

2/24/86  
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= (Trans)

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

### REQUEST

Bill/Resolution No.: Senate Bill 428  
Title: An Act relating to acquisition of right of way by DOT&PF and providing for an effective date  
Sponsor: Coghill  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

### FISCAL DETAIL

Agency Affected: Department of Transportation & Public Facilities  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

### EXPENDITURES/REVENUES : (Thousands of Dollars)

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

### FUNDING : (Thousands of Dollars)

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

### POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

*Milton H. Lentz* 2/24/86  
Prepared by: Milton H. Lentz, CRA Phone: 465-2985  
Division: Engineering & Operations Standards Date: 2/24/86

Approved by Commissioner: *Phil Hovey* Date: 2/25/86  
Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

528 428

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 600 and SB 428

The Department of Transportation and Public Facilities has some concern regarding the language of both House Bill No. 600 and Senate Bill 428. We do not understand the intent of these bills in view of present Alaska Statutes 44.42.020 and 09.55. Our major concern is with the words: "...prepared rights-of-way..." By statutes, acquisition would be limited to fair market value regardless of whether the right of way is "prepared" or not.

These bills appear to have no measurable fiscal impact on the Department of Transportation and Public Facilities as any funding for the acquisition would be by legislative appropriation.

2/26/86  
S (Trans)



# Dept. of Transportation & Public Facilities

# Position Paper

**BILL NO:** House Bill No. 600 and Senate Bill No. 428

**APPROVED:** *[Signature]*  
R. O. Knapp  
Commissioner

**TITLE:** An Act relating to acquisition of right of way by DOT&PF and providing for an effective date **DATE:**

2/26/86

In reviewing both HB 600 and SB 428, it is our opinion that the language adds nothing to existing powers of the State of Alaska already under AS 44.42.020. We do, however, have some concern with the language and its impact.

The words "...prepared rights-of-way..." imply that preparation of the right of way is done prior to or as a condition of acquisition. The condemning authority could purchase the right of way in either an undeveloped or prepared condition under the power of eminent domain (AS 09.55); however, the condemning authority is limited to pay no more than fair market value for property. Fair market value does not include value that contributes to public construction or enhancement of a project. In other words, the price paid for right of way would be measured in terms of fair market value, not in terms of construction costs for performing project preparation. Providing that prepared rights of way were to be acquired, the fair market value of the land would have to be a separate issue from the price of doing the preparation to meet the requirements of the law. The increase in market value, if any, may or may not equal the cost of doing the preparations. It is noted that laws governing the fair market value concept are well established and defined by the courts.

HB 428

Another question regarding the acquisition of prepared rights of way has to do with the competitive bid requirements of AS 37.05.230. The preparation of rights of way for a specific project surely would be deemed to be public construction, therefore subject to competitive bid. In a recent opinion of the Supreme Court of the State of Alaska, City and Borough of Sitka v. Construction and General Laborers Local 942, 644 p. 2d 227, Op. No. 2495 (May 7, 1982, Alaska), it was held that clearing requirements included in a timber sale contract were "public construction" and therefore subject to the Little David-Bacon Act of Alaska. The primary test applied in the opinion was the extent to which the clearing work under the timber sale contract related to the construction of a dam. In essence, the court concluded that the clearing work would not have been done but for the construction of the dam. This opinion would surely have some effect on our issue in regard to acquiring project-specific prepared rights of way.

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

3/27/86

Date \_\_\_\_\_

Mr. President

The Committee on FINANCE considered SB 428  
relating to acquisition of rights-of-way by the Department of  
Transportation and Public Facilities; efd.

and (a majority of the committee) (the committee) reports it back with  
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

# COMMITTEE REPORT

## SENATE

FURTHER: FINANCE

2/14/86

Date 3-26-86

Mr. President

The Committee on TRANSPORTATION considered SB 428

relating to acquisition of rights-of-way by the Department of Transportation and Public Facilities; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do pass with attached amendment(s)

replace with/or adopt CS for 428 (Imp)

new title

same title and recommends \_\_\_\_\_

and attached a "LETTER OF INTENT"

reports it back without recommendation

recommends referral to \_\_\_\_\_ Committee

NEW FISCAL NOTE  
*J. W. [unclear]*

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

*Joe Jacobson*  
*Paul Frank*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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*Chas. Fick, no rec*  
*[unclear]*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
Chairman  
*[Signature]*  
Chairman recommendation

Offered: 3/27/86  
Referred: Finance

Original sponsor: Coghill

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 428 (Transportation)

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 acquisition of rights-of-way by  
7 the Department of Transportation and Public Facili-  
8 ties; and providing for an effective date."

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

10 \* Section 1. AS 44.42.020(b) is amended to read:

11 (b) The department may

12 (1) engage in experimental projects relating to available  
13 or future modes of transportation and any means of improving existing  
14 transportation facilities and service;

15 (2) exercise the power of eminent domain, including the  
16 declaration of taking as provided in AS 09.55;

17 (3) acquire or purchase undeveloped or prepared rights-of-  
18 way for present or future use as road or highway corridors.

19 \* Sec. 2. This Act takes effect July 1, 1986.

Introduced: 2/14/86  
Referred: Transportation  
and Finance

1 IN THE SENATE

BY COGHILL

2 SENATE BILL NO. 428

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

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16 declaration of taking as provided in AS 09.55;

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18 rights-of-way for present or future use as road, highway, railroad, or  
19 pipeline corridors.

20 \* Sec. 2. This Act takes effect July 1, 1986.

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COMMITTEE COPY

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

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

**REQUEST**

Bill/Resolution No. CS Senate Bill 428 *Imp*  
 Title: An Act relating to acquisition of right of way by DOT&PF and providing for an effective date  
 Sponsor: Coghill  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Department of Transportation & Public Facilities  
 BRU: \_\_\_\_\_  
 \_\_\_\_\_  
 Components: \_\_\_\_\_  
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**EXPENDITURES/REVENUES : (Thousands of Dollars)**

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PERSONAL SERVICES		-0-				
TRAVEL		-0-				
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LAND & STRUCTURES		-0-				
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<b>TOTAL OPERATING</b>		<b>-0-</b>				
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<b>REVENUE</b>		<b>-0-</b>				

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-				
FEDERAL FUNDS		-0-				
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<b>TOTAL</b>		<b>-0-</b>				

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

*Milton H. Lentz*      2/24/86

Prepared by: Milton H. Lentz, CRA      Phone: 465-2985  
 Division: Engineering & Operations Standards      Date: 2/24/86

Approved by Commissioner: *Bill Woy*      Date: 2/25/86  
 Agency: Department of Transportation & Public Facilities

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

438

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 600 and SB 428

The Department of Transportation and Public Facilities has some concern regarding the language of both House Bill No. 600 and Senate Bill 428. We do not understand the intent of these bills in view of present Alaska Statutes 44.42.020 and 09.55. Our major concern is with the words: "...prepared rights-of-way..." By statutes, acquisition would be limited to fair market value regardless of whether the right of way is "prepared" or not.

These bills appear to have no measurable fiscal impact on the Department of Transportation and Public Facilities as any funding for the acquisition would be by legislative appropriation.

ALASKA STATE LEGISLATURE

14th Legislature 2nd Session

SENATE BILL NO. 428

By COGHILL

"An Act relating to acquisition of rights-of-way by the Department of Transportation and Public Facilities; and providing for an effective date."

Introduced in the Senate 2/14, 19. 86

HISTORY IN THE SENATE

1986	Read first time and referred to Committee on																						
2 14	TRANSPORTATION, FINANCE																						
3 27	Reported back with <i>Transp</i> recommendation that <i>replace</i> <i>W/C's, 3 do pass, 2 no</i> <i>rec. to Finance.</i> <i>F.V.L.</i>																						
	Read second time and																						
	Read third time and																						
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> <tr><td colspan="2">Reconsideration</td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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	Reported correctly engrossed Signed by President Sent to House																						
SECRETARY OF THE SENATE																							

HISTORY IN THE HOUSE

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Nays	Nays																						
Absent	Absent																						
Excused	Excused																						
	Reported correctly engrossed Signed by Speaker Returned to Senate																						
CHIEF CLERK OF THE HOUSE																							

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

1852

Offered: 3/27/86  
Referred: Finance

Original sponsor: Coghill

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE  
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19 \* Sec. 2. This Act takes effect July 1, 1986.

Introduced: 2/14/86  
Referred: Transportation  
and Finance

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 428

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to acquisition of rights-of-way by  
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