

CS FOR SENATE BILL NO. 45(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/21/99
Referred: Finance

Sponsor(s): SENATOR HALFORD

A BILL

FOR AN ACT ENTITLED

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

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

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

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

13 (1) a reasonably comparable, established alternate right-of-way or

1 means of access exists that is sufficient to satisfy all present and reasonably
2 foreseeable uses;

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

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

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

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

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

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

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

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

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

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

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