

**CS FOR SENATE BILL NO. 31(TRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 3/31/03

Referred: Resources, Finance

Sponsor(s): SENATORS COWDERY, Wilken

**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 at least 500 feet wide except where, in the  
10 corporation's discretion, physical obstacles or private land ownership patterns make a  
11 narrower transportation corridor appropriate. The transportation corridor may be  
12 designated for a use identified under AS 42.40.350(b) and, subject to this section,  
13 other transportation and utility uses. The corporation may also identify land for use as  
14 rail land that can be developed for terminal, station, and maintenance facilities,

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

4 (b) In performing the work authorized by (a) of this section, the corporation  
5 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,

24 (1) the Department of Natural Resources shall reserve the  
25 transportation corridor and associated rail land across state land identified by the  
26 corporation, subject to valid existing rights;

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

1 land;

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

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

9 (d) If the corporation notifies the Department of Natural Resources that the  
10 corporation will begin construction of a railroad improvement on a segment of the  
11 transportation corridor or associated rail land, then, as of the beginning of construction  
12 of that segment, the department shall delegate authority to manage land within that  
13 segment of the transportation corridor and associated rail land to the corporation,  
14 including the authority to authorize or permit use of the land by third parties under the  
15 provisions of this chapter and to retain all revenue received from third parties for the  
16 use of the land, subject to

17 (1) valid existing rights; and

18 (2) the authority of the department to identify and reserve rights-of-  
19 way for potential future crossings under (g) of this section.

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

22 (1) the corporation shall, without cost to the Department of Natural  
23 Resources, provide the department with a survey of the state land within a 200-foot  
24 corridor, 100 feet on each side of the as-built centerline of track, and the associated  
25 rail land;

26 (2) the Department of Natural Resources shall convey the state's entire  
27 interest in the land within the boundaries of the survey to the corporation, subject to  
28 valid existing rights, and reserving to the state (A) the interests required by  
29 AS 38.05.125; and (B) the right of the department to identify and reserve rights-of-  
30 way for potential future crossings under (g) of this section; the conveyance of land  
31 under this paragraph shall be without cost to the corporation except for the direct

1 administrative costs of the department;

2 (3) the Department of Natural Resources shall assign any existing  
3 contracts within that segment of the corridor and associated rail land to the  
4 corporation; the corporation may thereafter retain the revenue from the conveyed land;  
5 the department shall prorate revenue from contracts affecting both conveyed and  
6 unconveyed land;

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

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

15 (f) Notwithstanding other provisions of this section, if a natural gas pipeline is  
16 proposed for construction before the corporation begins construction of a railroad  
17 improvement within a segment of the transportation corridor or associated rail land,  
18 the Department of Natural Resources shall give the corporation notice and a  
19 reasonable opportunity to delineate by survey a centerline for future railroad  
20 construction. If the corporation provides a survey alignment to the department, the  
21 department may not authorize construction of the natural gas pipeline within a 200-  
22 foot-wide corridor centered on the survey alignment unless the department does not  
23 find a feasible and prudent alternative for the route of the pipeline. The department  
24 shall consult with the corporation before authorizing construction of a natural gas  
25 pipeline in order to minimize effects on the potential rail route, regardless of whether a  
26 centerline survey exists.

27 (g) In delegating management authority over or conveying all or a portion of  
28 state land to the corporation, the Department of Natural Resources shall reserve the  
29 right to authorize, by lease, permit, or other method, a person to cross or construct  
30 access across the transportation corridor and associated rail land; however, before  
31 authorizing a crossing or construction of access, the department shall obtain

1 concurrence from the corporation that the proposed crossing or construction is  
2 consistent with applicable safety standards and, to the extent practical, minimizes  
3 effects on railroad operating efficiency. Neither the corporation nor the state is liable  
4 for claims arising from public use of the transportation corridor and associated rail  
5 land, except to the extent the claims arise from the gross negligence of the state, the  
6 corporation, their employees, or their contractors, respectively. The department shall  
7 indemnify the corporation consistent with AS 42.40.420(1) - (3) for claims or related  
8 litigation arising from an authorization issued by the department under this section,  
9 except to the extent the claims arise from the gross negligence of the corporation, its  
10 employees, or its contractors.

11 (h) The corporation shall,

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

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

20 (3) before undertaking acquisition of federal land or expending federal  
21 funds, prepare a report evaluating the effects of construction of an extension of the  
22 Alaska Railroad across federal land; the statement must satisfy the requirements for an  
23 environmental impact statement under 42 U.S.C. 4332.

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

27 (j) The Department of Natural Resources shall retain the classifications and  
28 reservations of land identified for use as a proposed utility corridor and railroad right-  
29 of-way under former AS 19.05.122 until the corporation informs the department in  
30 writing that the land is not needed by the corporation for a utility corridor. If, under  
31 (a) of this section, the corporation includes land identified under former AS 19.05.122

1 as part of the proposed transportation corridor, the department shall manage that land  
2 under provisions of this section.

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

6 **Sec. 42.40.465. Extension of the Alaska Railroad to connect with the**  
7 **North American railroad system.** (a) The corporation may investigate extension of  
8 the Alaska Railroad from the border of Alaska and Canada to connect with the North  
9 American railroad system. The corporation may acquire land or interests in land in  
10 Canada as the corporation considers appropriate for the development, construction,  
11 and operation of an extension of the Alaska Railroad to connect with the North  
12 American railroad system.

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

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

31 \* **Sec. 2.** AS 19.05.122 is repealed.