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CSHB 220/Ver. H (34-LS0322)

SECTIONAL ANALYSIS

“An Act relating to easements and rights-of-way in state parks.”

Section 1. Adds a new, section that states the legislature’s intent and makes formal findings that:

- The Act applies **only** to state park units. It does **not** change easement or right-of-way processes on other state land or affect how other state lands are managed.
- The purpose is to facilitate **timely and reasonable access** to private inholdings and public utility infrastructure inside state parks while still protecting the primary recreational and conservation values of those areas.
- Implementation must be consistent with federal law, including the Land and Water Conservation Fund Act of 1965.
- The Act is **not** to be interpreted as authorizing large-scale development inside state parks or converting park land to non-recreational uses. Subsection (b) contains a legislative finding that minor, minimally invasive linear utility crossings and access routes do not prohibit recreational use and are generally compatible with the purposes of state parks.

Section 2 (amends AS 41.21.024) Rewrites the existing statute that governs easements and rights-of-way within state park units. The new language:

- Gives the Department of Natural Resources (DNR) **discretionary authority** (“may grant”) to issue a public easement or right-of-way for (1) access to private property **or** (2) **new** facilities and infrastructure owned/operated by a public utility, **provided** the commissioner determines the easement/right-of-way will not unduly affect park resources, is in the public interest, and complies with other applicable law.
- **Requires** the department (“shall grant”) to issue an easement or right-of-way for the **operation, maintenance, upgrade, removal, or replacement of existing** public-utility facilities and infrastructure (the prior discretionary findings requirement for existing facilities is removed).

Section 3 (adds new subsections to AS 41.21.024) Adds detailed procedural and substantive rules that apply when DNR processes easement or right-of-way applications under the amended statute.

- **(b)** Access requirement: Easements must allow adequate access for installation, operation, maintenance, and removal of utility infrastructure.
- **(c)** Mandatory approval: If statutory criteria are met, DNR must grant the easement and cannot substitute a lesser authorization.
- **(d)** Application standards: Applicants must provide a standardized application including public benefit, need, location, project description, environmental review, and a GPS-based survey (full cadastral survey not required).
- **(e)** Environmental review: Must be proportional to project scope and designed to minimize delay and cost.
- **(f)** 90-day decision deadline: DNR must approve or deny complete applications within 90 days; failure to act results in deemed approval unless prohibited by law.
- **(g)** Limits on conditions: DNR may not impose off-site requirements, vague conditions, or unequal treatment of applicants.
- **(h)** Public interest factors: Includes access to private property, utility infrastructure development, and community/economic benefit.
- **(i)** LWCF clarification: Utility easements do not automatically conflict with or convert LWCF park lands, and LWCF funding does not invalidate existing easements, subject to federal law compliance.
- **(j)** Definitions: Defines “facilities and infrastructure” broadly to include modern utility systems (including broadband) and adopts existing statutory definition of “public utility.”