

HOUSE BILL NO. 526

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Introduced: 3/1/04

Referred: Transportation, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a transportation corridor for extension of the Alaska Railroad to**
2 **Canada and to extension of the Alaska Railroad to connect with the North American**
3 **railroad system."**

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

5 * **Section 1.** AS 42.40 is amended by adding new sections to article 5 to read:

6 **Sec. 42.40.460. Extension of the Alaska Railroad.** (a) The corporation may
7 delineate a proposed transportation corridor between the existing railroad utility
8 corridor of the Alaska Railroad and the border of Alaska and Canada. The
9 transportation corridor shall be 500 feet wide except where, in the corporation's
10 discretion, physical obstacles or private land ownership patterns make a narrower
11 transportation corridor appropriate. The transportation corridor may be designated for
12 a use identified under AS 38.35.020(a) or AS 42.40.350(b), and, subject to this
13 section, other transportation and utility uses. The corporation may also identify land
14 for use as rail land that can be developed for terminal, station, and maintenance

1 facilities, switching yards, and other purposes associated with the transportation
 2 corridor. The corporation shall prepare a complete legal description of the proposed
 3 transportation corridor and the rail land identified under this subsection.

4 (b) In performing the work authorized by (a) of this section, the corporation in
 5 consultation with interested parties shall consider the following factors:

- 6 (1) safety;
- 7 (2) grade and alignment standards that are commensurate with rail and
 8 utility construction standards and that minimize the prospect of at-grade railroad and
 9 highway crossings;
- 10 (3) availability of construction materials;
- 11 (4) effects on and service to adjacent communities and potential
 12 intermodal transportation connections;
- 13 (5) environmental concerns;
- 14 (6) use of public land to the maximum degree possible;
- 15 (7) minimization of probable construction costs;
- 16 (8) the location of and the opportunity to obtain access to identified
 17 natural resources that could contribute significantly to the economic development of
 18 the state and Canada;
- 19 (9) avoidance of possibly unstable ground due to thawing of frozen
 20 soils; and
- 21 (10) prior and established traditional uses.

22 (c) If the corporation identifies all or a portion of the proposed transportation
 23 corridor or associated rail land and if the Department of Natural Resources, after
 24 consultation with the corporation and potentially affected parties, finds that the
 25 location of the proposed transportation corridor and associated rail land minimizes
 26 adverse effects on existing and potential rights-of-way and land uses associated with
 27 the location, construction, and operation of a gas pipeline in a manner that is in the
 28 best interest of the state,

29 (1) the Department of Natural Resources shall reserve the
 30 transportation corridor and associated rail land across state land identified by the
 31 corporation, subject to valid existing rights and provisions of this section;

1 (2) the department shall continue to manage the land reserved under
 2 (1) of this subsection; the department shall consult with the corporation before
 3 disposing of an interest in land within the transportation corridor and associated rail
 4 land; the department shall condition authorizations for activities on the reserved land
 5 to protect the right of the corporation to construct the railroad or other uses identified
 6 for the land;

7 (3) the department and the corporation shall cooperate to identify, on a
 8 continuing basis and to the extent practicable, the potential crossings for economic
 9 development and public access along the land reserved for the transportation corridor
 10 and associated rail land; and

11 (4) while the land is reserved for the transportation corridor and
 12 associated rail land under this subsection, the department may retain money received
 13 from disposal or third-party use of the land.

14 (d) If the corporation notifies the Department of Natural Resources that the
 15 corporation will begin construction of a railroad improvement on a segment of the
 16 transportation corridor or associated rail land and the corporation has identified a
 17 source of funding for the construction, then, as of the beginning of construction of that
 18 segment, the department shall delegate authority to manage land within that segment
 19 of the transportation corridor and associated rail land to the corporation, including the
 20 authority to authorize or permit use of the land by third parties under the provisions of
 21 this chapter, subject to

22 (1) valid existing rights; and

23 (2) the authority of the department to

24 (A) identify and reserve rights-of-way for potential future
 25 crossings under (g) of this section; and

26 (B) after consultation with the corporation, identify, reserve,
 27 authorize, and manage land within the transportation corridor and associated
 28 rail land for future right-of-way leases and uses under AS 38.35.

29 (e) Upon completion of construction of the railroad improvement on all or a
 30 portion of the reserved transportation corridor or associated rail land,

31 (1) the corporation shall, without cost to the Department of Natural

1 Resources, provide the department with a survey of the state land within a 200-foot
2 corridor, 100 feet on each side of the as-built centerline of track, and the associated
3 rail land;

4 (2) the Department of Natural Resources shall convey the state's entire
5 interest in the land within the boundaries of the survey to the corporation, subject to
6 valid existing rights, and reserving to the state (A) the interests required by
7 AS 38.05.125; (B) the right of the department to identify and reserve rights-of-way for
8 potential future crossings under (g) of this section; and (C) the authority of the
9 department to identify, reserve, authorize, and manage land within the transportation
10 corridor and associated rail land for future right-of-way leases and uses under
11 AS 38.35; the conveyance of land under this paragraph shall be without cost to the
12 corporation except for the direct administrative costs of the department;

13 (3) the Department of Natural Resources shall assign any existing
14 contracts within that segment of the transportation corridor and associated rail land to
15 the corporation; the corporation may thereafter retain the revenue from the conveyed
16 land; the department shall prorate revenue from contracts affecting both conveyed and
17 unconveyed land;

18 (4) the remaining state land in a segment of the transportation corridor
19 in which the corporation has received a conveyance under this section shall be
20 managed by the Department of Natural Resources as a transportation corridor unless
21 the department determines the land is no longer needed for that purpose; and

22 (5) the remaining segments of the transportation corridor in which the
23 corporation has not completed construction and any associated state land designated as
24 rail land shall continue to be managed by the Department of Natural Resources as a
25 transportation corridor and associated rail land under (c) and (d) of this section.

26 (f) Notwithstanding other provisions of this section, before the Department of
27 Natural Resources grants a gas pipeline right-of-way lease under AS 38.35.020(a)
28 across a transportation corridor or associated rail land delineated, identified, reserved,
29 or conveyed under this section, the department shall consult with the corporation; if a
30 railroad improvement has not been constructed on a segment of the transportation
31 corridor or associated rail land that is crossed by the proposed gas pipeline right-of-

1 way, the department may adjust the location of the transportation corridor or
2 associated rail land if the department finds that relocation of the transportation
3 corridor or associated rail land to accommodate the proposed gas pipeline right-of-way
4 is in the best interest of the state.

5 (g) In delegating management authority over or conveying all or a portion of
6 state land to the corporation, the Department of Natural Resources shall reserve the
7 right to authorize, by lease, permit, or other method, a person to cross or construct
8 access across the transportation corridor and associated rail land; however, before
9 authorizing a crossing or construction of access, the department shall obtain
10 concurrence from the corporation that the proposed crossing or construction is
11 consistent with applicable safety standards and, to the extent practical, minimizes
12 effects on railroad operating efficiency. Neither the corporation nor the state is liable
13 for claims arising from public use of the transportation corridor and associated rail
14 land, except to the extent the claims arise from the gross negligence of the state, the
15 corporation, their employees, or their contractors, respectively. The department shall
16 indemnify the corporation consistent with AS 42.40.420(1) - (3) for claims or related
17 litigation arising from an authorization issued by the department under this section,
18 except to the extent the claims arise from the gross negligence of the corporation, its
19 employees, or its contractors.

20 (h) The corporation shall,

21 (1) as the corporation considers appropriate, exercise its authority
22 under this chapter to acquire rights-of-way across land within the transportation
23 corridor and associated rail land that is subject to the corporation's power of eminent
24 domain;

25 (2) upon delineation of the transportation corridor and identification of
26 associated rail land, expeditiously work with federal officials to secure reclassification
27 and withdrawal of federal land for reservations and rights-of-way across the federal
28 land for use as transportation corridor and rail land; and

29 (3) before undertaking acquisition of federal land or expending federal
30 funds, prepare a report evaluating the effects of construction of an extension of the
31 Alaska Railroad across federal land; the statement must satisfy the requirements for an

1 environmental impact statement under 42 U.S.C. 4332.

2 (i) The requirements of AS 38.04.065 and 38.05.300, relating to classification
3 and reclassification of land, are inapplicable to actions taken by the Department of
4 Natural Resources under this section.

5 (j) The Department of Natural Resources shall retain the classifications and
6 reservations of land identified for use as a proposed utility corridor and railroad right-
7 of-way under former AS 19.05.122 until the corporation informs the department in
8 writing that the land is not needed by the corporation for a utility corridor. If, under
9 (a) of this section, the corporation includes land identified under former AS 19.05.122
10 as part of the proposed transportation corridor, the department shall manage that land
11 under provisions of this section.

12 (k) To complete the work authorized by this section, the corporation may enter
13 into agreements relating to the work with the federal government, an agency or
14 instrumentality of the state, a municipality, or a private organization.

15 **Sec. 42.40.465. Extension of the Alaska Railroad to connect with the**
16 **North American railroad system.** (a) The corporation may investigate extension of
17 the Alaska Railroad from the border of Alaska and Canada to connect with the North
18 American railroad system. The corporation may acquire land or interests in land in
19 Canada as the corporation considers appropriate for the development, construction,
20 and operation of an extension of the Alaska Railroad to connect with the North
21 American railroad system.

22 (b) In performing the work authorized by (a) of this section, the corporation
23 shall consider the following factors:

- 24 (1) safety;
- 25 (2) grade and alignment standards that are commensurate with rail and
26 utility construction standards and that minimize the prospect of at-grade railroad and
27 highway crossings;
- 28 (3) availability of construction materials;
- 29 (4) effects on and service to adjacent communities and potential
30 intermodal transportation connections;
- 31 (5) environmental concerns;

- 1 (6) use of public land to the maximum degree possible;
- 2 (7) minimization of probable construction costs;
- 3 (8) the location of and the opportunity to obtain access to identified
- 4 natural resources that could contribute significantly to the economic development of
- 5 the state and Canada;
- 6 (9) avoidance of possibly unstable ground due to thawing of frozen
- 7 soils; and
- 8 (10) prior and established traditional uses.
- 9 * **Sec. 2.** AS 19.05.122 is repealed.