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Official Business

Alaska State Legislature

House of Representatives

Committee on Rules

Pouch V
Juneau, Alaska 99811

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RULES COMMITTEE MEETING AGENDA

MARCH 28, 1984 8:30 a.m. Cap. Rm. 118

- CSSB 67(L&C)am - "An Act relating to the relocation of utility facilities incident to the construction of highway projects by a municipality; and providing for an effective date."
- CSHB 551(Fin) - "An Act relating to big game management; and providing for an effective date."



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CSSB 67(L&C)am

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Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, by the Labor & Commerce Committee.
Would grant municipalities the authority to order a utility to relocate its facility if necessary for construction of a highway project. Would allow a municipality to order relocation of utility facilities that are located "across, along, over, under, or within a right-of-way under its jurisdiction." The order must provide a reasonable time for compliance. Costs of relocation would be considered a cost of highway construction to be paid by the municipality.

The state is granted the power to relocate utility facilities under AS 19.25.020 (Relocation of utilities incident to highway projects). That section is amended by the bill to include municipalities.

Also amends AS 19.25.240 (Summary Removal) to allow municipalities to remove at any time from a highway or road under its jurisdiction an encroachment that obstructs or prevents the use of the highway or road by the public. Currently the section only grants that power to the state.

Sec. 5 of the bill states that a municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of the bill.

Effective July 1, 1983.

Introduced January 25 and referred to Labor & Commerce and Community & Regional Affairs.

Utility
Facilities
(relocation of
by munic.)

SENATE BILL NO. 67, (see page 73). Reported back to the Senate on March 4 by Labor & Commerce with a majority of the committee recommending it be replaced with Labor & Commerce Committee Substitute and that it do pass. Concurring: Eliason (Chmn.), Mulcahy, Sackett and Rodey. To Community & Regional Affairs.

Labor & Commerce CS further amends AS 19.25.020(c) by adding the following language: "except that a municipality is not obligated to pay the cost of relocation of utility facilities that are not located in a municipal right-of-way under the conditions of a valid easement or permit." Remainder identical to original bill.

Utility
Facilities
(reloc. by
munic.)

SENATE BILL NO. 67, (see pages 73;243). Reported back to the Senate on March 30 by Community & Regional Affairs with the committee recommending as follows: Ferguson (Chmn.) and Sackett signed "no recommendation"; Halford signed "do pass." To Rules.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;538). On April 11 the Labor & Commerce CS was adopted.
Am. No. 1 by Gilman was adopted, 17-1-2. Nays: Ray.
The amendment adds new Sec. 5 to the bill:

* Sec. 5. A.S. 19.45.001(4) is amended to read:

(4) "cost of change, relocation, or removal" means the entire cost incurred by the utility properly attributed to the change, relocation, or removal of a facility, less any costs for improvements or upgrading over and above the cost of a functionally equal facility; if a facility is to be relocated and replaced with new equipment, there shall also be subtracted from the entire cost any salvage value derived from the old facility; if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost;

Renumber the following sections accordingly.

The bill then passed, 17-1-2. Nays: Gilman. Absent: Josephson, Rodey. The effective date was adopted.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519). Received in the House on April 12 and referred to
Community & Regional Affairs and Labor & Commerce.

Utility
Facilities
(reloc. by
munic.)

CS FOR SENATE BILL NO. 67 (L&C)(AMENDED), (see pages 73;243;
408;519;538). Reported back to the House on May 11 by
Community & Regional Affairs recommending it be replaced with
House Committee Substitute (C&RA) and reported back as follows:
Lacher, Chairman, recommended "do not pass, see letter"; Fritz and
McBride recommended do not pass; Clocksin recommended do pass;
Phillips and Tischer had no recommendation. To Labor & Commerce.
The Chairman's report is as follows:

A majority of the House Committee on Community and Regional Affairs oppose HCSCSSB 67 (C&RA). The provisions of HCSCSSB 67 (C&RA) changes the historical relationship between utility companies and municipalities in matters pertaining to the use of public rights-of-way and streets by various utility companies. Present Alaska Statutes require municipalities to allow utility companies to use the public right-of-way and thereby avoid the expense of securing easements from private property owners. The proposed legislation is designed to further benefit the utilities by requiring municipalities to pay the costs of relocating the utilities when the relocation is incident to a municipal street project. The requirement for municipalities to bear the burden of the relocation costs is contrary to practices established in common law and contrary to procedures used throughout the United States. Imposition of such costs would amount to a public subsidy of private profit-making ventures as well as for private non-profit utility companies.

Enactment of any legislation that would require municipalities to pay utility relocation costs will not, in the long run, reduce operating costs for utilities but in all probability will increase costs to the utilities. Municipalities will undoubtedly be highly restrictive in the conditions of future permits for the installation of utilities and will begin to charge maximum fees for the use of the public right-of-way as opposed to the general practice of providing use at no charge.

The Committee has found that municipalities are fair and reasonable in their relationships with utilities, and that the particular needs of each type of utility is considered when negotiations for the use of a public right-of-way are

costs is insured by the availability of arbitration and redress provided by the Alaska Public Utilities Commission. The considerable diversity of types and purposes of profitable private and of non-profit utility companies further reinforces the Committee's belief that the allocation of utility relocation costs can best be negotiated on the local governmental level, on a case by case basis.

In summary, the Committee believes that the proposed legislation is an unnecessary and unwarranted usurpation of local governmental authority which may have an adverse monetary effect on the utility consumer and the municipal tax payer. Therefore, any attempt to legislatively interfere with the existing relationships between municipalities and utility companies should not be favorably considered.

The House C&RA CS makes the following changes:

--Instead of amending portions of AS 19.25 to provide for assumption by municipalities of costs of moving utility facilities, the House C&RA version adds new sections to the Municipal Code (AS 29) which accomplish the same result.

--Changes effective date from July 1, 1983 to January 1, 1984.

--Changes wording of section on payment of the cost of moving utility facilities: "The cost of change, relocation, or removal . . . is a cost of road or highway construction to be paid by the (1) municipality or the utility according to the terms of a franchise, permit, or agreement in effect on January 1, 1984, if the facility is located under the conditions stated in the franchise permit or agreement; (2) municipality or the utility according to the terms of a permit issued by the municipality after January 1, 1984, for a new or existing facility if the facility is located under the conditions stated in the permit; or (3) utility if the facility is located without a permit or under a permit that does not provide for allocation of relocation costs, or if the location is not in accordance with the conditions stated in an applicable permit."

--Adds to definition of "cost of change, relocation, or removal": "the service life of a facility may be determined by the municipality and may be based on the utility depreciation schedule for taxation or rate-setting purposes." (If service life of facility is extended by relocation, a percentage equal to the percentage of extension of the facility's service life is subtracted from the cost payable by the municipality to move the facility.)

--Adds definition of "encroachment" (if utility not changed, relocated or removed in accordance with a municipal order, the facility becomes an unauthorized encroachment and may be disposed of by the municipality). States that encroachment means and includes "a tower, pole, pole line, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or a structure or object of any kind that is or has been placed in, on, under or over a portion of a road or highway."

--Adds definition of "utility" to include: "railroads and all publicly, privately, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, telecommunications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned fire and police signal systems and street lighting systems."

Utility
Facilities
(relocation by
municipality)

CS FOR SENATE BILL NO. 67 (L&C)(AM). (see pages 73;243;408; 519;538;754, 1983 report). Reported back to the House February 22 by Labor & Commerce recommending it be replaced with a House L&C substitute and that it do pass. Concurring: Cowdery (Chair), Ringstad, Furnace and Pestinger. Not concurring: Uehling had no recommendation. To Rules.

Labor & Commerce completely rewrites the bill, and their version would:

--amends state statutes relating to the protection and use of state highways and roads, relocation of utilities incident to highway projects (AS 19.25.020) to allow a municipality to order a utility facility that is located across, along, over, under, or within a right-of-way under its jurisdiction to be changed, relocated or removed (currently only the state is allowed to relocate utility facilities under this section). The municipality would have the authority to dispose of the utility facility if it is not changed, relocated or removed in accordance with the order, and the owner of the facility would be responsible for indemnifying the municipality for any amount the municipality may be liable to a contractor by reason of the encroachment. The cost of the change, etc., necessitated by highway construction, is a cost to be paid by the municipality, except that it would not be obligated to pay the cost of relocation of utility facilities that are located in a municipal right-of-way unless ". . . (1) the facilities have been placed in the municipal right-of-way under a valid easement or permit; or (2) the facilities were placed in the municipal right-of-way before the municipality had a system for granting easements or permits for utility facilities."

--Amends section of AS 19.25 relating to summary removal (sec. 240) to include municipalities: "The department or a municipality may at any time remove from a [state] highway or road under its jurisdiction an encroachment that [which] obstructs or prevents the use of the highway or road by the public."

--amends definition section of AS 19.45 (Highways and Ferries. Miscellaneous Provisions), definition of "cost of change, relocation, or removal" by adding language that states: ". . . if a facility's service life is extended by the work done to change or relocate it, a percentage equal to the percentage of extension of the facility's service life shall be subtracted from the cost."

--section 6 of the bill states "A municipality is not obligated for utility facility relocation costs associated with a highway project for which general obligation bonds have been approved or for which state general fund appropriations have been received before the effective date of this Act."

--provides Act takes effect July 1, 1984.



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