

SB

121

WITNESS LIST
SB 121: Right-of-Way Leases

Annette Kreitzer for Senator Loren Leman, Sponsor

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During Interim, June - December:
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Senator Loren Leman

Sectional Analysis CS SB 121(RES): Right-of-Way Leases

Section 1. Amends AS 38.35.050 to clarify that a person filing an amendment to an application under the Alaska Right-of-Way Leasing Act is subject to all of the chapter's provisions when the amendment:

- Proposes a net increase in the amount of state acreage leased for the right-of-way that is 10% greater than the original application
- Proposes changes to the design of the pipeline that would use less effective environmental or safety mitigation measures or less advanced technology than in the original application
- Proposes a fundamental change from the route set out in the original application

When calculating whether or not additional state acreage must be part of the 10% calculation, the following must be excluded:

1. Acreage attributed to an amendment to an existing right-of-way lease across federal lands originally issued by the federal government, whether or not the state or the federal government administers the land. This land could be state-selected land that when conveyed to the state carries the encumbrances placed upon it by the lessor. The applicant may wish to change the width of the right-of-way to be consistent with its pipeline corridor. Typically, this would entail an amendment to change the width of the federal ROW grant from 30' for instance to 100', which would be consistent with the width of a state right-of-way lease. This acreage would not be considered part of the 10% increase.
2. Land under federal right-of-way grant which is then transferred to the state for its administration.

Section 2. Amends AS 38.35.080(b) to state clearly that if an application or an amendment to an application constitutes a substantial change in the application the commissioner follows the public notification process in AS 38.35.070.

Section 3. Immediate Effective Date

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Sponsor Statement CS SB 121(RES): Right-of-Way Leases

Commercialization of North Slope gas is one of our legislative priorities. This technical amendment to Alaska's Right-of-Way Leasing Act will ensure less ambiguity for processing right-of-way applications.

SB 121 provides a statutory definition of "substantial change" as that term is used in AS 38.35.050(c). This section provides that "*any amendment to an application filed under this section which constitutes a substantial change in the application is subject to all provisions of this chapter applying to an original application.*" The statutes provide no guidance to applicants, the Department of Natural Resources or other interested parties as to what is or is not a substantial change.

The difficulty with the language as it exists is that any or all changes to an original pipeline right-of-way lease application could be argued to be *substantial*.

This legislation establishes that

- a 10 percent net increase in state acreage beyond what was in the original application (It is my understanding that this is consistent with existing department policy.);
- using less effective environmental or safety mitigation measures than proposed in the original application; or
- proposing a fundamental change in the route as proposed in the original application

would be substantial enough to require restarting the entire administrative process for obtaining a right-of-way lease across state lands.

This legislation will not foreclose on opportunities for the public and affected agencies to review and comment on subsequent amendments to initial lease applications. It will, however, provide an increased measure of certainty and will minimize unnecessary challenges and delays in processing, approving and issuing right-of-way leases.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 121
 (S) Publish Date: 4/3/01
 Dept. Affected: Natural Resources
 BRU: Oil & Gas Development
 Component: Pipeline Coordinator
 Component Number: 1191

Revision Date/Time (Note if correction): _____
 Title: Right-of-Way Leasing Act
 Sponsor: Senator Leman
 Requester: S (RES)

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The definition of 'substantial change' included in SB 121 may eliminate some required public notices under AS 38.35.050. The number of public notices eliminated is expected to be negligible. The cost to the state of all such public notices are reimbursed by the applicant pursuant to AS 38.35.140(b).

The definition of 'substantial change' may eliminate appeals and litigation related to the undefined term, and associated costs of such appeals and litigation. It is not possible to predict the magnitude of any such savings.

Prepared by: Bill Britt Phone 271-4304
 Division: State Pipeline Coordinator's Office Date/Time 15-Mar-01
 Approved by: Pat Pourchot Date 15-Mar 01
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

CS FOR SENATE BILL NO. 121(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/3/01
Referred: Finance

Sponsor(s): SENATOR LEMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act adding, for purposes of the Alaska Right-of-Way Leasing Act, a definition of
2 'substantial change' as applied to an amended right-of-way lease application; and
3 providing for an effective date."

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

5 * Section 1. AS 38.35.050(c) is amended to read:

6 (c) Any amendment to an application filed under this section that [WHICH]
7 constitutes a substantial change in the application is subject to all provisions of this
8 chapter applying to an original application. For purposes of this subsection,

9 (1) an amendment constitutes a substantial change in the
10 application only if the amendment proposes

11 (A) a net increase in the amount of state acreage to be
12 leased for the right-of-way that exceeds by at least 10 percent the amount
13 of the acreage in the applicant's original application;

14 (B) a change in the design of the pipeline that would use less

1 effective environmental or safety mitigation measures or less advanced
 2 technology than proposed in the original application; or

3 (C) a fundamental change in the general route as set out in
 4 the original application;

5 (2) in calculating the percentage increase in acreage under (1)(A)
 6 of this subsection, each of the following must be excluded:

7 (A) the acreage attributable to an amendment of a right-of-
 8 way originally issued by the federal government, whether administered by
 9 the state or the federal government; and

10 (B) land subject to an existing federal right-of-way grant
 11 held by the applicant that is transferred to the state for its administration.

12 * Sec. 2. AS 38.35.080(b) is amended to read:

13 (b) Upon completion of the analysis but not less than 30 days before the date
 14 set for hearing an application or an amendment to an application that, under
 15 AS 38.35.050(c), constitutes a substantial change in the [AMENDMENT TO AN]
 16 application, the commissioner shall publish notice, and make copies available as
 17 provided in AS 38.35.070.

18 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).