

SB

121

SFIN

FILE

* SB 121 *

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

* The bill was waived *



Senator Loren Leman

Sponsor Statement SB 121: 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 38.35.05(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.



Senator Loren Leman

Sectional Analysis SB 121: 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

What Does Senate Bill 121 Do?

- 1) If a person files an amendment to a pipeline application that:
 - Proposes a net increase in the amount of acreage leased for a ROW that is 10% greater than the original application - *that is a substantial change subjecting the amendment to all of the provisions of AS 38.35*

If a person files an amendment to a pipeline application that:

 - 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 - *that is a substantial change subjecting the amendment to all of the provisions of AS 38.35*

If a person files an amendment to a pipeline application that:

 - Proposes a fundamental change in the general route as proposed in the original application - *that is a substantial change subjecting the amendment to all of the provisions of AS 38 35*
- 2) When the state calculates whether or not additional state acreage must be part of the 10% calculation, it must exclude:
 - Acreage attributable to an amendment of an existing ROW across federal lands originally issued by the federal government, whether or not the state or the federal government administers the land. Likely, this would involve an applicant aligning widths of federal and state rights-of-way.
 - The state must also not count land under a federal ROW grant which is then transferred to the state for its administration
- 3) Section 2 is a conforming amendment to the Commissioner's analysis and public hearing section of the ROW Act.
- 4) Section 3 is an immediate effective date.

SB 121 continues the public process, but does not invite delay.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/27/01

FURTHER: Finance

Date of 5-Day Notice: 3/29/01
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/2/01

Resources Committee considered SENATE BILL NO. 121
RIGHT-OF-WAY LEASING ACT

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

and recommends:

- be replaced with CS SB 121 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR #

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Natural Resources	3/15/01		✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>John Taylor</i>	✓			
<i>Paula Board</i>	✓			
<i>Patricia Board</i>	✓			
CHAIR: <i>John Taylor</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 121-RIGHT-OF-WAY LEASING ACT

NAME: JAMES EASON Subject/Bill No: SB 121
Co./Dept./Title: Consultant to Foothills Pipe Lines Phone: (907) 337-3515
Address: 811 Leaper Circle Anchorage, AK Zip: 99504
Do you wish to testify? Yes No Respond To Questions

NAME: CAROL CARROLL Subject/Bill No: SB 121
Co./Dept./Title: DNR Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Bruce BRITW Subject/Bill No: SB 121
Co./Dept./Title: DNR - SPC Phone: 907-271-4393
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Annette Kreitzer, Staff Subject/Bill No: SB 121
Co./Dept./Title: for Senator Leman Phone: 465-2095
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions