 30 **offset project under AS 38.95.400 - 38.95.499,** recreation, tourism, mining, mineral
 31 exploration, mineral leasing, material extraction, consumptive and nonconsumptive

1 uses of wildlife and fish, grazing and other agricultural activities, and other traditional
2 uses. If the commissioner finds that a permitted use is incompatible with one or more
3 other uses in a portion of a state forest, the commissioner shall affirmatively state in
4 the management plan that finding of incompatibility for the specific area where the
5 incompatibility is anticipated to exist and the time period when the incompatibility is
6 anticipated to exist together with the reasons and benefits for each finding.

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

8 (g) A carbon offset project undertaken under AS 38.95.400 - 38.95.499 within
9 a state forest must be consistent with the applicable forest management plan, and the
10 applicable forest management plan must identify the land appropriate for the carbon
11 offset project. The department may amend a forest management plan to allow for a
12 carbon offset project.

13 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION: REGULATIONS. The Department of Natural Resources may adopt
16 regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative
17 Procedure Act), but not before the effective date of the law implemented by the regulations.

18 * **Sec. 15.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).