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398

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ck 395

January 31, 1984

The Honorable Jalmar Kerttula  
President of the Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies authority of the Department of Transportation and Public Facilities (DOT/PF) to set up a permit system to authorize utilities and other encroachments in state airports and other public facilities. The bill also provides for dealing with the relocation or removal of utilities and encroachments in state airports and public facilities.

For the most part, the bill tracks existing statutory language that deals with utilities and encroachments in highway rights-of-way, (AS 19.25.010, 19.25.020, and 19.25.200 -- 19.25.250). A section by section analysis of the bill is attached.

I urge your favorable action on this measure so that there is no doubt that DOT/PF has the authority to implement a utility and encroachment permit system for state airports and public facilities.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

SECTION-BY-SECTION ANALYSIS OF UTILITIES AND  
ENCROACHMENTS BILL

Section 1 amends art. 2 of AS 02.15 concerning state airports by adding eight new sections. A brief explanation of each of these new sections is set out below:

AS 02.15.102 authorizes utilities to be installed in state airports so long as they are installed under permit.

AS 02.15.104 sets out a procedure for relocating a utility if the relocation is required because of airport construction. The procedure requires that notice be given the utility. Subsection (b) authorizes the state to move the utility, at no cost to the state, if the notice to relocate is disregarded. Subsection (c) makes it clear that the cost of change or relocation in compliance with (a) of that section is to be determined by the language of the utility permit. Subsection (c) also makes it clear that the utility is required to pay for relocation costs if there is no utility permit issued for the utility facility, or if the utility facility is not installed in the location provided for in the utility permit.

AS 02.15.106 authorizes encroachments to be installed in state airports so long as they are installed under permit.

AS 02.15.108 creates a procedure for relocating or removing encroachments when relocation or removal is required by construction or maintenance of a state airport. The procedure requires that notice be given to the owner of the encroachment.

AS 02.15.110 authorizes the state to require the removal of unauthorized encroachments.

AS 02.15.112 requires the state to give notice to owner of unauthorized encroachments in the event the state determines that the encroachment must be removed.

AS 02.15.114 gives the state the authority to remove an encroachment if the owner fails to comply with the notice given under AS 02.15.104 or 02.15.108, or 02.15.112. This section also makes it clear that if the state removes an encroachment under these circumstances, the cost of removal is to be borne by the owner of the encroachment.

AS 02.15.116 gives the state the authority to summarily remove any encroachment that obstructs the use of a state airport by the public, or interferes with the safe operation of the airport.

Section 2 of the bill amends AS 02.15.260 by adding four new definitions. The new definitions added are: "cost of change, relocation or removal," "encroachment," and "utility."

Section 3 of the bill amends AS 35.10 by adding a new article concerning utilities and encroachment in public facilities. This article is nearly identical to the eight new sections which sec. 1 of the bill would add to AS 02.15 concerning utilities and encroachment in state airports.

Section 4 of the bill repeals and reenacts AS 35.25.020, the general definition section for Title 35. The existing definition of "public works" is deleted. New definitions for "cost of change, relocation, or removal," "encroachment," "public facility," or "public works," "utility," and "utility facility" are added. Five of the existing definitions are retained.

Section 5 of the bill repeals and reenacts AS 19.45.-001(12), in the general definition section relating to highways, to make the definition of "utility" consistent with the definition of that term in the statute dealing with airports in sec. 1 of the bill and with public facilities in sec. 4 of the bill.

Section 6 of the bill establishes an effective date of July 1, 1984.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: 395  
 Title: Utility Relocation - Airport & Pub. Fac. Construction  
 Sponsor: DOT&PE  
 Requestor: Commissioner  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DOT&PE  
 Program Category Affected: Utilities  
 BRU, Program or Subprogram(s) Affected: N/A

EXPENDITURES/REVENUES: (Thousands of Dollars) N/A

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars) N/A

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

*Analysis*

ANALYSIS: Attach a separate page for analysis

Prepared By: Bruce R. Freitag  
 Division: Standards and Technical Services

Phone: 789-6237

Date: 01-04-84

Approved by Commissioner: [Signature]  
 Agency: DOT&PE

Date: 1/1/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Utility Relocation - Airports and Public Facilities Construction

Analysis

The need for this law is to provide statutory authority for the accommodation and relocation of utility facilities within State rights-of-way for the other Department modes - airports, harbors, and public buildings - similar to what AS 19.25.010 - 19.25.020 presently allows for State highways.

We don't anticipate any Department fiscal impact because we are presently reimbursing utility facility relocation costs for these modes if they meet code and are under permit. However, no statute authority for this reimbursement presently exists. In 1981, department policy evolved to allow for this reimbursement.

We don't anticipate any opposition to this proposal.

We don't anticipate any savings/costs differences from the present situation due to this proposal for either the Department or the Utility.

This law would provide statutory authority for the Department to permit utility facility accommodation/relocation reimbursement similar to that presently allowed within highway rights-of-way. Also, this Act is necessary for consistency with highway projects, and housekeeping for the Department operations.

SB 398 TITLE & SPONSOR SUMMARY

14:29 5/22/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO UTILITIES AND ENCROACHMENTS IN STATE AIRPORTS, PUBLIC UTILITIES, AND HIGHWAYS; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 1/31/84 IN (S) LABOR & COM REFERRAL: TRANSPORTATION

SB 398 SENATE ACTION 14:29 5/22/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/31/84	01	1898	FIRST READING -- COMMITTEE REPORTS
01/31/84	02	1898	F/NOTE EQUALS ZERO
01/31/84	03	1898	ANALYSIS IN SEN SUPPL #47
01/31/84	04	1899	GOV TRANSMITTAL LETTER LABOR & COMMERCE TRANSPORTATION FINANCE RULES

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# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER

April 30, 1984

The Honorable Richard Eliason  
Chairman, Senate Labor and  
Commerce Committee  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Eliason:

The following information is provided in response to your request concerning the impact on DOT&PF should the Department's utility legislation fail enactment this year.

## Senate Bill 396

"An act relating to relocation of utilities incident to highway projects; and providing for an effective date."

The objective of this legislation is to provide better control on permitting utility use of Department rights-of-way and on allowing Department reimbursement for relocation/adjustment costs of utility facilities due to highway construction.

If SB 396 is not passed, considerable funds may be spent by the Department to relocate or adjust utility facilities which have been placed in highway rights-of-way illegally. Without this legislation, the Department of Transportation and Public Facilities does not have a means to ensure a utility company will install its facilities in conformance with proper codes and in approved locations within highway rights-of-way. Further, with this legislation the Department will have statutory authority to issue a Temporary Permit for locating utility facilities in highway rights-of-way when known reconstruction is planned for a highway segment the utility wishes to use.

With passage of SB 396, the State stands to save \$50,000 to \$200,000 per year from cost reimbursements to utilities as well as experiencing fewer instances of faulty code compliance or improper location.

April 30, 1984

Senate Bill 398

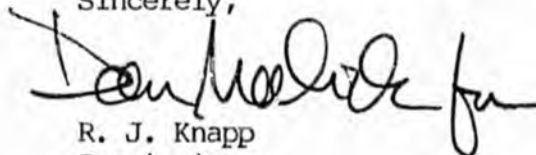
"An act relating to utilities and encroachments in rights-of-way for State Airports and Public Facilities; and providing for an effective date."

The objective of this legislation is to provide statutory authority to the Department of Transportation and Public Facilities to issue permits for utility facilities within State rights-of-way for airports, harbors, marine transportation areas, and State public buildings similar to the existing permit ability the Department has for highway rights-of-way. The State would also then have statute authority to reimburse utility companies for required relocation/adjustment of utility facilities due to State construction.

If SB 398 does not pass, DOT&PF will continue to lack statutory authority to permit location of utility facilities in State rights-of-way other than highways. Therefore, utility companies may have to pay to locate their facilities in private rights-of-way which would ultimately result in higher costs and rates to their consumers.

The department strongly supports the passage of SB 396 and SB 398. Should you require additional information, please contact our legislative liaison office at 465-3900.

Sincerely,



R. J. Knapp  
Commissioner

cc: Susan Fleischhauer, Administrative Assistant  
Ray Gillespie, Director of Legislative Relations  
Office of the Governor  
John J. Simpson, Director, Standards and Technical Services



# City and Borough of Sitka

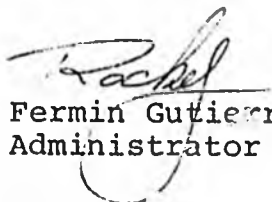
~~PO BOX 79~~ · SITKA, ALASKA · 99835  
304 Lake Street  
Room 104

Senator Richard Eliason  
Alaska State Legislature  
Pouch V M/S 3100  
Juneau, Alaska 99811

Dear Dick:

Please be advised that the City and Borough of Sitka opposes the passage of SB-396 and SB-398 which if enacted would not be in our best interest.

Sincerely,



Fermin Gutierrez  
Administrator