

SB

421



Official Business

Alaska State Legislature

House of Representatives

House Transportation Committee

P.O. Box V
Juneau, Alaska
99811

Phone:
(907) 465-4859

April 18, 1988

COMMITTEE CALENDAR:

SB 421: "An Act relating to outdoor advertising within highway rights-of-way; and providing for an effective date."

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on SB 421 that includes:

- item #1: SB 421
- #2: fiscal notes - Senate Labor & Commerce Comm.
DOT/PF
- #3: sectional analysis/questions and answers
- #4: memo from DOT/PF
- #5: statutes and DOT/PF regulations
- #6: a letter of support

FISCAL NOTE

REQUEST:

Revision Date: 3/9/88 Agency Affected: DOT&PF
 Title: An Act relating to outdoor advertising within highway r-o-w. BRU: Engineering & operation standards
 Sponsor: Sen. Fabrenkamp Components: _____
 Requestor: Senate L & C

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

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

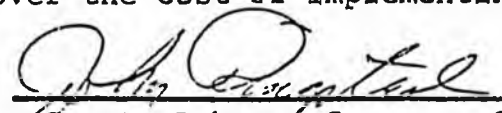
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The department has adequate funds in the Governor's budget to cover the cost of implementing regulations.

Prepared by:  Phone: _____
 Division: Senate Labor & Commerce Committee Date: 3/9/88

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by preparer):

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 421
PUBLISH DATE:

MAR 17 1988

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to outdoor advertising within highway rights-of-way.
Sponsor: Farenkamp
Requestor: KELLY

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

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	10.0	20.0	20.0	20.0	20.0
TRAVEL	0	1.5	0	0	0	0
CONTRACTURAL	0	3.1	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	14.6	20.0	20.0	20.0	20.0

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)

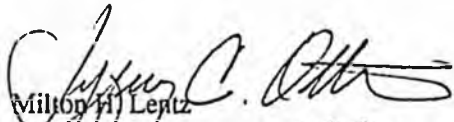
GENERAL FUND	0	4.6	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	10.0	20.0	20.0	20.0	20.0
TOTAL	0	14.6	20.0	20.0	20.0	20.0

POSITIONS:


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

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: 
Milton H. Lertz
Division: Engineering and Operations Standards

Phone: 465-2951
Date: March 4, 1988

Approved by Commissioner: 
W. Keith Baul
Agency: Department of Transportation and Public Facilities

Date: 3-7-88

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

All outdoor advertising has been prohibited within highway rights-of-way by 17 AAC 20.010 since June 25, 1969 (Authority: AS 19.05.020). Recently, the Federal Highway Administration (FHWA) has informed the department that their restrictions under Code of Federal Regulations 23, §1.23, Right of Way, (e), has been somewhat lessened to allow certain types of outdoor advertising within the rights-of-way of Federal-aid projects.

Consistent with this new federal flexibility this bill would authorize advertising on bus stop benches and bus stop shelters as a public service, properly permitted as an encroachment within the right-of-way, and with FHWA approval. Consistent with other similar encroachments that are now permitted or anticipated, the department would envision a fee to address the initial and on-going administrative costs. Following is an analysis of the resource requirements for implementation and management of the program:

1. Program Development - Changes to the Alaska Administrative Code will be required to both bring it into compliance with this statute change and establish the ground rules for placement of outdoor advertising on bus stop benches and shelters. This requires funds for the contractual legal services, advertising and travel to public hearings required under the Alaska Administrative Procedures Act. Staff provided by the department to write the new regulations would be covered by existing budgets.

<u>Expense Item</u>	<u>Units</u>	<u>Cost</u>	<u>Funds Needed</u>
Legal Staff	25 Hours	\$100.	\$2,500.
Advertising (Pub. Notices)	All	600.	600.
Public Hearings Travel	All	1,500.	1,500.
Total Development Costs:			<u>\$4,600.</u>

2. DOT&PF Administrative Costs and Receipts - The department will be required to process each application for an encroachment permit, maintain an inventory and status of each permit, and provide overall management for the program in each Region. The regional and statewide Right-of-Way staff are adequate to undertake this role (with necessary coordination with Traffic Safety, Maintenance, and FHWA staff) through a fee, as these sections are funded principally from program receipts. A \$250 application fee is contemplated under the level of management involved, with a smaller annual renewal fee. This approach is consistent with the TODS signing proposal that is now being proposed to address another outdoor advertising requirement. The number of anticipated permits can not be accurately determined at this time as the department has no experience with the program. An estimate of 40 or fewer applications was made for 1989, and double thereafter. Funding for these on-going costs are shown as program receipts. However, estimates for the cost of the application fee is based on, in part, the time involved in processing encroachment permits for other activities.

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
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Senate

MEMORANDUM

TO: House Transportation Committee Members
FROM: Senator Bettye Fahrenkamp
DATE: April 13, 1988
RE: SB 421 An Act relating to outdoor advertising within highway rights-of-way; and providing for an effective date.

What the bill would do

SB 421 would allow advertising on bus benches and bus shelters within a right-of-way by permit. Last year, SB 4 passed and was signed into law. It authorized advertising on bus benches and shelters along rights-of-way. At that time, it was thought that advertising within rights-of-way would be allowable under existing law by permit. However, as DOT/PF implemented SB 4, it came to our attention that advertising that is visible from the roadway would not be allowable.

If this bill passes, DOT/PF would issue an Encroachment Permit under 17 AAC 10.010 as authorized by AS 19.25.200 to allow such advertising.

The bill has the support of DOT/PF and is allowable under federal law. The bill has a zero fiscal note.

Sectional Analysis

Section 1. AS 19.25.080 Purpose is amended to include outdoor advertising within a right-of-way. Also, it clarifies that outdoor advertising can take place on secondary as well as primary or interstate roads and to conform with new section 2 below.

Section 2. AS 29.25.105 Limitations of outdoor advertising signs, displays and devices. A new section is added to allow outdoor advertising within the right-of-way of an interstate, primary or secondary highway under the authority of a permit issued under the existing encroachment statutes.

Section 3. Provides for an immediate effective date.

Questions and Answers about SB 421

Why is this bill necessary? Wasn't a similar one passed last year?

Last year, SB 4 passed and was signed into law. It authorized advertising on bus benches and shelters along rights-of-way. At that time, it was thought that advertising within rights-of-way would be allowable under existing law by permit. However, as DOT/PF implemented SB 4, it came to our attention that advertising that is visible from the roadway would not be allowable.

How will this program work?

Typically, an advertising firm will supply and maintain the benches and shelters at no cost to a municipality in return for the privilege of placing them at authorized bus stops and selling advertising space on them. In this manner a public need and convenience is fulfilled at no cost to government.

Is this program allowable under federal law?

Yes. State law is currently more restrictive than federal law.

Will this action enhance or jeopardize federal funds?

Neither. Federal funds will not be jeopardized as long as the federal standards mentioned below are met.

What are the federal standards?

Specific federal requirements are that bus benches and shelter franchises be awarded on the basis of public invitations, and that equal access should be provided to all advertisers at reasonable rates. Further federal requirements are only that "adequate controls" be placed, by the jurisdiction, on items such as location, design, amount of advertising space, and advertising content.

Aren't we weakening the Highway Beautification Act?

No, federal policies permit this type of advertising. There are still strong "anti-billboard" provisions in federal and state law.

Is there a way to keep objectionable advertising off the benches and shelters?

As per above, the feds require adequate controls be placed on advertising content. Also, the contract between the advertising firm and the advertiser could address the issue. Finally, an appeal process to the Commissioner could be established by the department.

How does this legislation affect local advertising ordinances?

The bill does not make legal any activities prohibited by municipalities by local ordinances.

What benefit will the public receive?

It's particularly important that in these times of tight revenues, we find ways to provide desirable government services and programs that otherwise would not be available, such as bus benches and shelters. The private sector is able and willing to assist with easing the burden government faces. Enactment of this bill would create and foster new businesses in Alaska.

How will political signs be affected by this bill?

Political advertising on the bus benches and shelters is not prohibited by this bill. Federal standards would allow, however, DOT/PF to regulate advertising content, so it is conceivable that political advertising could be prohibited.

Is there any relationship to the proposal for Tourist Oriented Directional Signs?

No, there is no relationship.

Prepared by Senator Fahrenkamp's Office

Memorandum

DATE: JUL 17 1978

INFORMATION: Bus Shelters
SUBJECT: with AdvertisingIn reply
refer to: HOA-3

FROM : Executive Director

TO : All Regional Federal Highway Administrators
Regions 1-10 and 15

It has come to our attention that many local jurisdictions are seeking to negotiate agreements with private companies for the free installation and maintenance of bus shelters along highways in urbanized areas, in return for the granting of a franchise to sell advertising space on portions of the shelters. We recognize that this is an attractive proposition for local government, both from an economic and fiscal point of view, and in the interest of promoting public mass transportation.

Since some of the roadways along which these shelters would be installed are covered by Federal-aid highway project agreements, the provisions of 23 CFR 1.23 are applicable. In FHWA Order 1-1, the authority to make determinations under that regulation is delegated to the Regional Administrators (with further authority to redelegate to the Division Administrators). The purpose of this memorandum is to provide you with some guidance for the exercise of your discretion under 23 CFR 1.23.

In determining whether a facility installed on the right-of-way of a previously approved Federal-aid highway project is permissible, the mere presence of advertising, which is understood to be the source of profit for a private enterprise, would not always render impermissible an otherwise permissible use of the right-of-way for a highway or other public purpose. However, there should be satisfactory assurance that such use will not impair the highway or interfere with the free and safe flow of traffic thereon. The same advice would apply to the approval of new Federal-aid highway projects when such facilities are in existence on the right-of-way.

We have conducted an informal review of a bus shelter program which has been in effect in New York City for the last three years, and it is our opinion that the presence of shelters of this design, with their limited use for advertising, is not inconsistent with

the purposes of 23 CFR 1.23 in urbanized areas. Since the various jurisdictions interested in these programs should be allowed enough flexibility to resolve competing interests in light of their own particular local conditions, we see little need at the present to impose specific restrictions on the approval of these programs.

At this time, we only require specifically that State or local jurisdictions award bus shelter franchises on the basis of public invitations, and that equal access should be provided to all qualified advertisers at reasonable rates. Proposed bus shelter franchise agreements should be reviewed, however, to assure that adequate controls are provided over items such as, but not limited to, location (site specific), design, amount of advertising space, and advertising content.

The previous advice on this subject from the Office of Traffic Operations, provided in a memorandum dated April 26, 1978, and in an attachment thereto dealing with a Minnesota request, is rescinded and superseded by this memorandum. We are, however, interested in taking a continuing look at bus shelter programs as they are put into operation. Thus, those programs that are approved should be subject to continuing review and informational reports should be prepared for the Office of Traffic Operations. These reports should provide a basis for evaluating the approaches taken at local, State, and Federal levels to exercise control, and determining what appropriate Federal Highway Administration policy should be in this area.

L. P. Lamm

Federal Highway Administration
HCC-1:PLBrennan:jdb:56545:7-17-78

cc:

Mr. Bowers - 4218
Mr. Lamm - 4218
Mr. Casanova - 4213
Mr. Anders - 4213
Mr. Brennan - 4213

Mr. O'Connor - 3213
Mr. Lindberg - 3212
Mr. Crowley - 3101
Mr. Kussy - 4230
Mr. Rhudy - 4230
File
FHWA
OCC Chron
OCC Subject

from the engineer in charge of the highway or the work on the highway, or a person who wilfully, knowingly, or maliciously damages the work under construction, is guilty of a misdemeanor. (§ 8 art IV title II ch 152 SLA 1957)

Collateral references. — 40 Am. Jur. 2d, Highways, Streets and Bridges, §§ 604-610.
40 C.J.S., Highways, §§ 248-282.
60 C.J.S., Motor Vehicles, §§ 655, 714.
Liability for damaging highway or

bridge by nature or weight of vehicles or loads transported over it. 5 ALR 768.
Construction and application of statute or ordinance designed to prevent the use of vehicles or equipment thereof injurious to the highway. 135 ALR 550.

Article 3. Outdoor Advertising.

Section	Section
80. Purpose	140. Compensation for removal of advertising
90. Outdoor advertising prohibited	150. Unlawful advertising
100. [Repealed]	160. Definitions
105. Limitations of outdoor advertising signs, displays and devices	170. Agreements with the United States; regulations
110. [Obsolete]	180. Interpretation
120. [Obsolete]	
130. Penalty for violation	

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 — 19.25.180 are

(1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays and devices along the highways controlled;

(2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations, and to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists;

(3) to regulate outdoor advertising signs, displays and devices in areas adjacent to the rights-of-way of the interstate, primary and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter;

(4) to provide that outdoor advertising signs, displays and devices which are not in conformity with the requirements of this chapter are a public nuisance;

(5) to provide a statutory basis for regulation of outdoor advertising signs, displays and devices consistent with the public policy relating to areas adjacent to a highway of the interstate or primary systems declared by Congress in Title 23, United States Code, "Highways." (§ 1 ch 59 SLA 1949; am § 1 ch 86 SLA 1953; am § 2 ch 233 SLA 1968; am § 1 ch 155 SLA 1970)

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) Outdoor advertising may not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays, and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property;

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter;

(4) directional signs and notices pertaining to schools;

(5) advertising on bus benches or bus shelters if the state determines that the advertising conforms to local, state, and federal standards for interstate and primary highway systems.

(b) *[Repealed by § 21 ch 94 SLA 1980.]*

(c) No outdoor advertising may be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays or devices allowed under (a) of this section. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975; am § 1 ch 30 SLA 1980; am § 21 ch 94 SLA 1980; am § 1 ch 6 SLA 1987)

Effect of amendments. -- The 1987 amendment in subsection (a) substituted "outdoor advertising may not" for "No outdoor may" at the beginning of the subsection and added paragraph (5).

Article 4. Encroachments In Highways.

Section

200. Encroachment permits

Sec. 19.25.200. Encroachment permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regula-

the outdoor advertising sign, display or device at the expense of the owner of the land or the person who erected it. (§ 5 ch 233 SLA 1963)

Sec. 19.25.160. Definitions. In AS 19.25.080 — 19.25.180

(1) "outdoor advertising" includes any outdoor sign, display or device used to advertise, attract attention or inform and which is visible to a person on the main-traveled way of a highway of the interstate, primary, or secondary systems in this state, whether by printing, writing, painting, picture, light, drawing, or whether by the use of figures or objects, or a combination of these, or any other thing designed, intended or used to advertise, inform or attract attention;

(2) "interstate system" means that portion of the National System of Interstate and Defense Highways located in this state, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways";

(3) "primary system" or "secondary system" means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commissioner, and approved by the secretary of transportation (or by the secretary of commerce before the effective date of the transfer of functions under Public Law 89-670 [80 Stat. 931]), under the provisions of Title 23, United States Code, "Highways";

(4) "department" means the Department of Transportation and Public Facilities. (§ 5 ch 233 SLA 1968; am §§ 46, 47 ch 69 SLA 1970; am §§ 5, 6 ch 155 SLA 1970; am Executive Order No. 39, § 11 (1977))

Revisor's notes. — Pursuant to AS 01.05.031, the revisor of statutes has deleted "of transportation and public facilities" following "commissioner" in paragraphs (2) and (3).

Effect of amendments. — The 1977 amendment substituted references to the commissioner of transportation and public facilities for references to the commis-

sioner of highways in paragraphs (2) and (3) and a reference to the Department of Transportation and Public Facilities for a reference to the Department of Highways in paragraph (4).

Legislative history reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Sec. 19.25.170. Agreements with the United States; regulations. The department is authorized to enter into agreements in conformity with the provisions of this title with the United States Secretary of Transportation as provided by Title 23, United States Code, relating to the control of outdoor advertising signs, displays and devices in areas adjacent to interstate and primary systems and to take action in the name of the state to comply with the terms of the agreements, and to promulgate required regulations. (§ 5 ch 233 SLA 1968)

tion. The department may charge a fee for a permit issued under this section. The commissioner of administration shall separately account for encroachment permit fees that the department deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section.

(b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox. (§ 2 ch 64 SLA 1971; am § 41 ch 138 SLA 1986; am § 4 ch 142 SLA 1986)

Effect of amendments. — The first 1986 amendment added the third, fourth and fifth sentences and made grammatical changes in the second sentence.

The second 1986 amendment designated the existing language as subsection

(a), in the second sentence of subsection (a) deleted "duly" preceding "authorized" and added the language "unless the department provides otherwise by regulation" and added subsection (b).

Chapter 30. Access Roads.

Article

2. Roads to State Lands Programmed for Surface Disposal (§§ 19.30.070, 19.30.080)
3. Local Service Roads and Trails (§§ 19.30.127 — 19.30.141, 19.30.161, 19.30.241)
4. Road Maintenance Service Areas (§§ 19.30.260 — 19.30.320)

Article 2. Roads to State Lands Programmed for Surface Disposal.

Section

70. Contracts for construction of roads

Section

80. Construction standards and maintenance

Sec. 19.30.070. Contracts for construction of roads. The director of the division of lands may contract with private persons for the construction of roads to and on state land programmed for surface disposal that are not more than six miles from existing roads or highways. Contracts under this section are governed by AS 36.30 (State Procurement Code). (§ 1 ch 122 SLA 1961; am § 2 ch 7 SLA 1964; am § 16 ch 106 SLA 1986)

Effect of amendments. — The 1986 amendment, effective January 1, 1988, added the last sentence.

Sec. 19.30.080. Construction standards and maintenance. An access road constructed under AS 19.30.060 — 19.30.100 shall be of low standard, not necessarily suitable for all weather use. The state is not under obligation to maintain an access road constructed under AS 19.30.060 — 19.30.100. If an access road is constructed outside a municipality that has zoning ordinances, the right-of-way width for the road shall be determined by the division of lands and the Department

**CHAPTER 10.
ENGINEERING: ENROACHMENTS,
DRIVEWAYS, AND ROAD APPROACHES**

Section

- 10. Encroachments
- 20. Driveways and road approaches
- 30. Driveway and road approach permits and utilities
- 40. Facility service roads and trails
- 50. Definitions

17 AAC 10.010. ENCROACHMENTS. Encroachments may be installed or permitted within highway lands, or rights-of-way, under certain conditions when they have been the subject of a previously secured written authorization issued by the department and, in respect to all highways acquired or constructed in whole, or in part, with federal-aid funds, in accordance with the federal regulations governing the future use and occupation of such highways. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020

17 AAC 10.020. DRIVEWAYS AND ROAD APPROACHES. (a) All driveways or road approaches constructed under permit within any highway lands or rights-of-way shall be the property of the state, but all cost and liability in their connection or in connection with their maintenance shall be at the sole expense of those lands served.

(b) Such facilities shall be constructed and maintained in such a manner that the highway, and all its appurtenances or facilities including, but not limited to, all drainage facilities, pipes, culverts, and ditches, and their safety shall not be impaired or endangered in any way by the construction or maintenance; the permits shall contain express conditions which provide for the enforcement of (a) and (b) of this section.

(c) The permit forms, except the utility permits described in 17 AAC 15, shall contain a clause which provides that the permittee shall adjust or relocate such encroachments without cost or liability to the state if, at any time, or from time to time, the use or safety of the highway within which such encroachment exists requires that the encroachment be adjusted or relocated, and that the permittee shall save and keep harmless the

state, its officers, agents, employees, and contractors in any matters pertaining to the encroachment, and that the permittee shall assume all liability or cost in connection with the encroachment.

(d) Permits may be issued for driveways on any highway not converted to, or originally established as, a controlled access facility, if, in the opinion of the department, the driveways are proposed to be located in a manner which is compatible with the public safety and which will not interfere with the use of the highway; provided, however, that if the highway was financed in whole, or in part, with federal-aid funds, a stipulation in the permit shall provide that the driveway is a portion of the public facility; and further provide, that the permittee or his successors and assigns shall assume all cost and liability occasioned by either the construction or maintenance of the driveway.

(e) If a driveway constitutes the replacement of an existing means of access to privately owned lands, the department, at the time of the construction or reconstruction of the highway, shall cause such driveways to be constructed in a manner and location consistent with the engineering standards proper to the highway, in preference to replacing the existing means of access in kind, and any major improvement in the property thus effected shall be considered to be a special benefit to be offset against any severance damages to the land. Upon the completion of the construction of the highway, the owner of said lands shall be issued a standard encroachment permit containing the provisions described in (d) of this section.

(f) If no means of access, as described in (e) of this section, exist to serve any such private parcel of land, and provided that the owner is resident thereon, or has made improvements to the land, the department shall designate and construct such a driveway at a location which best serves the land, or at a location selected and designated by the owner of the land, to the extent that such driveway locations are consistent with good engineering practice and economy, the standards pertaining to such highway, and the full use and safety of such highway. Upon the completion of the construction of the highway, the owner of the

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

(55) "utility locate service" means a service provided by a utility to locate its buried utility facilities;

(56) "utility service connection" means the cable, wire, or pipe that connects the utility distribution line to the premises served;

(57) "wet-boring" means the method or process of boring with the use of jets of water or liquid slurry;

(58) "airport" has the same meaning as in AS 02.15.260(5);

(59) "public facility" has the same meaning as in AS 35.25.020(7). (Eff. 5/23/82, Reg. 82; am 10/2/87, Reg. 103)

Authority: AS 02.15.020	AS 19.30.051
AS 02.15.102	AS 19.30.121
AS 02.15.106	AS 19.40.065
AS 19.05.020	AS 35.05.020
AS 19.05.040	AS 35.10.230

CHAPTER 20. MAINTENANCE

Section

- 10. Outdoor advertising
- 20. Closure and restriction
- 30. Transfer of excess equipment
- 40. General

17 AAC 20.010. OUTDOOR ADVERTISING.

It shall be unlawful to place, erect, or maintain any outdoor advertising sign within the right-of-way of any highway or highway lands, nor shall any permit be issued for the placement or erection of the sign. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020

Historical Note: Former 14 AAC 2.391.2.

17 AAC 20.020. CLOSURE AND RESTRICTION.

(a) The department may restrict the use of, or close, any highway whenever the department considers such closing or restriction of use necessary

(1) for the protection of the public; or

(2) for the protection of such highway from damage during storms, floods, thawing conditions or during construction or maintenance operations.

(b) The department will provide traffic guidance in case of restriction or provide suitable detour as soon as possible to minimize traffic delay.

(c) To notify the public that a highway is closed, or its use has been restricted, the department may

(1) erect suitable barriers or obstructions at such locations upon the highway as will best serve the purpose;

(2) post warnings or notices of the condition of any such highway;

(3) post signs for the direction of traffic upon it, or to or upon other highway or detour open to public travel;

(4) place warning devices upon such highways;

Transit Advertising Group

P.O. Box 84662 • Fairbanks, AK 99708
(907) 479-3281

April 6, 1988

APR 12 1988

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp,

Referring to Senate Bill 421 An Act relating to outdoor advertising within highway rights of way, and providing for an effective date, I would like to thank you for the work you have done on this legislation.

After reading all available information regarding SB 421, and having been in the outdoor advertising business for the past three years, and having built, placed, and maintained over 50 bench/sign units over the past three years, I have a few questions and comments about the proposed SB 421.

The major concern that I have is the "estimated application fee of \$250.00" for each permit, as described in the March 7, 1988 fiscal note. I understand that the bill now carries a new zero fiscal note. Does that mean that both the expenditures and revenues are now zero.? That new fiscal note is dated March 10th.

Nonetheless, I have some questions about the \$250.00 fee.

How was the \$250.00 fee determined in the first place? The estimated expenditures/revenues show a cost of \$10,000 for "personal services" listed for FY 89. This \$10,000 cost divided by the estimated 40 permit/application fees you expect during FY89 comes out to \$250.00. This seems high. This \$250.00 fee per unit would really make me think about the feasibility of continuing my business, particularly since it would also put me in a position of having to raise about \$12,500. I am the only business that currently has the benches placed. Over a period of time more will come on line. Also, what will be the amount of the "smaller annual renewal fee"? Why is it necessary? How about charging it only if changes are made?

Recently I have discovered that DOT/PF in permitting existing bus shelters in Anchorage, has until this bill, charged significantly less to municipalities for permits for shelters on state right of way. According to the Capital Projects Coordinator for the Municipality of Anchorage Transit Department, they have paid a total of \$2000.00 for the permitting of 50 shelters. Why would my benches and shelters require a \$250.00 fee? Would it be advisable to amend Senate Bill 421 to direct the state to charge the same permitting fee whether the permittee is a private firm or a government entity?

Could a master application be made for all of my present locations to save me money and the state the effort of reviewing individual application? Could the Borough or the City process the application?

Is there any other way to lower the cost of the fee?

Transit Advertising Group

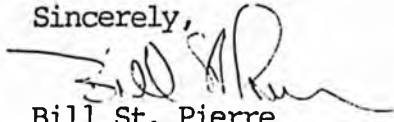
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I know you are aware of the difficulties I have had in dealing with the Northern Region office. I would hope that whatever is decided, that it will be uniformly embraced by all the regions and regulations, policies and procedures be carried out in the same way by each right of way section.

Thank you for your consideration.

Sincerely,



Bill St. Pierre

cc: Representative Cato
Commissioner Hickey

Explanation of Proposed Fee
Senate Bill 421
April 18, 1988

The proposed administrative fees for processing permits concerning bus benches and bus shelters has been an issue of concern with the department's fiscal note on this bill. In further explanation of the purpose and need for an administrative fee of the proposed magnitude the following is offered.

Each permit will require a substantial degree of analysis and evaluation in order to fulfill a requirement of the Federal Highway Administration (FHWA). Because of federal-aid funding on most state routes, they have the ability to approve or deny a permit program for these benches and shelters and to individually approve or deny applications therefore.

One required aspect will be a careful analysis of safety issues. Safety in general, and removal of roadside obstacles in particular, is an emerging focus of the FHWA. There is now considerable attention and funding directed at removal or mitigation of existing roadside obstacles, including culvert ends, bridge railings, sign posts, illegal mail box installations and similar obstacles. Given this environment, the FHWA will only approve a bus bench and shelter program if an equal degree of attention is paid to safety for these non-essential obstacles. The time involved in analyzing the design of individual requests (bench or shelter) and the proposed location relative to traffic conditions, accident histories and probability of future accidents is substantial.

The staff required to perform these analyses and process the permits have no general fund component to their salary. As such, they must have a funding source to charge to which is the need for the proposed fees. Without the proper level of analysis, FHWA will disallow these installations and legislative action authorizing bus bench advertising will be effectively moot. For a bus bench and shelter advertising program to succeed, a funding mechanism for implementing regulations and individual permit processing is necessary.

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. TRANS, 4-18-88 1:30 p.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/7/88

FURTHER REFERRALS:

Judiciary
Finance

DATE: 4-18-88

The Transportation Committee has considered SB 421

"An Act relating to outdoor advertising within highway rights-of-way; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 3-10-88
- zero with analysis

SIGNING DO PASS:

Mike Miller

Heinrich Springer

Bette Cato

SIGNING OTHER RECOMMENDATIONS:

Bob Bunker (no rec)

Gene Deanez (NO rec)

Bette Cato
Chairman's signature

