

HB

146

<TARGET><BILL>HB 146</BILL><SUBJECT>HB
146</SUBJECT><COMM>HRLS27</COMM></TARGET>

Alaska State Legislature House of Representatives

Interim

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Rep.Tammie.Wilson@legis.state.ak.us

Representative Tammie Wilson

Date: 4-6-2011

To: Rep. Craig Johnson, Chairman, Rules Committee

Attn: Debra Higgins

From: Rep. Tammie Wilson

Re: CSHB 146 Amendment and Calendaring Request

Please consider replacing CSHB 146(FIN) with CSHB 146(RES); CSHB 146(RES) is the vetted version that is approved by all affected parties and resolves a longstanding constituent concern.

Upon substitution, I would appreciate calendaring at the Chair's earliest convenience.

Thank you for your consideration.

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number 1
Bill Version CSHB 146(RES)
(H) Publish Date 3/29/11

Identifier (file name) HB146-CCED-ARRC-2-25-11 Dept. Affected DCCED
Title Land Transfer from State and Alaska Railroad Appropriation Alaska Railroad Corporation
Allocation Alaska Railroad Corporation
Sponsor Rep. Tammie Wilson
Requester House Resources Committee OMB Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES		0.0	0.0	0.0	0.0	0.0	0.0	0.0
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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 (please identify)								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2011) cost 0.0

POSITIONS

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by Wendy Lindskoog
Division Alaska Railroad Corporation
Approved by Susan K. Bell, Commissioner
Commerce, Community, and Regional Affairs

Phone 907-265-2498
Date/Time 2/25/11 2:00 PM
Date 3/18/2011

FISCAL NOTE #1

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. CSHB 146(RES)

Analysis

Congress repealed a Right-of-Way reversion provision in the Alaska Railroad Transfer Act Section 1209 in 2003. HB 146 reinstates the reversionary right in State law for the Eielson Branch of the Alaska Railroad system and will not have a foreseeable cost to the Alaska Railroad.

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number 2
Bill Version CSHB 146(RES)
(H) Publish Date 3/29/11

Identifier (file name) HB146-DNR-LATD-03-20-11 Dept. Affected Natural Resources
Title LAND TRANSFER FROM STATE AND ALASKA RR Appropriation Resource Development
Allocation Land Acquisition & Title Defense
Sponsor Rep. Wilson
Requester House RES OMB Component Number 2459

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Commodities	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING				*** INDETERMINATE ***			

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2011) cost _____

POSITIONS

Full-time	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version

Prepared by Wyn Menefee, Acting Director
Division Mining, Land & Water
Approved by Daniel S. Sullivan
Department of Natural Resources

Phone 269-8501
Date/Time 3/20/11 1:00 PM
Date 3/20/2011

Analysis

HB 146 creates a mechanism whereby, if the State of Alaska (SOA) and the Alaska Railroad Corporation (ARRC) discontinue use of the right-of-way (ROW) along the Alaska Railroad Corporation's Eielson Spur Line, the interest of the State of Alaska and the Alaska Railroad Corporation in the land within the ROW would revert to the abutting landowners. Under Section 2 of the bill, the reversion would only occur if (1) the governor issues a notice of discontinuance or (2) the SOA and the ARRC have made no use of the ROW for transportation, communication, or transmission purposes for 18 years.

Assuming neither condition is met, there would be no fiscal impact to the Department of Natural Resources. However, if either condition were met, determining (1) how the 98 property owners along the Eielson Spur line would be affected and (2) processing any resulting land disposals would require a significant effort by the state, possibly including surveys, title reports, appraisals, conveyances, hazardous materials reviews, and public notice, comment, and best-interest findings processes.

At a minimum, one new position (Natural Resource Specialist II (range 16) for 9 months at \$83,300/year = \$62,470) would be required to determine identities and contact addresses for the owners of the 98 properties along the ROW, review title history and conveyance documents for these properties, determine whether there exists a reversionary interest in each of the properties and whether surveys are sufficient to describe the properties affected, and prepare title reports. Depending upon the outcome of this initial work, there could be additional surveys, title reports, appraisals, conveyances, hazardous materials reviews, and public notice, comment, and best-interest findings processes. Estimating costs associated with this additional work is difficult, but could range from \$100,000 to \$150,000.

Because the fiscal impact to the Department is contingent upon the conditions outlined in Section 2 of the bill being met or not met, and because the total amount of work required if one of those conditions were met would be contingent upon what was discovered in initial assessment work, the fiscal impact to the Department is indeterminate.

Alaska State Legislature
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Representative Tammie Wilson

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Sponsor Statement

House Bill 146 –27th Legislature

In 2003, Alaska Railroad Corporation asked Congress to repeal reversionary sections (1208 & 1209) of the Alaska Railroad Transfer Act (ARTA).

CSHB(Res) 146 reinstates the mechanism (per ARTA) for landowners along the Eielson spur to receive ownership of their property after the easement is no longer used.

The affected parties, ARRC and property owner, support this measure.

I appreciate the committee's consideration for this bill and request your support.



**ALASKA RAILROAD CORPORATION
CHAIRMAN, BOARD OF DIRECTORS
TELEPHONE: (907) 265-2403
FACSIMILE: (907) 265-2312**

December 17, 2010

Bonne' Woldstad
P.O. Box 56702
North Pole, Alaska 99705

Dear Ms. Woldstad:

You have asked the Alaska Railroad Corporation (ARRC) Board of Directors to support your efforts to obtain legislation that would direct disposal of certain railroad right-of-way on the railroad's Eielson Branch. It is your desire to see railroad right-of-way conveyed to adjoining landowners if and when the ARRC relocates its rail operations to a different location. While relocation is not imminent, ARRC has for many years conducted studies and other activities preliminary to such an effort and recently received \$1 million in federal funds through FMATS to complete the required environmental assessment. This is a very positive step, but the schedule for moving the railroad remains uncertain due to lack of construction funding (more than \$50 million is needed).

In the past, you have provided considerable testimony to the Board regarding your family's property at approximate Milepost 15 of the Eielson Branch. You believe the repeal of the reversion provisions of the Alaska Railroad Transfer Act had an adverse effect on your land interest. This section provided for reversion of railroad right-of-way to adjacent landowners in the event the land ceased being used for transportation, communication, or transmission purposes. In 2000, ARRC had asked the Alaska Congressional delegation for help in light of title questions arising from our first rail realignments near Anchorage and Seward, as well as a couple of spur line locations that had been unused since transfer in 1985. The simplest solution was to repeal that language, and the repeal became effective on February 20, 2003.

We understand that you and your family were not aware of the repeal until 2006 when ARRC proposed to close the Ruby Crossing at MP 15.17 and you were researching all the pertinent legal and historical arguments related to a closure. Since then, you and other family members have met or talked with ARRC staff numerous times about your concerns.

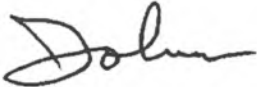
Both you and the Board have heard many times from railroad staff that the Eielson Branch was not a focus when the reversion repeal was sought. I can assure you it was not a factor for the Board during that effort. ARRC's General Counsel has taken the position that the legal effect, if any, of the repeal on the underlying title claims of

Ms. Bonne' Woldstad
December 17, 2010
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landowners along the Eielson Branch is not ripe for decision. Unless and until the right-of-way ceases to be used by the State for transportation, communication, or transmission purposes (which is broader than railroad purposes), the ARRC believes no vested claims would have been affected. However, we are not opposed to waiving a statute of limitations defense, so as to preserve any claim you currently have from this point forward if your legislative efforts are not successful. Our attorneys are still researching how this might be accomplished.

Equally important, I'd like to assure you that ARRC has no interest in retaining portions of the Eielson Branch right-of-way if rail operations are relocated elsewhere. ARRC is not the final decision-maker on use of this corridor because it is a State asset, not just a railroad one, under both the current law and the now-repealed reversion. Without other directions being given, we would turn jurisdiction of any vacated right-of-way over to the State. However, we will be happy to participate in any discussions with state officials on the subject. Further, we will not oppose your efforts to obtain a simple legislative direction regarding any future Eielson Branch relocation. Given that relocation is still many years down the road, there should be ample time for legislative and administration officials to fashion a fair and reasonable outcome.

Very truly yours,



John Binkley, Chairman

Basic Chronology

- March 12, 1914, Congress reserved to the United States a 200' right of way (ROW) for the construction of railroads, telegraph and telephone lines across all federally owned lands in Alaska.
- 1946: Carl Finell filed for his Alaskan homestead in the North Pole area.
- 1947: Utilizing the ROW granted by the 1914 Act, the United States constructed a railroad spur from Fairbanks to Satellite Field (Eielson Air Force Base) bisecting Carl Finell's homestead.
- 1949: Carl Finell received the federal patent to his homestead—the reservation for the railroad ROW was included in the patent.
- 1969: The remainder of the Finell homestead was purchased, including the property that the railroad crosses.
- 1980: The State of Alaska and federal government begin negotiating for the transfer of the Alaska Railroad to State ownership.
- 1983: Congress passed the Alaska Railroad Transfer Act (ARTA) authorizing the sale of the Alaska Railroad and its properties to the State. Section 1209 of ARTA provided that the railroad ROW transferred to the State would "revert" back to U.S. ownership if the State made no use of the ROW for transportation, communication, or transmission purposes for a continuous period of 18 years. Upon such reversion, the U.S. was then obligated to convey the unused ROW to adjacent landowners.
- 1985: The Alaska Railroad is transferred from federal ownership to State ownership.
- 2003: Congress repealed the ROW reversion provision in ARTA Section 1209.
- 2005/2006: While researching crossing closing issues, it was discovered that the ARTA ROW reversion provision had been repealed.

While the railroad has the right to cross their property along the Eielson spur, property owners contend they lost a contingent future property interest when Congress repealed the ARTA ROW reversion provision in 2003, and that it is only fair and equitable for the State to restore this reversionary right. HB 146 accomplishes this goal.

* Chronology compiled by sponsor from corroborating notes between ARRC and constituent (Ms. Woldstad); final approved by both parties.

02/18/11