

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/11/85

Date: 3/19/86

The Committee on FINANCE has had HE 160

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

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 160 (Fin) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
3/6/86
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] Szymanski

[Signature] ADAMS

[Signature] Ringstad

[Signature] Duncan

[Signature] Pouchot

[Signature] Binkley

[Signature] Riegee

[Signature] Frank

[Signature] Vehling

[Signature] Larson

CHAIRMAN

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 3/6/86

REQUEST

Bill/Resolution No. : CSHB 160 (FIN)
 Title : Relocation of utilities
incident to highway projects

 Sponsor : Governor
 Requestor : House Finance Committee
 Date of Request : 3/6/86

FISCAL DETAIL

Agency Affected : DOT/PF
 BRU : Engineering, Operations
and Standards

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		0	0	0	0	0
CONTRACTUAL		0	0	0	0	0
SUPPLIES		0	0	0	0	0
EQUIPMENT		0	0	0	0	0
LAND & STRUCTURES		0	0	0	0	0
GRANTS, CLAIMS		0	0	0	0	0
MISCELLANEOUS		0	0	0	0	0
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER		0	0	0	0	0
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : Attach a separate page if necessary

APA

Prepared by : Al Adams, Chair Phone : 465-3706
 Division : House Finance Committee Date : 3/6/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 160 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to utilities and encroachments in
7 state airports, public facilities, and highways;
8 relocation of utilities; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 02.15 is amended by adding new sections to article 2 to
12 read:

13 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-
14 ity may be constructed, placed, or maintained across, along, over,
15 under, or within a state airport only in accordance with regulations
16 adopted or procedures prescribed by the department and only if au-
17 thorized by a written permit issued by the department.

18 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO
19 AIRPORT PROJECTS. (a) If, incident to the construction of an airport
20 project, the department determines and orders that a utility facility
21 located across, along, over, under, or within a state airport must be
22 changed, relocated, or removed, the utility owning or maintaining the
23 facility shall change, relocate, or remove it in accordance with the
24 order, within a reasonable time set by the department in the order.

25 (b) If the utility facility is not changed, relocated, or re-
26 moved in accordance with the order, any permit authorizing the facil-
27 ity issued by the department under AS 02.15.102 becomes invalid and
28 the facility will be considered an unauthorized encroachment subject
29 to the provisions of AS 02.15.114.

1 (c) The cost of change, relocation, or removal, as defined in
2 AS 02.15.260, ordered under (a) of this section is to be paid as
3 follows:

4 (1) by the department as a cost of airport construction, if
5 the utility facility is installed or authorized after the effective
6 date of this Act under a utility permit or a regulation and is in-
7 stalled in the location specified in the permit;

8 (2) by the department as a cost of airport construction, if
9 the facility was installed before the effective date of this Act under
10 a utility permit or utility easement and is in the location specified
11 in the permit or easement;

12 (3) by the department as a cost of airport construction, if
13 the utility facility was installed before the location became part of
14 a state airport or before permits were required;

15 (4) by the department as a cost of airport construction, if
16 the utility permit that requires the utility to pay the relocation
17 cost was issued more than five years before the contract for the
18 airport construction project was first advertised;

19 (5) by the utility in all other cases unless the commi-
20 sioner finds it is in the public interest for the cost to be paid by
21 the department.

22 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be
23 constructed, placed, changed, or maintained across or within an air-
24 port, but only in accordance with regulations or procedures adopted by
25 the department. An encroachment may not be constructed, placed, main-
26 tained, or changed until it is authorized by a written permit issued
27 by the department, unless the department provides otherwise by regula-
28 tion.

29 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,

1 incidental to the construction or maintenance of a state airport the
2 department determines and orders that an encroachment previously
3 authorized by written permit must be changed, relocated, or removed,
4 the owner of the encroachment shall change, relocate, or remove it
5 within a reasonable time set by the department in the order. The cost
6 of the change, relocation, or removal shall be paid as provided in
7 AS 02.15.104(c). If the owner does not change, relocate, or remove an
8 encroachment within the time set by the department, the encroachment
9 will be considered an unauthorized encroachment subject to the pro-
10 visions of AS 02.15.114.

11 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
12 encroachment exists in, on, under, or over a state airport the depart-
13 ment may require the removal of the encroachment, at the expense of
14 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

15 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
16 Notice shall be given the owner, occupant, or person in possession of
17 an unauthorized encroachment, or to another person causing or per-
18 mitting the encroachment to exist, by serving upon any of them a
19 notice demanding the removal of the encroachment within a time limit
20 set by the department. The notice shall describe the encroachment
21 with reasonable certainty as to its character and location. Service
22 of the notice may be made by certified mail.

23 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;
24 REMOVAL EXPENSE. After a failure of the owner of an unauthorized
25 encroachment to comply with a notice or order of the department under
26 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the
27 encroachment, or cause it to be removed. The owner of the unauthor-
28 ized encroachment shall pay to the department

29 (1) the expense of the removal of the encroachment;

1 (2) all costs and expenses paid by the state as a result of
2 a claim or claims filed against the state by third parties for damages
3 due to delays because the encroachment was not changed, removed, or
4 relocated according to the order of the department; and

5 (3) costs and expense of suit.

6 * Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

7 (15) "cost of change, relocation, or removal" means the
8 entire cost incurred by the utility properly attributed to the change,
9 relocation, or removal of a facility, less the costs for improvements
10 or upgrading over and above the cost of a functionally equal facility;
11 if a facility is to be relocated and replaced with new equipment,
12 there shall also be subtracted from the entire cost the salvage value
13 derived from the old facility;

14 (16) "encroachment" includes a tower, pole, poleline, pipe,
15 pipeline, driveway, private road, fence, billboard, stand or building,
16 or structure or object of any kind that is or has been placed in, on,
17 under, or over a portion of an airport;

18 (17) "utility" includes a corporation, company, individual,
19 or association of individuals, or a lessee, trustee, or court-appointed
20 receiver, that owns, operates, manages, or controls a line, plant,
21 pipeline, or system for furnishing, producing, generating, transmit-
22 ting, or distributing power, electricity, communications, telecommu-
23 nications, water, gas, oil, petroleum products, coal or other mineral
24 slurry, steam, heat, light, chemicals, air, sewage, drainage not
25 connected with airport drainage, irrigation, or similar products
26 including publicly owned fire and police signal systems and street
27 lighting systems that directly or indirectly serve the public or a
28 segment of the public; "utility" also includes a corporation, company,
29 individual, or association of individuals, or a lessee, trustee, or

1 court-appointed receiver that owns, operates, manages, or controls a
2 system for furnishing transportation of goods or persons by means of a
3 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
4 or a similar means;

5 (18) "utility facility" includes poles, plants, lines,
6 trenches, bridges, utilidors, tunnels, pipelines, and any other system
7 for furnishing, producing, generating, transmitting, or distributing
8 power, electricity, communications, telecommunications, water, gas,
9 oil, petroleum products, coal or other mineral slurry, steam, heat,
10 light, chemicals, air, sewage, drainage not connected with an airport
11 drainage system, irrigation, or another substance; "utility facility"
12 also includes a system for furnishing transportation of goods or
13 persons by means of a railway, tramway, cableway, conveyor, flume,
14 canal, tunnel, pipeline, or a similar means.

15 * Sec. 3. AS 19.25.020(c) is amended to read:

16 (c) The cost of change, relocation, or removal necessitated by
17 highway construction is a cost of highway construction to be paid [BY
18 THE STATE] in accordance with AS 19.45.001(4) as follows:

19 (1) by the department as a cost of highway construction, if
20 the utility facility is installed or authorized under a utility permit
21 or a regulation after the effective date of this Act and is installed
22 in the location specified in the permit;

23 (2) by the department as a cost of highway construction, if
24 the facility was installed before the effective date of this Act under
25 a utility permit issued on or after July 1, 1960, and is in the loca-
26 tion specified in the permit;

27 (3) by the department as a cost of highway construction, if
28 the utility facility was installed before July 1, 1960, or before the
29 road became part of the state highway system;

1 (4) by the department as a cost of highway construction, if
2 the utility permit that requires the utility to pay the relocation
3 cost was issued more than five years before the contract for the
4 highway construction project was first advertised;

5 (5) by the utility in all other cases, unless the commis-
6 sioner finds it is in the public interest for the cost to be paid by
7 the department [, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY
8 EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY].

9 * Sec. 4. AS 19.25.200 is amended to read:

10 Sec. 19.25.200. ENCROACHMENT PERMITS. (a) An encroachment may
11 be constructed, placed, changed, or maintained across or along a
12 highway, but only in accordance with regulations adopted by the de-
13 partment. An [NO] encroachment may not be constructed, placed, main-
14 tained, or changed until it is [DULY] authorized by a written permit
15 issued by the department, unless the department provides otherwise by
16 regulation.

17 (b) The provisions under (a) of this section do not apply to a
18 mailbox or a newspaper box attached to a mailbox.

19 * Sec. 5. AS 19.45.001(12) is repealed and reenacted to read:

20 (12) "utility" includes a corporation, company, individual,
21 or association of individuals, or a lessee, trustee, or court-appointed
22 receiver, that owns, operates, manages, or controls a line, plant,
23 pipeline, or system for furnishing, producing, generating, transmit-
24 ting, or distributing power, electricity, communications, telecommu-
25 nications, water, gas, oil, petroleum products, coal or other mineral
26 slurry, steam, heat, light, chemicals, air, sewage, drainage not
27 connected with highway drainage, irrigation, or similar products
28 including publicly owned fire and police signal systems and street
29 lighting systems that directly or indirectly serve the public or a

1 segment of the public; "utility" also includes a corporation, company,
2 individual, or association of individuals, or a lessee, trustee, or
3 court-appointed receiver that owns, operates, manages, or controls a
4 system for furnishing transportation of goods or persons by means of a
5 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,
6 or a similar means;

7 * Sec. 6. AS 19.45.001 is amended by adding a new paragraph to read:

8 (14) "utility facility" includes poles, plants, lines,
9 trenches, bridges, utilidors, tunnels, pipelines, and any other system
10 for furnishing, producing, generating, transmitting, or distributing
11 power, electricity, communications, telecommunications, water, gas,
12 oil, petroleum products, coal or other mineral slurry, steam, heat,
13 light, chemicals, air, sewage, drainage not connected with a highway
14 drainage system, irrigation, or another substance; "utility facility"
15 also includes a system for furnishing transportation of goods or
16 persons by means of railway, tramway, cableway, conveyor, flume,
17 canal, tunnel, pipeline, or a similar means.

18 * Sec. 7. AS 35.10 is amended by adding new sections to read:

19 **ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.**

20 **Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES.** A
21 utility facility may be constructed, placed, or maintained across,
22 along, over, under, or within a state public facility only in accor-
23 dance with regulations adopted or procedures prescribed by the depart-
24 ment and only if authorized by a written permit issued by the depart-
25 ment.

26 **Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO**
27 **PUBLIC FACILITY PROJECTS.** (a) If, incident to the construction of a
28 public facility project, the department determines and orders that a
29 utility facility located across, along, over, under, or within a state

1 public facility must be changed, relocated, or removed, the utility
2 owning or maintaining the facility shall change, relocate, or remove
3 it in accordance with the order, within a reasonable time set by the
4 department in the order.

5 (b) If the utility facility is not changed, relocated, or re-
6 moved in accordance with the order, a permit authorizing the utility
7 issued by the department under AS 35.10.210 becomes invalid and the
8 facility will be considered an unauthorized encroachment subject to
9 the provisions of AS 35.10.270.

10 (c) The cost of change, relocation, or removal, as defined in
11 AS 35.25.020, ordered under (a) of this section is to be paid as
12 follows:

13 (1) by the department as a cost of public facility con-
14 struction, if the utility facility is installed or authorized after
15 the effective date of this Act under a utility permit or a regulation
16 and is installed in the location specified in the permit;

17 (2) by the department as a cost of public facility con-
18 struction, if the facility was installed before the effective date of
19 this Act under a utility permit and is in the location specified in
20 the permit;

21 (3) by the department as a cost of public facility con-
22 struction, if the utility facility was installed before the location
23 became a state public facility or before permits were required;

24 (4) by the department as a cost of public facility
25 construction, if the utility permit that requires the utility to pay
26 the relocation cost was issued more than five years before the
27 contract for the public facility construction project was first
28 advertised;

29 (5) by the utility in all other cases unless the

1 commissioner finds it is in the public interest for the cost to be
2 paid by the department.

3 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be
4 constructed, placed, changed, or maintained across or within a public
5 facility, but only in accordance with regulations or procedures adopt-
6 ed by the department. An encroachment may not be constructed, placed,
7 maintained, or changed until it is authorized by a written permit
8 issued by the department, unless the department provides otherwise by
9 regulation.

10 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,
11 incidental to the construction or maintenance of a state public facil-
12 ity, the department determines and orders that an encroachment pre-
13 viously authorized by written permit must be changed, relocated, or
14 removed, the owner of the encroachment shall change, relocate, or
15 remove it within a reasonable time set by the department in the order.
16 The cost of the change, relocation, or removal shall be paid as pro-
17 vided in AS 35.10.220(c). If the owner does not change, relocate, or
18 remove an encroachment within the time set by the department, the
19 encroachment will be considered an unauthorized encroachment and
20 subject to the provisions of AS 35.10.270.

21 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized
22 encroachment exists in, on, under, or over a state public facility,
23 the department may require the removal of the encroachment, at the
24 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-
25 270. .

26 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.
27 Notice shall be given the owner, occupant, or person in possession of
28 an unauthorized encroachment, or to another person causing or per-
29 mitting the encroachment to exist, by serving upon any of them a

1 notice demanding the removal of the encroachment within a time limit
2 set by the department. The notice shall describe the encroachment
3 with reasonable certainty as to its character and location. Service
4 of the notice may be made by certified mail.

5 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.
6 After a failure of the owner of an unauthorized encroachment to comply
7 with the notice or order of the department under AS 35.10.220, 35.10.-
8 240, or 35.10.260, the department may remove the encroachment, or
9 cause it to be removed. The owner of the unauthorized encroachment
10 shall pay to the department

11 (1) the expense of the removal of the encroachment;

12 (2) all costs and expenses paid by the state as a result of
13 a claim or claims filed against the state by third parties for damages
14 due to delays because the encroachment was not changed, removed, or
15 relocated according to the order of the department; and

16 (3) costs and expense of suit.

17 * Sec. 8. AS 35.25.020 is repealed and reenacted to read:

18 Sec. 35.25.020. DEFINITIONS. In this title, unless the context
19 requires otherwise,

20 (1) "construction" or a derivative of the term "construc-
21 tion" means construction, reconstruction, alteration, improvement, or
22 major repair;

23 (2) "cost of change, relocation, or removal" means the
24 entire cost incurred by the utility properly attributed to the change,
25 relocation, or removal of a facility, less any costs for improvements
26 or upgrading over and above the cost of a functionally equal facility;
27 if a facility is to be relocated and replaced with new equipment,
28 there shall also be subtracted from the entire cost any salvage value
29 derived from the old facility;

1 (3) "department" means the Department of Transportation and
2 Public Facilities;

3 (4) "encroachment" includes a tower, pole, poleline, pipe,
4 pipeline, driveway, private road, fence, billboard, stand or building,
5 or a structure or object of any kind that is or has been placed in,
6 on, under, or over a portion of a public facility;

7 (5) "maintenance" means the preservation of each type of
8 facility as nearly as possible in its original condition as construct-
9 ed, or as improved;

10 (6) "public building" means a building owned or controlled
11 and held by the state for government or public use;

12 (7) "public facility" or "public work" means a structure or
13 project constructed or maintained by the department except airports
14 and highways, and includes public buildings, boat harbors, port facil-
15 ities, dikes, jetties, and breakwaters;

16 (8) "utility" includes a corporation, company, individual,
17 or association of individuals, or a lessee, trustee, or court-appoint-
18 ed receiver, that owns, operates, manages, or controls a line, plant,
19 pipeline, or system for furnishing, producing, generating, transmit-
20 ting, or distributing power, electricity, communications, telecommu-
21 nications, water, gas, oil, petroleum products, coal or other mineral
22 slurry, steam, heat, light, chemicals, air, sewage, drainage not
23 connected with public facility drainage, irrigation, or similar prod-
24 ucts including publicly owned fire and police signal systems and
25 street lighting systems that directly or indirectly serve the public
26 or a segment of the public; "utility" also includes a corporation,
27 company, individual, or association of individuals, or a lessee,
28 trustee, or court-appointed receiver that owns, operates, manages, or
29 controls any system for furnishing transportation of goods or persons

1 by means of a railway, tramway, cableway, conveyor, flume, canal,
2 tunnel, pipeline, or a similar means;

3 (9) "utility facility" includes poles, plants, lines,
4 trenches, bridges, utilidors, tunnels, pipelines, and any other system
5 for furnishing, producing, generating, transmitting, or distributing
6 power, electricity, communications, telecommunications, water, gas,
7 oil, petroleum products, coal or other mineral slurry, steam, heat,
8 light, chemicals, air, sewage, drainage not connected with a public
9 facility drainage system, irrigation, or another substance; "utility
10 facility" also includes a system for furnishing transportation of
11 goods or persons by means of a railway, tramway, cableway, conveyor,
12 flume, canal, tunnel, pipeline, or a similar means.

13 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).
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Applicable regs

17 AAC 15.021. APPLICATION FOR UTILITY PERMIT. (a) Application for issuance of a utility permit must be made on a form prescribed by the department.

(b) The application must describe in detail the type of facility and its proposed location within the department right-of-way or other location. The application must include plans, specifications, and other pertinent data. A diagram or drawing showing the location of all known overhead, surface, and underground facilities existing in the vicinity of the proposed facility must also be included with the application.

(c) If a utility facility covered by an existing permit is to be reconstructed or modified substantially, the permittee shall apply for a new permit. If the proposed modifications are not substantial, the permittee need only apply for an amended permit. In either case the application must comply with (b) of this section.

17 AAC 15.181. UTILITY ACCOMMODATION ON RURAL HIGHWAYS AND ROADS.

(a) Longitudinal utility facilities located within the rights-of-way of rural highways and roads must meet the following minimum offset requirements:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(i) "Offset," as used in (a) of this section, is measured from the edge of the traveled way to the nearest surface of a surface-mounted facility.

public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.200. SPECIAL PROVISIONS AND/OR STIPULATIONS. Repealed 5/23/82.

→ **17 AAC 15.201. OVERHEAD CLEARANCES.**

The minimum vertical clearance between an overhead facility and a department right-of-way must comply with the requirements of the 1981 edition of the National Electrical Safety Code. New or relocated facilities should be installed with a minimum clearance of 20 feet. In no case may the minimum vertical clearance be less than 18 feet. (Eff. 5/23/82, Reg. 32)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.210. SPECIAL USE PERMITS FOR HIGHWAYS. Repealed 5/23/82.

17 AAC 15.211. UNDERGROUND FACILITIES. (a) Longitudinal underground facilities on a uniform alignment may not be located closer than five feet from a department right-of-way, unless otherwise directed by the department. Longitudinal underground facilities may not be closer than 10 feet from the toe of fill or the top of cut, unless the utility can demonstrate to the department's satisfaction that the 10-foot requirement is not feasible and that a closer location will not adversely affect the design, construction, maintenance, safety, or operation of the highway or other department structure. Surface facilities must comply with the minimum distances requirements of 17 AAC 15.171 (d).

(b) Underground facility crossings must be installed by boring, coring, or jacking through the roadway prism. Wet-boring is not permitted. The department will, in its discretion, allow trenched or open-cut construction where untrenched construction is not practical. Underground facility crossings must be as nearly perpendicular to the highway centerline as practicable. Underground facility crossings in

other department rights-of-way must conform to the specifications set out in the special provisions of the utility permit.

(c) Encasement of underground facilities is required for crossings under controlled-access highways or other department rights-of-way unless an alternate proposal by the utility is approved by the department. Underground pipelines carrying flammable, corrosive, or other hazardous materials must be encased if required by the department. The department will, in its discretion, permit a utility bridge, tunnel, utilidor, or other mechanical protection in place of encasement.

→ (d) The depth of burial for underground facilities construction or installed under pavement, roadway, or runway surfaces must be at least four feet measured from the surface of the pavement, roadway, or runway to the top of the cable, conduit, pipeline, or encasement. Underground facilities constructed or installed under other surfaces, including unlined ditches, must be buried at least three feet, measured from the surface to the top of the cable, conduit, pipeline, or encasement.

(e) In areas of seasonally frozen soil or permafrost, the depth of burial must be such that any liquid transmitted will not freeze and so that any underground structure will withstand the increased impact loads transmitted through the frozen soil. The department will, in its discretion, allow the depth of burial to be reduced by the use of adequate insulation and protective materials or methods.

(f) The department will, in its discretion, require underground facilities to be rerouted or protected with casing or other mechanical protection when it is impractical to achieve the minimum depth of burial.

(g) When a utility locate service is not available, reference markers must be installed and maintained at both ends of underground facility highway crossings, at angle points in the alignment of the underground facilities, and at designated points along longitudinal alignments as specified in the special provisions of the utility permit. (Eff 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

be roadside hazards. Facilities that have been determined to be roadside hazards must be relocated to conform with this chapter. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.180. FREQUENCY OF REQUESTED RELOCATION AND/OR ADJUSTMENTS. Repealed 5/23/82.

17 AAC 15.181. UTILITY ACCOMMODATION ON RURAL HIGHWAYS AND ROADS.

(a) Longitudinal utility facilities located within the rights-of-way of rural highways and roads must meet the following minimum offset requirements:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(b) Existing longitudinal overhead facilities located within newly used highway rights-of-way may remain if the facilities meet the offset requirements of (a) of this section and are located at least three feet from the toe of fill or five feet from the top of cut. Facilities located within the rights-of-way of existing rural highways and roads may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(c) Longitudinal overhead facilities to be constructed in highway rights-of-way must be located on a line not more than five feet from the highway right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(d) Existing overhead facilities crossing an existing or newly used highway right-of-way may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(e) New overhead facilities crossing a highway right-of-way must be installed so that that part

of the facility nearest to the edge of the traveled way is located in accordance with the offset requirements of (a) of this section and is at least 10 feet from the toe of fill or the top of cut. These facilities must be as nearly perpendicular to the highway centerline as is practicable.

(f) New longitudinal surface-mounted facilities must be located not more than five feet from the right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(g) If the utility can demonstrate that adherence to the requirements of this section is impractical because of difficult topography, mountainous terrain, or other special conditions, the department will, in its discretion, modify the requirements.

(h) A facility determined by the department to be a roadside hazard must be relocated to conform to the requirements of this chapter.

(i) "Offset," as used in (a) of this section, is measured from the edge of the traveled way to the nearest surface of a surface-mounted facility. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
AS 19.05.040 AS 19.30.051
AS 19.20.010 AS 19.30.121
AS 19.25.010 AS 19.40.065

17 AAC 15.190. ERRORS IN FACILITY PLACEMENT BY PERMITTEE. Repealed 5/23/82.

17 AAC 15.191. UTILITY ACCOMMODATION IN SCENIC AREAS. (a) The department will, in its discretion, require utility facilities that are inconsistent with the values of scenic areas to be relocated.

(b) The installation, within scenic areas, of new utility facilities, including those required for department purposes, must be made in accordance with the directions of the department.

(c) "Scenic area," as used in (a) of this section, includes scenic strips, view points, rest areas, adjacent highway rights-of-way, and the portions of highway rights-of-way which pass through

determination, requirement, consent or approval under the lease shall be of any effect unless in writing and no consent or approval by the lessor under the lease shall be of any effect unless given by the commissioner or by such other state officer as may be designated by him. All notices required by the lease shall be sent by registered or certified mail or delivered personally addressed to the lessee or to the lessor as may be appropriate, at the respective addresses contained in the lease or at such other addresses as the parties may designate in writing from time to time.

(33) The lease will not be valid unless approved in writing by the commissioner or by such other state officer as may be designated by him. (In effect before 7/28/59; am 11/14/62, Reg. 7; am 6/10/64, Reg. 16; am 1/13/73, Reg. 44; am 4/27/79, Reg. 70)

Authority: AS 02.15.020 AS 02.15.100
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230
AS 02.15.090

17 AAC 40.370. TERMINAL LEASE PROVISIONS. Following are provisions that, when applicable, will generally be included in all leases for space in airport terminal buildings in addition to applicable provisions from sec. 360 of this chapter:

(1) The lessee, at his own cost and expense, may

(A) furnish and construct or install improvements and interior partitions and doors within the premises which he may determine to be necessary for use in carrying out the purpose for which the lease is intended;

(B) furnish and install electrical wiring other than that provided by the state in the initial construction of the building;

provided, however that all construction or installation performed by the lessee will be subject to the prior approval of the airport manager who may require the submission of plans or specifications, or both.

(2) The lessee may not display any signs, advertising or similar matter without approval of the airport manager.

(3) The lessee shall maintain the premises in good repair and appearance and in a safe condition at all times; and do or cause to be done without delay all those things which, in the opinion of the airport manager, are necessary or desirable in the interest of safety or to maintain the premises in good repair and appearance.

(4) If the terminal building should be partially damaged by fire, earthquake or other casualty, but not rendered untenable, the charges and fees payable under the lease with respect to the space used by the lessee in common with others in such damaged premises will be proportionately reduced until such time as the premises are in order. If the damage should be so extensive as, in the determination of the department, to render the building untenable, the rent shall be paid up to the time of the destruction and thereupon the lease and all rights and obligations of the parties thereunder and the tenancy thereby created will wholly cease and expire.

(5) At the termination or expiration of the lease, unless otherwise agreed by the parties, all partitions, wiring and piping, and other improvements made or installed by the lessee will remain the property of, and will be removed by, the lessee leaving the premises in their original condition. (Eff. 1/13/73, Reg. 44)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.380. UTILITY PERMIT PROVISIONS. Following are provisions that, when applicable, will generally be included in all permits for utilities or other underground installations in addition to applicable provisions from sec. 360 of this chapter:

(1) The permittee shall adequately compact all excavation backfill to prevent formation of depressions and shall repair on demand by the permittor any depressions or other surface irregularities that may appear within one year after completion of the installation permitted under the agreement.

(2) The permittor reserves the right to require that any improvements or any portion thereof placed through, on or above the premises be relocated at the expense of the

permittee when such relocation is determined to be necessary by the permittor. The determination shall be made on a reasonable basis and only for the purpose of expansion, relocation, or better utilization of facilities operated by the permittor.

(3) The agreement is granted with the mutual understanding that the airport manager or his designated representative shall represent the permittor in all matters regarding enforcement and compliance with all requirements, terms, and conditions provided in the agreement. In the event it becomes necessary to obstruct any street, taxiway, or other area provided for vehicular and/or aircraft traffic, the permittee shall obtain the approval of the airport manager at least 24 hours prior to placement of the obstruction. (Eff. 1/13/73, Reg. 44)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.382. TERMINATION OF LEASES. Before the termination or cancellation of a lease or other interest granted under this chapter, the department will provide the lessee with notice and an opportunity to be heard. (Eff. 4/27/79, Reg. 70)

Authority: AS 02.15.020 AS 02.15.090
AS 02.15.060 AS 02.15.220
AS 02.15.070 AS 02.15.230

17 AAC 40.385. TIE-DOWN PERMITS. (a) Purpose. The purpose of this section is to regulate the issuance of annual permits for wheel and float plane tie-down space at Anchorage International Airport in a manner that

(1) provides a fair system for issuance and termination of permits;

(2) prevents the transfer of a permit by a permittee who no longer owns or uses the permittee's own aircraft on the tie-down space;

(3) provides permits for pilots who fly their own airworthy aircraft; and

(4) provides maximum use of available permits.

(b) Register. If available tie-down space is not

sufficient for demand, the airport director shall maintain a register of potential applicants for each type of tie-down permit. Each register is subject to the following rules:

(1) A permit must be issued from the applicable register on the basis of first come, first served. Each current register must be posted twice each year at the airport director's office, with copies available at cost to the public.

(2) To be added to a register, a potential applicant must sign the applicable register and pay a fee of \$25. Each potential applicant must pay a fee of \$25 per register by September 30 each year in order to remain on each register.

(3) Each potential applicant shall notify the airport director in writing of any change of address for each register. The airport director shall send any notice to the last address provided in writing by the potential applicant.

(4) A person who is a potential applicant and who claims to be incorrectly located on a register shall request a hearing from the airport director within six months after November 10, 1985, or the date the person signed the register, whichever is later.

(5) The airport director may request that a potential applicant verify his or her intent to remain on a register. The request must be in writing, and must be sent by certified or registered mail. If a potential applicant does not respond in writing within 60 days after receipt of the notice, the airport director may remove that person from the register.

(6) The airport director may remove a potential applicant who already has a float or wheel tie-down permit from the applicable register, after notice to the potential applicant.

(c) Vacancies. When a permit becomes available, the airport director shall notify the first potential applicant on the applicable register by certified or registered mail. In order to obtain a permit, the potential applicant must file an application within 20 days after receipt of the notice. After a permit is issued, the permittee has 60 days to meet the requirements in (d) of this section.

MEMORANDUM

To: Al
From: Louann
Date: March 10, 1986
Subj: 2nd PROPOSED CS HB 160 (FIN)

This draft C.S. is different from the first one in the following ways:

1. It combines HBs 159 and 160 in to one bill, at the request of committee members.
2. The language regarding who pays for relocation has been amended slightly on p.2, lines 8-10 and on p. 8, lines 12-14, at the request of DOT/PF. These changes are technical. The old drafts referred to highway construction instead of airport or public facility construction and referenced a permit timeframe that only applies to highway construction.

This draft C.S. does not include language regarding utilities that are installed a few feet away from where the permit says they are supposed to be installed. It appears that this problem is adequately covered in regulation. The permit process already allows for "tolerances" of this sort. See the letter from Assistant Attorney General Jack McGee for further details.

Any unforeseen situations not mentioned specifically in the bill can be addressed by the commissioner. See the language starting at p. 2, line 14; p. 5, line 25 and p. 8, line 15. In each place, the bill states that if it is "in the public interest", the state will pay the cost of relocation, if the Commissioner decides it is appropriate.

3/12/86

Update on 3rd draft of CS HB 160 (FIN):

DOT/PF and the utilities have agreed to new language added into the third draft. (This language is a further refinement of the amendments proposed by Rep. Frank on Monday.) The changes further clarify who will pay for relocating utilities. If the department never required the utility to go through the permitting process, then the state will pay if the utility has to be moved. If a permit requiring the utility to pay for relocation was issued and the department wants the utility moved after five years, the state will pay the cost of the move.

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 7, 1986

Ms. Louann Cutler
Professional Assistant
House Finance Committee
Alaska State House
P.O. Box V
Juneau, AK 99811

Re: CSHB No. 160

Dear Ms. Cutler:

The concern raised after yesterday's House Finance Committee hearing on the most recent draft of CSHB No. 160, as I understand it, was whether any situations exist that would justify the payment of relocation costs to a utility permit holder when the utility facility is not in the location specified in the utility permit and whether such situations, if they exist, should be addressed in the bill.

I believe this concern is satisfactorily addressed by two different safeguards that are inherent the administrative process that governs the issuance of utility permits. Under department regulations, ~~when an individual wishes to install a utility facility within a state right-of-way, he must first secure a permit form from Department of Transportation and Public Facilities (DOT/PF).~~ This permit form contains a section in which the individual is asked to describe in detail where he proposes to locate his facility. The description of the location is usually fixed in reference to the center-line of the highway and, in the case of underground facilities, in reference to the distance below surface of the land. See 17 AAC 15.021(b), a copy of which is attached. In completing this form, the individual is free, so to speak, to set his own location tolerances. For example, he can describe the location of the facility as being within 40 to 45 feet of the center-line of the road. If DOT/PF agrees

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. Box K
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

Ms. Louann Cutler
Professional Assistant
House Finance Committee

March 7, 1986
Page 2

with the tolerance and approves the permit, a location tolerance for the facility is already built into the permit. 1/

The second safeguard in the process comes into play in the event that the permit holder later discovers that he is unable to locate his facility in the location that he had previously described in his permit form. If this occurs, the permit holder need only amend his permit by changing the location described to conform to the actual conditions on the ground. See 17 AAC 15.021(c), copy attached.

~~In summary, the concern that has been raised is already addressed in two ways: First, the permit applicant can specify his own location tolerances in the permit form. And second, the permit holder can amend his permit if he subsequently finds that he is unable to place the facility within the location tolerances he had described in his original permit.~~ In both cases, the underlying purpose of the utility permit system is kept intact, i.e., the agency that is charged with keeping highway rights-of-way safe for the traveling public is provided with reliable knowledge of the location of all utility facilities located within the right-of-way. 2/

It is difficult to see how this underlying purpose would be served if this bill were to be changed so as to provide payment for relocation costs to a permit holder whose utility facility was located outside of the area that he specified in his permit. Such a change would not appear to encourage a permit

1/ DOT/PF's utility regulations generally specify relatively broad criteria for the placement of utility facilities. For example, above ground utilities running along side rural roads with a posted speed of 40 to 50 miles/hour must be located at least 20 feet from the traveled surface while underground facilities must be located at least 3 feet under the surface of the right of way. See 17 AAC 15.181(a) and 17 AAC 15.211(d), copies attached. New overhead facilities must be located so as to create a minimum clearance of 20 feet. See 17 AAC 15.201, copy attached.

2/ Accurate knowledge of the location of utilities is, of course, particularly important for underground facilities such as pipes carrying fuel or other dangerous substances. This knowledge is important, not only for highway relocation purposes in general, but for safety reasons in particular.

Ms. Louann Cutler
Professional Assistant
House Finance Committee

March 7, 1986
Page 3

holder to use caution and care to insure that he places his facility in the location where he said it would be in his permit application forms.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:

Jack McGee
Jack B. McGee
Assistant Attorney General

JBM:ebc
Enclosures

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: Rep. Frank

TO: House Finance CS HOUSE BILL NO. 160

SENATE BILL NO. _____

PAGE: 2 LINE: 13

PAGE 2
LINE 13

After "airport" Add "or before permits were required"

AMENDMENT

OFFERED IN THE HOUSE:

By: Rep. Frank

To: House Finance CS HOUSE BILL No. 160

SENATE BILL No.

PAGE: 5

LINE: 23

PAGE 5
LINE 23

After "before" insert "July 1, 1960 or before"

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: Rep. Frank

TO: House Finance CS HOUSE BILL NO. 160

SENATE BILL NO. _____

PAGE: 8 LINE: 14

PAGE 8
LINE 14

After "facility" Add "or before permits were required"

17 AAC 15.091. REVOCATION OF UTILITY PERMIT. (a) A utility permit may be revoked if

(1) the facilities were not constructed or installed in accordance with the terms of the utility permit;

(2) the facilities do not conform to the applicable federal, state, and local standards and requirements;

(3) the permittee fails to adequately maintain the facility after having been notified to do so in writing by the department;

(4) the permittee fails to provide safe and adequate detours, barricades, signs, flagmen, or other controls to protect the public as provided in 17 AAC 15.241;

(5) the permittee fails, after written notice from the department, to take corrective measures to comply with the department's instructions or requests;

(6) it is in the mutual interest of the department and the utility as provided in 17 AAC 15.451.

(b) The construction operations of a permittee or his contractor will, in the department's discretion, be suspended by the department for any of the conditions listed in (a) of this section until the conditions are corrected. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.220
AS 19.05.040 AS 19.30.051
AS 19.10.240 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.100. MULTIPLE FACILITIES.
Repealed 5/23/82.

17 AAC 15.101. PERMITS FOR UTILITY SERVICE CONNECTIONS. (a) The department will, in its discretion, require an amendment to an existing utility permit or new permit for all utility service connections.

(b) The department will, in its discretion, allow a permittee to install additional service connections across or within a department right-of-way where a longitudinal underground,

surface, or overhead distribution or feeder line has been installed under a utility permit. The utility permit will be amended by the department to include the additional service connections.

(c) New permits are required for underground utility service connections which cross a department right-of-way and which originate from distribution lines located outside the right-of-way. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.110. DRIVEWAYS AND ROAD APPROACHES UTILITY CONFLICTS.
Repealed 5/23/82.

17 AAC 15.111. UTILITY FACILITIES INSTALLED WITHOUT PERMIT. (a) Except for facilities installed before July 1, 1960, or installed under 17 AAC 15.031, any utility facility installation located within a department right-of-way without a utility permit is an unauthorized encroachment.

(b) The owner of a utility facility within a department right-of-way and which is an unauthorized encroachment shall submit an application for a utility permit to the department.

(c) The department will issue a utility permit for encroaching utility facilities meeting the requirements of this chapter.

(d) The owner of an encroaching utility facility shall relocate the facility in order to comply with the minimum requirements of this chapter. Any relocation will be at the owner's expense. If the owner does not take appropriate action within a reasonable time, the unauthorized encroachment is subject to removal under AS 19.25.220 - 19.25.250. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.210

**ARTICLE 2.
UTILITY STANDARDS AND
REQUIREMENTS**

- Section**
 120. (Repealed)
 130. (Repealed)
 131. Utility accommodation on controlled-access highways
 140. (Repealed)
 141. Utility accommodation on existing highways to be converted to controlled access
 150. (Repealed)
 151. Overhead crossings on controlled-access highways
 160. (Repealed)
 161. Underground crossings on controlled-access highways
 170. (Repealed)
 171. Utility accommodation on urban highways and streets
 180. (Repealed)
 181. Utility accommodation on rural highways and roads
 190. (Repealed)
 191. Utility accommodation in scenic areas
 200. (Repealed)
 201. Overhead clearances
 210. (Repealed)
 211. Underground facilities
 220. (Repealed)
 221. Irrigation and drainage facilities
 230. (Repealed)
 231. Highway structures
 240. (Repealed)
 241. Safety precautions to be taken by permittee
 250. (Repealed)
 251. Installation and inspection
 260. (Repealed)
 261. Errors in facility placement
 270. (Repealed)
 271. Right-of-way clearing and restoration
 280. (Repealed)
 281. Routine maintenance
 290. (Repealed)
 291. Emergency maintenance
 300. (Repealed)
 301. Utility codes and standards

17 AAC 15.120. UNDERGROUND FACILITIES. Repealed 5/23/82.

17 AAC 15.130. UTILITY STANDARDS OF THE DEPARTMENT OF HIGHWAYS. Repealed 5/23/82.

17 AAC 15.131. UTILITY ACCOMMODATION ON CONTROLLED-ACCESS HIGHWAYS. (a) No utility facility may be installed longitudinally within the controlled-access limits of a highway unless the utility demonstrates to the satisfaction of the department that there is no feasible alternative, and that the proposed utility facility will not adversely affect the design, construction, maintenance, safety, or operation of the highway.

(b) Access for maintenance of a utility facility located within controlled-access limits of a highway or from the entrance or exit ramp of a highway is prohibited.

(c) A facility located within the controlled-access limits of a highway as of the effective date of this section must be relocated or other provisions made so that it can be maintained without using access from the highway or from entrance or exit ramps of the highway. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.25.200
AS 19.05.040	AS 19.30.051
AS 19.20.030	AS 19.30.121
AS 19.20.070	AS 19.40.065
AS 19.25.010	

17 AAC 15.140. CODES OF GOVERNMENTAL AND STATE AGENCIES. Repealed 5/23/82.

17 AAC 15.141. UTILITY ACCOMMODATION ON EXISTING HIGHWAYS TO BE CONVERTED TO CONTROLLED ACCESS. (a) A facility located within the right-of-way limits of an existing highway which will be or has been converted to a controlled-access highway will, in the department's discretion, be permitted to remain in its existing location if the facility can be maintained without using access from the highway or its entrance or exit ramps.

(b) The department will relocate any existing facility that can be maintained only from the proposed controlled access of a highway or its entrance or exit ramps or make other provisions to maintain the facility without requiring access from the highway or its entrance or exit ramps.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB160 (Trans)
 Title: Relocation of Utilities

 Sponsor: Governor/Rules Committee
 Requestor: DOT&PF
 Date of Request: December 5, 1985

FISCAL DETAIL

Agency Affected: DOT&PF
 BRU: Engineering & Operations Standards

 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	(250.0) *	(250.0) *			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

* State Funds only
 Federal funding agencies will not participate in relocation costs when a utility is not under permit improperly installed.

SEE ATTACHMENT

Prepared by: Bruce R. Freitag
 Division: Engineering & Operations Standards

Phone: 465-2957
 Date: December 5

Approved by Commissioner: _____
 Agency: Transportation & Public Facilities

Date: 12/31/85

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 160(Trans)

Relocation of Utilities

The need for this legislation is to revise statutory authority such that Department reimbursement of utility relocation work incident to highway construction would only be allowed if the utility facility was properly permitted by the Department within State highway rights-of-way. The Departments permit also provides assurance that the utility facility is properly located and installed in accordance with established codes (i.e.; electrical, safety, etc.). Presently the law allows for utility relocation reimbursement even if the utility facility is not under permit or within code requirements.

Original sponsor: Rules/Governor

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 160 (Transportation)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to relocation of utilities; and providing for an effective date."

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

* Section 1. AS 19.25.020(c) is amended to read:

(c) The cost of change, relocation, or removal necessitated by the highway construction is a cost of highway construction to be paid (BY THE STATE) in accordance with AS 19.45.001(4) as follows:

(1) by the department as a cost of highway construction, if the utility facility is installed or authorized under a utility permit after the effective date of this Act, and the utility facility is installed in the location as provided for in the utility permit;

(2) by the department as a cost of highway construction if the facility is installed before the effective date of this Act, and is installed under a utility permit and in the location as specified in the utility permit;

(3) by the utility in all other cases unless the commissioner finds it is in the public interest for the cost to be paid by the department (, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY).

* Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HE 160

February 1, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies who is responsible for the payment of relocation or removal costs when a utility facility is required to be changed, removed, or relocated as a result of highway construction. The bill addresses an ambiguity in AS 19.25.020(c) which presently leaves open the question of whether the state must pay for these costs even though a utility facility was not installed or authorized under the authority of a utility permit or, if a permit exists, even though the facility is not installed in the location provided for in the permit.

Some utility companies have expressed a concern over that part of paragraph (2) of sec. 1 of the bill which says that, for utility permits issued after July 1, 1960, the question of who is to pay for relocation costs is to be determined by the terms of the permit. These utility companies point out that utility permits issued between July 1, 1960 and July 1, 1977 require the utility to pick up these costs. (All permits issued after July 1, 1977 require the state to pay for relocation costs.) The utilities' concern is a legitimate one and, if this bill passes, DOT/PF is prepared to amend all those permits issued between July 1, 1960 and July 1, 1977 so that it is clear that the state will bear the costs of relocation. There is no need to amend these permits now because AS 19.25.020(c) presently requires the state to pay for these costs notwithstanding the terms of any existing permit. A draft copy of this proposed amendment is attached.

The bill also makes clear that the question of who pays for future relocation costs is to be a matter of negotiation between the state and the utility to be reflected in the language of the permit.

Section 1 amends AS 19.25.020(c) by creating four new paragraphs:

Paragraph (1) requires the state to pay for the costs of the change, removal, or relocation of any utility facility installed before July 1, 1960 regardless of whether the facility is authorized by a utility permit at the time the change, relocation, or removal of the facility is required. This is a matter of equity and fairness since there was no real uniform utility permit system in place before July 1, 1960.

Paragraph (2) requires either the state or the utility to pay for the costs of the change, removal, or relocation of the utility facility depending on the terms of the permit, provided the permit was issued after July 1, 1960. The effect of this paragraph is to make it clear that the question of who is to pay for relocation costs is a matter to be negotiated between the state and the utility. Presently, the state is required to pay for all relocation costs regardless of any agreement with the utility to the contrary.

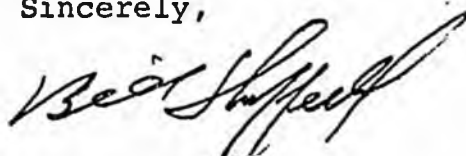
Paragraph (3) requires the utility to pay for relocation costs if their facility was installed after July 1, 1960 and is not under permit. Under existing law, it is ambiguous whether a utility has to pay relocation costs if it does not have a utility permit.

Paragraph (4) requires the utility to pay for relocation costs if their facility is not installed in the location provided for in a permit. Currently, it is unclear whether a utility must pay relocation costs even if its facility is not installed in the location set out in the utility permit.

Section 2 of the bill sets an effective date of July 1, 1985 for this bill.

I urge your favorable action on this measure so that the question of who pays for utility relocation costs under the various circumstances described in the bill is answered in clear statutory language.

Sincerely,



Bill Sheffield
Governor

Offered: 4/11/85
Referred: Rinance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2

CS FOR HOUSE BILL NO. 160 (Transportation)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to relocation of utilities; and
7 providing for an effective date."

8

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

9

* Section 1. AS 19.25.020(c) is amended to read:

10

(c) The cost of change, relocation, or removal necessitated by

11

highway construction is a cost of highway construction to be paid [BY

12

THE STATE] in accordance with AS 19.45.001(4) as follows:

13

(1) by the department as a cost of highway construction, if

14

the utility facility is installed or authorized under a utility permit

15

or a regulation after the effective date of this Act;

16

(2) by the department as a cost of highway construction if

17

the facility is installed before the effective date of this Act;

18

(3) by the utility in all other cases unless the commis-

19

sioner finds it is in the public interest for the cost to be paid by

20

the department [, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY

21

EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY].

22

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

23

10.070(c).

Offered: 2/22/85
Referred: Transportation
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 160 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to relocation of utilities incident
8 to highway projects; and providing for an effective
9 date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 19.25.020(c) is amended to read:
12 (c) The cost of change, relocation, or removal necessitated by
13 highway construction is a cost of highway construction to be paid [BY
14 THE STATE] in accordance with AS 19.45.001(4) as follows:
15 (1) by the department as a cost of highway construction,
16 provided that the utility facility is properly installed in accordance
17 with a permit, or in the absence of a permit, was installed before the
18 effective date of this paragraph in the proper location in accordance
19 with department regulations;
20 (2) by the utility in all other cases [, NOTWITHSTANDING THE
21 TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR
22 STATUTE TO THE CONTRARY].
23 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
10.070(c).

Introduced: 2/1/85
Referred: Community & Regional
Affairs, Transportation and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 160

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to relocation of utilities incident
7 to highway projects; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 19.25.020(c) is amended to read:

11 (c) The cost of change, relocation, or removal necessitated by
12 highway construction is [A COST OF HIGHWAY CONSTRUCTION] to be paid
13 [BY THE STATE] in accordance with AS 19.45.001(4) as follows:

14 (1) by the department as a cost of highway construction if
15 the facility was installed before July 1, 1960, regardless of whether
16 the facility is authorized by a permit at the time the change, relo-
17 cation, or removal of the facility is required;

18 (2) by either the department as a cost of highway con-
19 struction or by the utility, depending on the terms of the utility
20 permit if the facility was installed or authorized under the authority
21 of a utility permit issued after July 1, 1960;

22 (3) by the utility if the facility was installed after July
23 1, 1960, and there is no utility permit for the facility;

24 (4) by the utility if the facility is not installed in the
25 location provided for in the utility permit, regardless of whether the
26 utility permit requires payment by the department [, NOTWITHSTANDING
27 THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION
28 OR STATUTE TO THE CONTRARY].

29 * Sec. 2. This Act takes effect July 1, 1985.