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HOUSE COMMITTEE REPORT

(11)

Date Referred: April 26, 1989

FURTHER REFERRALS:

Date of Committee Action: 5/6/89

The FINANCE Committee considered:

SB 144

SENATE BILL NO. 144 [RELOCATION ASSIST./FED ASSISTED PROJECTS]
 "An Act relating to relocation assistance for federally assisted projects and programs; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
- [] have 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):
 (Dept)

APPROVES PREVIOUS: (Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____

- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [X] zero fn/analysis DOTPF 4/10/89

SIGNING DO PASS:

Ronald J. Larson LARSON
Dirk Shultz SHULTZ
Steve Rieger RIEGER
Kay Wallis WALLIS

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Signature	Name	Do Not Pass	No Rec	Amend
<u>[Signature]</u>	HOFFMAN			✓
<u>[Signature]</u>	SWACK-HAMMER			✓
<u>[Signature]</u>	BROWN	X		
<u>[Signature]</u>	KOPONEN	X		
<u>[Signature]</u>	WILMER	X		
<u>[Signature]</u>	BARNES	X		
<u>[Signature]</u>	PHILLIPS			✓

cc - Ronald J. Larson
 Chairman's Signature
 cc - [Signature]

REQUEST: **FISCAL NOTE**

Revision Date: _____ Agency Affected: DOT&PF
 Title: An Act relating to the Relocation Assistance for Federal Assisted Programs BRU: Engineering & Operations Standards
 Sponsor: DOT&PF Components:
 Requestor: Governor

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	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	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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: While this bill is estimated to raise annual relocation costs by as much as \$50.0, these payments would come out of individual capital project appropriations and no additional funding is required. These additional costs would be in the form of higher payments to relocates, based upon the schedule of payments authorized in the bill and required by federal law.

Prepared by: Jeffery C. Oates
 Division: Engineering and Operations Standards

Phone: 465-2951
 Date: February 14, 1989

Approved by Commissioner: *[Signature]*
 Agency: Department of Transportation and Public Facilities

Date: *2/15/89*

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

*THIS F.N. supersedes the
 1/5/89 F.N. from the DOT/PF*

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 144

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to relocation assistance for
7 federally assisted projects and programs; and provid-
8 ing for an effective date."

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

10 * Section 1. AS 34.60.040 is amended to read:

11 Sec. 34.60.040. RELOCATION PAYMENTS. (a) When the acquisition
12 of real property for a federally assisted program or project under-
13 taken by a state agency will result in the displacement of a person
14 [ON OR AFTER JANUARY 2, 1971], the state agency responsible for the
15 program or project shall make payment to the displaced person, upon
16 proper application as approved by the state agency, for

17 (1) actual reasonable expenses in moving a person, the
18 person's family, business, farm operation, or other personal property;

19 (2) actual direct losses of tangible personal property as a
20 result of moving or discontinuing a business or farm operation, but
21 not to exceed an amount equal to the reasonable expenses that would
22 have been required to relocate the property as determined by the state
23 agency; and

24 (3) actual reasonable expenses in searching for a replace-
25 ment business or farm.

26 (b) A displaced person eligible for payments under (a) of this
27 section who is displaced from a dwelling and who elects to accept the
28 payments authorized by this subsection in place of payments authorized
29 by (a) of this section may receive a moving expense allowance,

1 determined according to a schedule established by the state agency[,
2 NOT TO EXCEED \$300 AND A DISLOCATION ALLOWANCE OF \$200].

3 (c) A displaced person eligible for payments under (a) of this
4 section who is displaced from a place of business or from a farm
5 operation and who elects to accept the payment authorized by this
6 subsection in place of the payment authorized by (a) of this section,
7 may receive a fixed payment in an amount equal to the average annual
8 net earnings of the business or farm operation, except that this pay-
9 ment shall not be less than \$1,000 [\$2,500] or more than \$20,000. For
10 purposes of this subsection, "average annual net earnings" means
11 one-half of the net earnings of the business or farm operation, before
12 federal and state income taxes, during the two taxable years immedi-
13 ately preceding the taxable year in which the business or farm opera-
14 tion moves from the real property acquired for the project, or during
15 any other period the state agency determines to be more equitable for
16 establishing the earnings, and includes any compensation paid by the
17 business or farm operation to the owner, spouse, or dependents during
18 the applicable period [\$10,000]. In the case of a business, a payment
19 may not be made under this subsection unless the state agency is
20 satisfied that the business

21 (1) cannot be relocated without a substantial loss of its
22 existing patronage; [AND]

23 (2) is not a part of a commercial enterprise having at
24 least one other establishment not being acquired by the state agency
25 or by the United States, which is engaged in the same or similar
26 business; and

27 (3) is not an enterprise whose sole business on the real
28 property acquired is the rental of the real property to others.

29 (d) In addition to the moving expenses allowed under this

1 section, a displaced farm or business may receive a payment, not to
2 exceed \$10,000, for the actual reasonable expenses necessary to rees-
3 tablish the operation at a new site [FOR PURPOSES OF THIS SUBSECTION,
4 "AVERAGE ANNUAL NET EARNINGS" MEANS ONE-HALF OF THE NET EARNINGS OF
5 THE BUSINESS OR FARM OPERATION, BEFORE FEDERAL AND STATE INCOME TAXES,
6 DURING THE TWO TAXABLE YEARS IMMEDIATELY PRECEDING THE TAXABLE YEAR IN
7 WHICH THE BUSINESS OR FARM OPERATION MOVES FROM THE REAL PROPERTY
8 ACQUIRED FOR THE PROJECT, OR DURING ANY OTHER PERIOD THE STATE AGENCY
9 DETERMINES TO BE MORE EQUITABLE FOR ESTABLISHING THE EARNINGS, AND
10 INCLUDES ANY COMPENSATION PAID BY THE BUSINESS OR FARM OPERATION TO
11 THE OWNER, SPOUSE, OR DEPENDENTS DURING THE APPLICABLE PERIOD].

12 * Sec. 2. AS 34.60.050(a) is amended to read:

13 (a) In addition to payments otherwise authorized by this chap-
14 ter, the state agency shall make an additional payment not to exceed
15 \$22,500 [IN EXCESS OF \$15,000], to a displaced person who is displaced
16 from a dwelling actually owned and occupied by the person for not less
17 than 180 days before the initiation of negotiations for the acquisi-
18 tion of the property. This additional payment shall include the
19 following elements:

20 (1) the amount, if any, which, when added to the acquisi-
21 tion cost of the dwelling acquired by the state agency, equals the
22 reasonable cost of a comparable replacement dwelling which is a de-
23 cent, safe and sanitary dwelling adequate to accommodate the displaced
24 person, is reasonably accessible to public services and places of
25 employment and is available on the private market; all determinations
26 required to carry out this paragraph shall be made in accordance with
27 standards established by the state agency making the additional pay-
28 ment;

29

1 (2) the amount, if any, which will compensate the displaced
2 person for any increased interest costs which the displaced person is
3 required to pay for financing the acquisition of the comparable re-
4 placement dwelling; this amount may be paid only if the dwelling
5 acquired by the state agency was encumbered by a bona fide mortgage
6 which was a valid lien on the dwelling for not less than 180 days
7 before the initiation of negotiations for the acquisition of the
8 dwelling; and [THIS AMOUNT SHALL BE EQUAL TO THE EXCESS IN THE AGGRE-
9 GATE INTEREST AND OTHER DEBT SERVICE COSTS OF THAT AMOUNT OF THE
10 PRINCIPAL OF THE MORTGAGE ON THE REPLACEMENT DWELLING WHICH IS EQUAL
11 TO THE UNPAID BALANCE OF THE MORTGAGE ON THE ACQUIRED DWELLING, OVER
12 THE REMAINDER TERM OF THE MORTGAGE ON THE ACQUIRED DWELLING, REDUCED
13 TO DISCOUNTED PRESENT VALUE; THE DISCOUNT RATE SHALL BE THE PREVAILING
14 INTEREST RATE PAID ON SAVINGS DEPOSITS BY COMMERCIAL BANKS IN THE
15 GENERAL AREA IN WHICH THE REPLACEMENT DWELLING IS LOCATED;]

16 (3) reasonable expenses incurred by the displaced person
17 for evidence of title, recording fees, and other closing costs inci-
18 dent to the purchase of the replacement dwelling, but not including
19 prepaid expenses.

20 * Sec. 3. AS 34.60.060 is amended to read:

21 Sec. 34.60.060. REPLACEMENT HOUSING FOR TENANTS AND OTHERS. In
22 addition to amounts otherwise authorized by this chapter, the state
23 agency shall make a payment to or for a displaced person displaced
24 from a dwelling, who is not eligible to receive a payment under
25 AS 34.60.050, if the [WHICH] dwelling was actually and lawfully oc-
26 cupied by the displaced person for not less than 90 days before the
27 initiation of negotiations for acquisition of the dwelling. The
28 payment shall be either

29 (1) the amount necessary to enable the displaced person to

1 lease or rent for a period not to exceed three [FOUR] years and six
2 months, a decent, safe, and sanitary dwelling of standards adequate to
3 accommodate the displaced person in areas not generally less desirable
4 in regard to public utilities and public and commercial facilities,
5 and reasonably accessible to the person's place of employment, but not
6 to exceed \$5,250 [\$4,000]; or

7 (2) the amount necessary to enable the displaced person to
8 make a down payment, including incidental expenses described in
9 AS 34.60.050(a)(3), on the purchase of a decent, safe, and sanitary
10 dwelling of standards adequate to accommodate the displaced person in
11 areas not generally less desirable in regard to public utilities and
12 public and commercial facilities, but not to exceed \$5,250 [\$4,000,
13 EXCEPT THAT IF THIS AMOUNT EXCEEDS \$2,000, THE DISPLACED PERSON MUST
14 EQUALLY MATCH ANY AMOUNT IN EXCESS OF \$2,000 IN MAKING THE DOWN PAY-
15 MENT].

16 * Sec. 4. AS 34.60.140 is amended to read:

17 Sec. 34.60.140. REGULATIONS. State agencies are authorized to
18 adopt regulations to implement this chapter. These regulations [REGU-
19 LATION] shall include provisions relating to

20 (1) a moving expense allowance for displaced persons who
21 move from a dwelling, determined according to a schedule[, NOT TO
22 EXCEED \$300];

23 (2) procedures for an aggrieved person to have a determina-
24 tion of eligibility or amount of payment reviewed by the state agency;

25 (3) eligibility of a displaced person for relocation assis-
26 tance payment, the procedure for displaced persons to claim the pay-
27 ments, amount of the payments; and

28 (4) other regulations necessary to implement the provisions
29 of this chapter.

1 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

144

January 27, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends various portions of AS 34.60, which provides for relocation assistance. Due to recent changes in federal law, the bill is necessary to bring the Alaska relocation assistance program into conformance with federal law regarding federally aided or assisted public works projects.

The state's relocation assistance program has been in operation for nearly 20 years. Aid to persons displaced by public works projects was first required in 1968 under congressional authority relating to federal-aid highways. Two years later Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 -- 4655, expanding the requirement to all federally assisted or aided public works projects. Alaska enacted AS 34.60.010 -- 34.60.150 the next year (sec. 1, ch. 41, SLA 1971). That chapter has not been amended since it was enacted.

The provisions in the bill will apply only to a public works project or land acquisition project that receives federal money. Consequently, the fiscal impact of the bill, due to increases in relocation assistance limits, will be slight because any payments made will be reimbursed, to the extent of the federal matching money, under the particular federal aid program as a normal incident of a project.

Section 1 of the bill makes a number of amendments to AS 34.60.040, including a "housekeeping" amendment to delete an obsolete date from AS 34.60.040(a).

AS 34.60.040(b) presently provides that persons displaced from their residences may elect to receive their moving expenses up to a maximum of \$300, based upon a schedule, plus a \$200 "dislocation allowance." Under the proposed amendment of AS 34.60.040(b) the ceiling is removed. In sec. 4 of the bill, reference to that ceiling is also deleted from AS 34.60.140(1).

Section 1 also amends AS 34.60.040(c), which authorizes payments for displaced businesses and farms. Under the existing language, a displaced businessman or farmer who cannot be relocated without a significant loss of patronage and is not part of a chain, may receive a payment in place of moving expenses, based upon the person's average annual net earnings over the previous two years. The payment currently allowed is a minimum of \$2,500 to a maximum of \$10,000. Under the amendments, as required by federal law, the minimum payment is reduced to \$1,000 but the maximum is raised to \$20,000. Subsection (c) is also amended by relocating, unchanged, the definition of "average annual net earnings." This language is currently inappropriately located in para. (2) of that subsection. The final amendment to AS 34.60.040(c) is the addition of new language, found in para. (3), which denies payments under subsec. (c) to landlords.

The last amendment to AS 34.60.040 is the addition of new language as subsec. (d). The new language will allow the payment of the actual reasonable expenses, to a maximum of \$10,000, of re-establishing a farm or business at a new location. This category of reimbursement is in addition to moving expenses allowed under AS 34.60.040, and addresses situations where building code upgrades or public utility service improvements are necessary to re-establish the business.

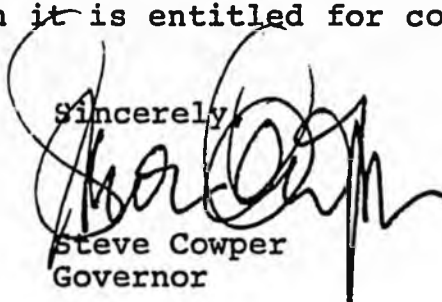
Under the current provisions of AS 34.60.050(a), a residential owner occupying the premises at least 180 days before the initiation of negotiations may receive a replacement housing supplement of up to \$15,000 to ensure the purchase of equivalent replacement housing that is decent, safe, and sanitary. Section 2 of the bill amends AS 34.60.050(a) by raising the maximum payment to \$22,500. It also amends AS 34.60.050(a)(2) to remove obsolete language that does not conform to federal law or practice.

Under the current provisions of AS 34.60.060, residential owners and tenants occupying premises for at least 90 days before the initiation of negotiations may receive a payment of \$4,000 to enable them to rent decent, safe, and sanitary housing for a period of four years. Alternatively, the person may receive up to \$4,000 as a down payment on the

purchase of decent, safe, and sanitary housing (but the person must match any payment in excess of \$2,000). Under the amendments in sec. 3, the time period that the replacement housing supplement is to cover is reduced to three years and six months, but the maximum amount of the payment is increased to \$5,250. In addition, the matching requirement under the down payment option is eliminated.

I urge the passage of this bill to ensure that the state's relocation assistance program conforms to federal requirements. That action will ensure that Alaska will receive all of the federal aid to which it is entitled for construction projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name and title.

Steve Cowper
Governor



U.S. Department of Housing and Urban Development
Anchorage Office, Region X
701 C Street, Box 64
Anchorage, Alaska 99513-0001

271-4659

DEC 14 1988

Honorable Steve Cowper
Governor of Alaska
P.O. Box A
Juneau, AK 99811-0101

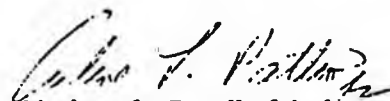
Dear Governor Cowper:

Subject: 1987 Uniform Relocation Act Amendments

The purpose of this letter is to bring to your attention the fact that the 1987 amendments to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCA 4601 et seq.) will become effective for HUD programs on April 2, 1989. It is my understanding that the state's Relocation Assistance and Real Property Acquisition Practices Act at Title 34, Chapter 60 needs to be amended in order to conform to the revised provisions of the federal law. Grantees of HUD-assisted programs may be unable to carry out acquisition or displacement activities on or after April 2, 1989 should the state law not be revised.

I urge that you add revision of the current state statute to your legislative priority list if it is not already so included. Thank you for your consideration of this issue.

Sincerely,


Michael P. Kulick
Manager

cc:
Mark Hickey
Commissioner, Department of
Transportation and Public
Facilities

APL 11/18/88



*Department of Transportation
and Public Facilities*

POSITION PAPER

Mark A. Kelly

BILL NO: SB 144

APPROVED: _____

TITLE: An Act relating to the relocation
assistance for Federal assisted
programs

DATE: February 15, 1989

The Department of Transportation and Public Facilities supports this bill.

The Surface Transportation and Uniform Relocation Act of 1987, Public Law 100-17, Stat. 132 mandates that the revised relocation benefits contained therein, will be available to relocatees on Federal-aid projects and federally funded projects on or before April 2, 1989, or federal participation will be withheld on all new Federal-aid funded capital improvement projects that involve relocation.

The purpose of this bill is to change the Alaska Statutes, Title 34, Chapter 60, Section 34.60.10 - 34.60.150 so as to bring them into conformity with the 1987 amendment.

The changes are necessary if federal funding for a wide variety of programs flowing to non-profit organizations, municipalities and the state is to continue. Technically, these changes must be in place by April 2, 1989 or federal funds will be withheld. However, both highway and airport projects conducted by the DOT&PF are not in jeopardy due to statutory authority authorizing the department to "do all things necessary" to assent to federal aid. Other federal funds such as HUD housing programs and EPA wastewater treatment programs could be withheld pending changes in state law.

Technically, the bill adjusts the payment schedules which control the minimum and maximum payments (using federal funds) when families or businesses must relocate or seek replacement housing due to a public project. The net cost of these new payment schedules is thought to be nominal (about \$50,000 per year). These costs would be in the form of higher payments to individuals or business owners from project funds. No additional administrative or staff costs are anticipated.

Aside from the short timeframe, the potentially most controversial aspect of the legislative change is the concept of a lead agency. Under the federal law, the Federal Highway Administration (FHWA) is defined as the federal agency responsible for establishing the rules and procedures concerning relocation. The FHWA is recommending, but not mandating, that each state designate a lead agency. FHWA desires that there be a lead agency so that there is a single body of regulation and procedure concerning relocation.

The DOT&PF has historically been the agency most involved with relocation because of the aviation and highway programs. Further, under AS 36.30, the DOT&PF is empowered with all procurement authority for construction which typically involves acquisition of property for capital projects. Hence, there is a leadership role for the DOT&PF to play with or without the lead agency designation.

However, upon review of the pros and cons of a lead agency, we are not recommending such a designation at this time. The basis for this recommendation is as follows:

- Designation of a lead agency would require the promulgation of a substantial body of regulations. The DOT&PF currently publishes about 100 pages of such guidance in the form of a R-O-W manual. Conversion of this guidance to regulation form would be a substantial new and on-going expense.
- The lead agency may well be required to oversee the relocation activities of other agencies including municipal and non-profit organizations using federal funds. This would be a new and on-going expense requiring additional staff.
- We anticipate that designation of a lead agency would generate controversy and resistance. Municipalities and non-profit agencies have historically participated in land acquisition without involvement by DOT&PF or other state agencies.
- DOT&PF can provide much of the value of a lead agency without the formal designation. It can be provided within current funding while a lead agency concept would require additional funds.

In summary, we believe the benefits of a lead agency can be achieved without actually designating one. If a lead agency is designated there will be a significant and recurring cost. This cost is not off-set by any corresponding savings given the likelihood that the natural leadership of the Department of Transportation and Public Facilities on the relocation issue will be available to other agencies of government with or without the designated lead agency status.