

CS FOR SENATE BILL NO. 45(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/3/99

Offered: 4/28/99

Sponsor(s): SENATORS HALFORD, Pearce, Taylor

REPRESENTATIVE Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act providing that a person who grants certain conservation easements to
2 the state or a municipality that provide public access for recreational purposes
3 and the grantee of the easement are immune from tort liability, other than gross
4 negligence or reckless or intentional misconduct, for damages to a person who
5 uses the easement under certain conditions; relating to the vacation by the state
6 or a municipality of rights-of-way acquired by the state under former 43 U.S.C.
7 932; and providing for an effective date."

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

9 * **Section 1.** AS 19.30.410 is amended to read:

10 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision
11 of law, the Department of Natural Resources, the Department of Transportation and
12 Public Facilities, or another agency of the state may not vacate a right-of-way acquired
13 by the state under former 43 U.S.C. 932 unless

1 (1) a reasonably comparable, established alternate right-of-way or
 2 means of access exists that is sufficient to satisfy all present and reasonably
 3 foreseeable uses;

4 (2) the right-of-way is within a municipality, the municipal assembly
 5 **or council** has requested the vacation, a reasonable alternative means of access is
 6 available, and the vacation is in the best interests of the state; or

7 (3) the vacation is approved by the legislature.

8 * **Sec. 2.** AS 29.10.200 is amended by adding a new paragraph to read:

9 (59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

10 * **Sec. 3.** AS 29.35.090 is amended by adding a new subsection to read:

11 (b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality
 12 may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This
 13 subsection applies to home rule and general law municipalities.

14 * **Sec. 4.** AS 34.17 is amended by adding a new section to read:

15 **Sec. 34.17.055. Tort immunity from personal injuries or death arising out**
 16 **of the use of land subject to a conservation easement.** (a) In addition to the
 17 immunity provided by AS 09.65.200, an owner of land, a portion of which is subject
 18 to a conservation easement that is 50 feet or less in width, that has been granted to and
 19 accepted by the state or a municipality, and that provides public access for recreational
 20 purposes on the land subject to the conservation easement is not liable in tort, except
 21 for an act or omission that constitutes gross negligence or reckless or intentional
 22 misconduct, for damages to a person who uses the easement to enter onto or remain
 23 on the land if

24 (1) the person had no responsibility to compensate the owner for the
 25 person's use of the easement or the land; and

26 (2) the damages arise out of the person's use of the easement for
 27 recreational purposes on the land.

28 (b) The immunity under (a) of this section extends to the grantee of the
 29 conservation easement providing public access to the land for recreational purposes.

30 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).