

Sponsor Statement

SB 305

Senate Bill 305: "An Act relating to state ownership of submerged land underlying water that was navigable at the time Alaska achieved statehood."

Sponsor: Senator Gene Therriault

With the exception of withdrawn federal lands, at statehood in 1959 Alaska received title under the equal footing doctrine to all submerged lands under state navigable waters and marine waters out to three miles. Unfortunately, the federal government has been slow to concede any navigability determinations. Since Alaska entered the Union, the federal courts have determined fewer than 20 rivers navigable. Unless the state is pro-active in asserting its claims, it stands to lose up to 60 million acres of its statehood entitlement.

In some cases, the federal government has used every possible legal tactic under the Federal Quiet Title Act to impede the state's assertion of ownership. The Black, Kandig and Nation Rivers in northeast Alaska are examples. These three Rivers clearly meet the criteria established by the federal courts for determining navigability in Alaska. Although no one contested the state's claim that these streams met the federal criteria, this case took nine years and millions of state and federal dollars to litigate. Eventually the state won two of the three cases. The third was resolved by a Federal Recordable Disclaimer of Interest in 2003.

In addition, prior to 1989 the federal government applied incorrect standards to determine navigability and may have mistakenly conveyed state-owned land to Native corporations, clouding the title to hundreds of thousands, if not millions, of acres. This is a critical topic as Congress considers a deadline for completing the land selection and conveyance processes.

Contributing to the problem is the lack of a reasonable and efficient way for the state to secure title to its submerged lands. [SB 305](#) takes three steps to begin the process of identifying state claims.

First, SB 305 provides notice to all parties that the state is laying claim to all submerged lands, except those withdrawn at the time of statehood, that meet the standards and criteria established in the Submerged Lands Act and in various federal court decisions.

Second, it provides authority for state agencies to identify, in accordance with the appropriate federal and state laws, which waterbodies the state claims as navigable and non-navigable. This will help the state clarify criteria for identifying navigable waters, address conflicts involving clouded titles due to inaccurate conveyances from the Bureau of Land Management, and more clearly delineate its title claims.

Third, the bill directs the Department of Natural Resources to give notice to all private property owners, including native corporations created under the Alaska Native Claim Settlement Act, that may have received title to lands that could have erroneously included state submerged lands in their conveyances. This is critical to resolve future problems regarding mineral development, gravel extraction, access and other related land uses.

This legislation is only one step for the state to eventually resolve the title disputes over its submerged lands, and deals only with the issue of state title to submerged lands. It does not address conflicts over federal fish and wildlife management in state navigable waters created by federal reserved water rights claims.