

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

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

(3) the vacation is approved by the legislature.

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

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

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

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

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

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

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

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

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

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