

AMENDMENT <sup>H</sup> 2

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OFFERED IN THE HOUSE  
TO: CSHB 471(FIN)

1 Page 3, line 31:

2 Following "exercise":

3 Insert "<sup>prior</sup> on approval of the Governor,"  
4 facilities;" ~~approval of the commissioner of transportation and public~~

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6 Page 4, line 2, following "land;":

7 Insert "the authority's exercise of powers under this paragraph may not exceed  
8 the permissible exercise of those powers by the state;"

NOTE: A similar requirement in AS 42.40.385  
requires the Governor's Approval for Eminent Domain  
Actions By the Alaska Railroad

**Sec. 42.40.370. Conveyance of land.** (a) Within 90 days after receiving a request under AS 42.40.360(b) the commissioner of natural resources shall by written decision:

(1) designate the identified land for railroad purposes and, subject to valid existing rights, convey the state's interests in the land to the corporation;

(2) notify the corporation of reasons for refusal to designate the identified land for railroad purposes; or

(3) approve the request in part and deny it in part and convey as appropriate.

(b) A conveyance of land under this section may be for less than its appraised value as determined by the commissioner of natural resources.

(c) In the absence of a reservation to the contrary, a conveyance of land under this section vests in the corporation ownership, control of the surface, material and mineral estate, including the right to extract or use timber and other construction materials, sand, gravel, rock, and the right to tunnel, ditch, recontour, excavate, or otherwise use the land for railroad, transportation, transmission, communication, and related purposes.

(d) The corporation may reconvey to the state land received under this section that the corporation and the commissioner of natural resources jointly identify as unnecessary or unsuitable for the corporation's purposes. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.380. Use of state land.** When emergency conditions require that track or other right-of-way fixtures of the corporation be moved from the existing location and relocated on state land adjacent to or in the vicinity of the existing right-of-way and the chief executive officer determines that relocation is necessary to maintain safe and adequate rail operations, the corporation may effect the relocation and notify the Department of Natural Resources. The relocation must affect only the amount of state land necessary to adequately restore or continue safe rail operations at a normal level. (§ 2 ch 153 SLA 1984)

#### NOTES TO DECISIONS

Cited in *Laverty v. Alaska R.R. Corp.*, 13 P.3d 725 (Alaska 2000).

**Sec. 42.40.385. Eminent domain.** (a) The corporation may exercise the power of eminent domain under AS 09.55.240 — 09.55.460 to acquire land for railroad transportation purposes consistent with this chapter. Notwithstanding AS 09.55.250, the corporation may acquire a fee simple title whenever, in the judgment of the board, ownership of a fee simple title is necessary to carry out the purposes of this chapter.

(b) The corporation may file a declaration of taking in the manner provided for the state under AS 09.55.420.

(c) The power of eminent domain conferred under this section includes the power to obtain clay, gravel, sand, timber, rock, or other material for the operation of the railroad, the land necessary to obtain the material, and access to the land and material.

(d) The exercise of the power of eminent domain requires the prior approval of the governor. (§ 2 ch 153 SLA 1984)

**Sec. 42.40.390. Land use rules.** The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions. (§ 2 ch 153 SLA 1984)