

**SB**

**395**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSB 395(FIN)  
(S) Publish Date: 5/5/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
Title: Municipal Land Use Regulation RDU: Alaska Railroad Corporation  
Component: \_\_\_\_\_  
Sponsor: Senate Rules  
Requester: Senate Finance Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures		500,000.0				
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>500,000.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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						
Revenue Bond Proceeds		500,000.0				
<b>TOTAL</b>	<b>0.0</b>	<b>500,000.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The Alaska Railroad Corporation (ARRC) is a public corporation supported by revenues generated through its freight, passenger and real estate services. ARRC does not receive state subsidies for operations or capital improvements.

While SB 395 will not create a current fiscal impact for the State, failure to pass the bill could subject the Alaska Railroad to costly legal challenges with regard to protection of its operations and interstate commerce. It could also subject the Railroad to unreasonable delays and add (continued on next page)

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Division: Alaska Railroad Corporation Date/Time 5/3/05 9:51 AM  
Approved by: Edgar Blatchford, Commissioner Date 5/4/2004  
Agency: Department of Community & Economic Development

FISCAL NOTE #2

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSSB 395(FIN)

ANALYSIS CONTINUATION

significant cost to efforts to improve the transportation infrastructure of the State through upgrades of existing track and facilities and expand in new directions including to Ft. Greely or to Canada, continued.

The recent planning and zoning litigation involving the Eklutna Quarry has resulted in over \$63.0 of legal fees to date. In addition, compliance with the various local planning, zoning and land use laws would increase project costs, sometimes substantially. Construction of the Railroad's new Anchorage Operations Center, a new building in the middle of ARRC's Anchorage Yard, has been delayed due to local planning and zoning review now required by the recent Supreme Court case. As a result of the delay, this project's cost has now increased by an estimated \$100.0 and possibly more, if accelerated construction is necessary before winter.

In addition to clarifying legislative language with regard to local planning and zoning regulation, SB 395 authorizes the Railroad to issue up to \$500 million in revenue bonds to finance the acquisition, construction, improvement, maintenance, equipping, and operation of a rail line and related facilities from its existing railroad corridor to Ft. Greely, Alaska.

The costs of issuing the bonds will be paid with bond proceeds at closing. Anticipated professional services include those related to financial advisors, attorney's fees (bond counsel, underwriter's counsel, tax counsel, negotiating with prospective customers), rating agencies, underwriters, printing, travel, public notices, and the feasibility consultant. ARRC will front certain minor necessary reimbursable costs from corporation revenues.

# ALASKA STATE LEGISLATURE

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Senate Rules Committee

## Sponsor Statement SB 395

Senate Bill 395 contains two provisions relating to the Alaska Railroad Corporation and its role as a State transportation and economic development agent.

SB 395 authorizes the Railroad to issue up to \$500 million in tax-free revenue bonds to pay for extending a rail line to Delta Junction and Ft. Greely. The proposal would have the bonds secured through federal funds from the Department of Defense. Depending upon negotiations with the Department, the Railroad could issue the bonds as early as 2005.

The new main line would extend from Moose Creek near the City of North Pole to Fort Greely, approximately 80 miles. A line extension could efficiently provide transportation services for military training support, freight, and commuter service between Fairbanks and the Ft. Greely missile site.

In addition, SB 395 addresses a recent Alaska Supreme Court decision that has called into question the Railroad's exemption from local planning and zoning ordinances provided in AS 42.40. The decision jeopardizes a mode of operation that has been in place since the Railroad was transferred to the State 18 years ago.

So that legislative intent can be clarified in law, this bill creates a task force to provide recommendations to the legislature in 2005 on whether and to what extent municipal planning, platting and land use regulations should apply to interests in land owned by the Alaska Railroad. The task force will be comprised of one senator, one house member, a member from each railbelt municipality, and a railroad representative. Members will be appointed by the President of the Senate and Speaker of the House of Representatives. The task force will be required to submit a written report of its findings and recommendations on or before the first day of the First Regular Session of the Twenty-Fourth Alaska State Legislature.

The Alaska Railroad Corporation is both an interstate common carrier and an instrumentality of the State of Alaska. Its statutory mission is to provide

transportation services to residents, businesses, visitors and military installations in the State, and foster and promote long term economic growth and development, particularly of the State's land and natural resources. The Railroad's ability to operate safely, efficiently and effectively is due in great part to the singular nature of its corridor ROW. The Railroad's current track alignment passes through 13 recognized municipal (city and borough) governments between Seward and North Pole. It is important to protect the Railroad's ability to use its lands for operational purposes in service to the broader state interest without facing different, and potentially conflicting, planning and zoning scenarios among so many municipalities.

Without this protection, local communities could separately dictate planning and zoning restrictions that would negatively impact the Railroad's ability to offer safe, efficient, economical and reliable service to its freight and passenger customers. For example, communities could prohibit train operations or noise levels during certain hours (e.g., evenings and early morning) or on certain days (e.g. Sundays) and the hours of operation could vary from community to community. This type of restriction would increase the cost of operations, impact train movements, customer schedules, contract commitments, and the amount of business the Railroad can accommodate each year due to decreased or varied hours of operation. More importantly, in situations where the Railroad and a municipality are in agreement on a planning and zoning issue, an individual or environmental group could still file a lawsuit seeking to overturn the municipality's decision, which would further delay or possibly eliminate a project.

There are other adverse impacts that can arise if the Railroad is subject to local planning and zoning. Inconsistent regulation would also decrease the value of the State's considerable investment in purchasing the Railroad. Finally, it could unreasonably delay and add significant cost to the Railroad's efforts to improve the transportation infrastructure of the State through upgrades of existing track and facilities and expand in new directions (for example to Fort Greely or to Canada).

While federal law arguably protects interstate commerce from some of these restrictions, the issue as it now stands after the Supreme Court decision invites litigation, which is not only costly to the Railroad and municipalities, but could result in inconsistent holdings among various jurisdictions. The bottom line is that, because the Railroad is an essential part of the State's transportation network and serves an important State mission, the State should be the entity that controls the Railroad's use of its land, not the 13 Railbelt municipalities and boroughs.

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### Sectional Analysis

**Section 1** allows the Alaska Railroad Corporation to extend its existing line to Fort Greely, Alaska, and to acquire land along the corridor for associated facilities.

**Sections 2 and 3** authorize the Alaska Railroad Corporation to issue bonds for up to \$500,000,000 for this extension.

Before issuing the bonds, the Railroad must enter into a binding agreement with the United States government that will provide sufficient revenue to pay principal, interest, and other costs for the bonds.

**Section 4** creates a Railroad Planning, Platting, and Land Use Regulation Task Force, to make recommendations to the Legislature regarding the extent to which local regulations should apply to Railroad land.

Members of the Task Force, appointed jointly by the President of the Senate and the Speaker of the House of Representatives, will include a municipal official from each of the thirteen governing bodies through which the rail line currently passes.

**Section 5** sunsets the Task Force on the second day of the 2005 legislative session.

**Section 6** makes SB 395 effective immediately upon passage.