

SB

364

SB 264, REPEAL PIPELINE PREAPPLICATION DEADLINE

Department of Natural Resources

February 26, 2004

SUMMARY OF INTENT:

- The purpose of the Department of Natural Resources (DNR) proposed bill is to repeal the sunset date in AS 38.35.145(c). This statute allows DNR to enter into agreements with prospective lessees to recover the costs for preliminary work (preapplication work) on a pipeline right-of-way (R/W) lease application. This provision ended on December 31, 2003.
- This provision has been used most recently for pre-application work on the Pt. Thompson project, before that project was delayed; and the Kenai-Kachemak extension.
- Applicants initiate the request for the services and are under no obligation to do so. However, without this legislation DNR is not able to work with applicants until we receive an application.

BACKGROUND:

Pipeline R/W lease applicants must submit detailed applications that require significant engineering and design work. (AS 38.35.050 and .100) Applicants invest significant financial resources to a project just to complete the application. Revisions to the application are costly and may be the pivotal point for an applicant's decision on the feasibility of a project. Applicants have found that it is critical that agencies be involved in the preapplication phase so that industry is aware of permitting issues at an early stage and they can build the issues into their application. Agency participation during the pre-application phase expedites the review and approval of the project.

DNR NEEDS THIS BILL IN ORDER TO ENTER INTO REIMBURSEMENT AGREEMENTS.

- AS 37.10.050 prohibits a State agency from charging a fee unless the fee is set or otherwise authorized by statute. Generally DNR is authorized to charge fees and enter into agreements under AS 37.10.050-.058.
- AS 37.10.058(5) specifically excludes pipeline R/W leases under AS 38.35.
- Fees and charges for pipeline R/W authorizations issued under AS 38.35 are addressed in AS 38.35.140 and .145.
- AS 38.35.140 specifically addresses fees for processing a pipeline R/W application filed under AS 38.35.050, including reasonable costs associated with the monitoring, construction, operation, maintenance and termination of the R/W.
- AS 38.35.145 specifically addresses preapplication costs. AS 38.35.145(c) includes a sunset date of 12/31/03. Absent this bill, DNR is prohibited from entering into agreements for reimbursement for preapplication costs associated with pipeline R/W applications under AS 38.35 after December 31, 2003.

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

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March 17, 2004

The Honorable Beverly Masek, Co-Chair
The Honorable Nancy Dahlstrom, Co-Chair
House Resources Committee
Alaska State Legislature
Juneau, AK 99801

RE: SB 264

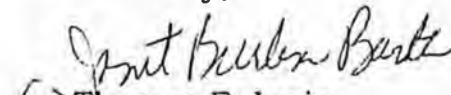
Dear Representatives Masek and Dahlstrom:

The purpose of this letter is to request a hearing in the House Resources Committee for SB 264. We request a hearing before the Committee the week of March 22. For your information, I have enclosed a copy of the Governor's transmittal letter (sponsor statement) and an information packet.

SB 264 repeals the sunset provision in AS 38.05.145(c). Repealing the sunset provision allows the Department of Natural Resources (DNR) to continue to enter into reimbursable agreements, on a voluntary basis, with pipeline right-of-way lease applicants, for costs incurred by DNR when assisting applicants in the preparation of their lease applications. SB 264 passed the Senate unanimously. It passed out of the House Oil and Gas Committee on March 16.

Thank you in advance for scheduling this bill. Please contact Janet Burleson Baxter at 465-4730 if you have any questions. You may also contact Marty Rutherford, DNR Deputy Commissioner, at 269-8431.

Sincerely,


Thomas E. Irwin
Commissioner

Enclosure

cc: Marty Rutherford, Deputy Commissioner, DNR
Tony Braden, JPO
Mike Tibbles, Legislative Liaison, Office of Governor
Janet Burleson Baxter, Legislative Liaison, DNR

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 264
(S) Publish Date: 1/14/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Repeal Sunset: Pipeline RDU: Resource Development
Rights-of-Way Component: Pipeline Coordinator
Sponsor: Rules Component No. 1191
Requester: Governor

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						
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--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill repeals the sunset provision in AS 38.05.145(c). Repealing the sunset provision allows DNR to continue to enter into reimbursable agreements with pipeline right-of-way lease applicants for costs incurred by DNR when assisting them in the preparation of their lease applications. The fiscal impact of passing this legislation is \$0.0. The impact of not passing the legislation is significant. For FY 04 DNR budgeted about \$336.0 for these services. If we are no longer able to enter into reimbursable services agreements with these prospective clients we will not be able to participate in the pre-application review. Applicants are required to submit detailed applications that include significant engineering and design work. It is critical that DNR participate at the pre-application phase before applicants have invested substantial time and money in a project that may not be feasible.

Prepared by: Janet Burleson Baxter Phone 465-4730
Division: Commissioner's Office Date/Time 12/31/03
Approved by: Thomas Irwin, Commissioner Date 12/31/03
Agency: Natural Resources

SB 264

FRANK H. MURKOWSKI
GOVERNOR

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January 12, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, Alaska 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill allowing the Department of Natural Resources (DNR) to continue to enter into reimbursement agreements with applicants for DNR's preliminary work on oil and gas pipeline right-of-way lease applications. DNR's preliminary work streamlines the application process. An effective permitting process is critical to revitalizing the oil and gas industry and growing Alaska's economy. DNR's current authority to enter into reimbursement agreements "sunset" on December 31, 2003. The bill contains a retroactive provision to ensure there is no "window" period when reimbursement agreements could not be entered into by DNR.

AS 38.35 requires pipeline right-of-way lease applicants to submit detailed applications that include significant engineering and design work. Substantial investments of time and money are needed even before an application is officially submitted to DNR. Costs of pre-application work by state agencies like DNR can range from about \$40,000 for a simple pipeline to several millions of dollars for a project like the proposed Alaska natural gas pipeline. Incomplete applications or applications that must be revised later are costly, create delays that could cost a producer the construction season, and may directly impact a decision on the feasibility of a project.

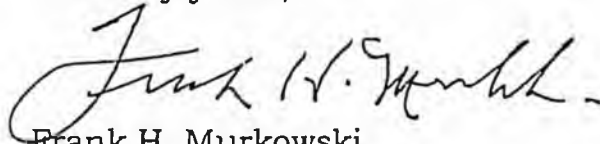
DNR's assistance and guidance results in a good working relationship with the applicant. It also results in early communication and explanation of state law requirements to applicants, complete initial applications, quicker

The Honorable Gene Therriault
January 12, 2004
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processing by DNR, fewer revisions, and a greater chance of approval of the project by DNR.

I urge your prompt and favorable action on this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written in a cursive style with a long horizontal stroke at the end.

Frank H. Murkowski
Governor

Enclosure

