

ALASKA LEGISLATURE

2755

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

Proposed DET Monitoring Process 4/5/04 draft

DET Admission & Review Process	Existing Practice	Administered by DBH/API/1 st Health
<p><u>I. Registration:</u> Provides ability to identify level of utilization for program management. Type of Information obtained:</p> <ul style="list-style-type: none"> • Basic demographics • Program Criteria: <ul style="list-style-type: none"> • Mental status • Level of acuity (dangerousness) <p>(Note: Discharge Planning is to begin at Day 1)</p>	<p><u>I. Registration:</u> 1. The treating physician certifies on admission that the patient meets involuntary commitment criteria. Reference AS 47.30.700-47.30.915</p> <p>Note: registration does not involve authorizing admission.</p>	<p><u>I. Registration:</u> All registration would be sent to DBH/API</p> <p>(Note: it is possible to have online data entry into AKAIMS from the provider or API)</p>
<p><u>II. Eight Day Review:</u></p> <p>It is assumed that the "evaluation" period is up to three days, and can be extended to 7 days. The "treatment" period is implemented from this point forward.</p> <p>Note: Updating the means for documentation to more clearly articulate that criteria for continued stay is evident.</p> <p>(NOTE: Discharge planning should be updated)</p>	<p><u>II. Eight Day Review:</u> 1. The treating physician makes a daily notation in each patient's care chart regarding whether the patient continues to meet the involuntary commitment criteria, and recertifies every 7 days, whether the patient continues to meet criteria.* (Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.3)</p> <p>2. "The division will reimburse a designated evaluation facility for no more than 7 days for evaluation and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate" Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.6)</p> <p>Reference 7 AAC 75.520(b) and (c).</p>	<p><u>II. Eight Day Review: (est. # 60-70)</u> DBH/API staff would conduct the 8 day review, 1. Does the evaluation period exceed 7 days? • No....No review is conducted • Yes... Medical necessity of extension is reviewed: Criteria met? • Yes...extension is approved. • No....provider contacted for more information. Criteria met? • Yes...extension is approved. • No...DBH medical director consults with provider. Criteria met? • Yes...extension approved • No... payment denied</p>
<p><u>III. Retrospective Review</u></p> <p>This review would occur within 90 days of admission, after discharge.</p> <ul style="list-style-type: none"> • Same as time limit for bill submission • Note: this would involve, on average, 275 clients annually. 	<p><u>III. Retrospective Review</u> 1. The division will reimburse a designated treatment facility for no more than 40 days for evaluation, treatment, and crisis stabilization or for transition to community-based services if the division determines the amount of time is clinically appropriate</p> <p>Reference the <u>Mental Health Treatment Assistance Eligibility Manual</u>, p.7)</p> <p>Reference 7 AAC 75.520(b) and (c).</p>	<p><u>III. Retrospective Review</u> API staff would conduct review. Sources used: the client file Process: 1. Paperwork is filed in a timely manner 2. Admission criteria is met? 3. File contains medical necessity that matches length of stay with client need? 4. File contains discharge planning that includes referral linkage to community based programs?</p>

SB 364 / HB 535 -- DET Bill Summary -- 3/31/04

Background/Intent

The existing statutes require the State to cover the costs of diagnosis, evaluation and treatment (DET) for financially eligible patients who need to be involuntarily committed to non-state-operated hospitals. The costs of these services and the related transportation cost have increased over the years. The intent of this bill is to:

- Establish that this is not an entitlement
- Clearly communicate that costs incurred will only be covered up to the amount appropriated by the legislature
- Require hospitals to notify the Department within 24 hours of admission of a potentially eligible individual, allowing the Department to assist in timely and appropriate discharge to community based programs
- Establish that the Department is under no obligation to pay for services a hospital delivers to a patient beyond recommended discharge date
- Funding is decreased between FY04 and FY05

Program Effects

- Contains costs on an annual basis
- 24-hour registration assists Department to determine costs at time they are incurred and thus allow for fiscal management
- Limit State responsibility to funds appropriated by legislature

Cost Progression 2000-2005

FY00	\$	1,901,480	
FY01		2,055,420	
FY02		2,284,930	
FY03		3,384,430	
FY 04 Budget		3,096,800	
FY 05 Budget		1,901,480	Strategies being explored to expand federal participation via Disproportionate Share (DSH)

Cost Saving Strategies

- Update transportation policies and procedures
 - Ambulances

DET Sites

- Fairbanks
- Juneau

Other Sites

Palmer, Ketchikan, Cordova, Homer, Valdez, Sitka,
Bethel, Kodiak

Cost Comparisons between API and DET/S Facilities

• API daily rate	757.46
• Fairbanks	1,646.91
• Bartlett	1,636.04
• Ketchikan	1,800.68
• Mt. Edgecombe	2,049.00
• Bethel	2,049.00

Explanation for Cost Increases over years

100% of Hospital cost increases between 01 and 03

27% of Hospital increases in average daily Medicaid between 01 and 03

27% of Hospital increases in total beds used between 01 and 03

Management of Costs

Costs within existing budget – if retrospective reviews are changed from DBH staff to First Health the cost would be about \$31,800/year based on a current charge of \$111.44/review X 275 reviews (average # of admissions / last 3 years).

If we add an early review at 8th day of admission (transitioning from evaluation to treatment) we can also add discussion about eligibility and discharge planning, the cost would increase by \$7,000 based on 63 admissions over 8 days in FY03. The total First Health review costs would be about \$40,000/year.

Summary of DES/T for FY00 to FY03					Hospitals Only		
		Clients Served in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	2	0	0	0		
ARO	North Star Hospital	0	0	2	0		
NRO	Fairbanks Memorial Hospital	127	185	207	178		
NRO	YKHC	6	6	2	0		
SCRO	Providence Kodiak Island Medical	12	9	0	1		
SCRO	Valdez Community Hospital	0	0	2	0		
SERO	Bartlett Memorial Hospital	44	68	65	57		
SERO	Ketchikan General Hospital	33	21	0	0		
SERO	Mt Edgecombe Hospital	2	1	8	8		
SERO	Petersburg General	0	1	0	0		
	Statewide	226	291	286	244		
		Days of Evaluation and Treatment Services in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	6	0	0	0		
ARO	North Star Hospital	0	0	6	0		
NRO	Fairbanks Memorial Hospital	874	791	892	991		
NRO	YKHC	8	12	2	0		
SCRO	Providence Kodiak Island Medical	22	24	0	4		
SCRO	Valdez Community Hospital	0	0	6	0		
SERO	Bartlett Memorial Hospital	235	460	430	670		
SERO	Ketchikan General Hospital	59	33	0	0		
SERO	Mt Edgecombe Hospital	2	2	28	21		
SERO	Petersburg General	0	1	0	0		
	Statewide	1206	1323	1364	1686		
		Average Length of Stay in Fiscal Year					
Region	Facility	FY00	FY01	FY02	FY03		
ARO	Providence Hospital	3	0	0	0		
ARO	North Star Hospital	0	0	3	0		
NRO	Fairbanks Memorial Hospital	6.9	4.3	4.33	5.6		
NRO	YKHC	1.3	2	1	0		
SCRO	Providence Kodiak Island Medical	1.8	2.7	0	4		
SCRO	Valdez Community Hospital	0	0	3	0		
SERO	Bartlett Memorial Hospital	5.3	6.8	6.6	11.8		
SERO	Ketchikan General Hospital	1.8	1.6	0	0		
SERO	Mt Edgecombe Hospital	1	2	3.5	2.6		
SERO	Petersburg General	0	1	0	0		
	Statewide	3	2.9	3.6	6		
		Cost of Increase 01 to 03				Estimated	
Statewide		FY01	FY02	FY03	Cost Increases		
Average Daily Medicaid Rate		1178	1449	1493			
Percentage of Increase in Rate					27%	\$534,090	
Total Bed Days		1323	1364	1686			
Percentage of Increase in Days					27%	\$612,018	
Total DES/T		\$1,410,745	\$2,470,511	\$2,831,728			
Percentage of Increase in Cost					100%	\$1,420,938	

Common use of funding limitation to appropriations

Current grant regulations

7 AAC 81.220. **Limitation of appropriations.** (a) During each state fiscal year, the department [A GRANT AGENCY] may authorize the payment of costs under a provider agreement only to the extent of money allocated in the state budget for the grant program for that fiscal year.

(b) The department [A GRANT AGENCY] may determine the amount of money, if any, that it will keep in reserve at a particular time, based on the part of the fiscal year that remains and the demand for services of the program that the department expects during the balance of the fiscal year.

(c) If authorized financing for a grant program is less than the amount required to provide service to all individuals who meet applicable eligibility criteria and seek those services, the department will [A GRANT AGENCY SHALL] prioritize which individuals will receive services. (Eff. 7/21/2002, Register 163; am ____/____/2004, Register ____)

Chapter 14.09. TRANSPORTATION OF PUPILS

Sec. 14.09.010. Transportation of pupils.

(a) A school district that provides student transportation services is eligible to receive funding for operating the student transportation system. Subject to appropriation, the amount of funding provided by the state under this section is the lesser of the amount determined by multiplying the amount of the school district's ADM less the ADM for the district's correspondence programs during the current fiscal year

(1) by a per student allocation computed by dividing the amount received by the school district under this section during fiscal year 2003 by the school district's ADM less the ADM for the district's correspondence programs during fiscal year 2003; or

(2) by \$1,200 per student.

(b) In this section,

(1) "ADM" has the meaning given in AS 14.17.990;

(2) "district's ADM" means the sum of the ADMs in the district.

Sec. 14.25.020. Powers of the administrator.

(a) The administrator may

(1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;

(2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a)(2) of this section shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature.

Sec. 14.57.100. Acquisitions.

Subject to appropriation by the legislature under AS 37.14.530, the director may use the balance of the net income account of the Alaska heritage endowment fund to acquire culturally or historically significant artifacts, natural history specimens, art objects, collections, and other items, materials, or properties that represent and document Alaska's land, natural history, and people for

- (1) the Alaska State Museum; and
- (2) the Sheldon Jackson Museum.

Sec. 18.56.410. Alaska energy efficient home grant fund.

(a) There is established in the corporation the Alaska energy efficient home grant fund consisting of money appropriated to it by the legislature and deposited in it by the corporation. The corporation shall administer the Alaska energy efficient home grant fund under the provisions of this section.

(b) Subject to appropriation, the corporation may grant funds from the Alaska energy efficient home grant fund to agencies of the state or federal government, individuals, or businesses that retrofit existing single family dwellings or build new single family dwellings that meet criteria adopted by the corporation.

(c) The corporation shall adopt guidelines and procedures for the fund after consultation with the board of directors of the Alaska Craftsman Home Program.

Sec. 18.56.420. Housing assistance loan fund.

(a) There is created in the corporation, as a revolving loan fund, the housing assistance loan fund consisting of money appropriated to it by the legislature and deposited in it by the corporation, and repayments of principal and interest on loans made or purchased from the assets of the fund. The corporation shall

(1) adopt regulations to administer the housing assistance loan fund under AS 18.56.400 - 18.56.600; and

(2) subject to appropriation, provide money for a rural assistance loan program to originate, purchase, participate in the purchase of, or refinance

(A) small community housing mortgage loans;

(B) loans made for building materials for small community housing;

(C) loans made for renovations or improvements to small community

housing;

(D) loans made for the construction of owner-occupied small community housing other than loans to builders or contractors or loans that compensate an owner for the owner's labor or services in constructing the owner's own housing.

(b) Money in the fund may be used by the legislature to make appropriations for costs of administering the housing assistance program.

Sec. 18.56.650. Low cost and low income multiple family housing development fund and grants.

(a) There is created in the corporation a low cost and low income multiple family housing development fund. Subject to appropriation the corporation shall make grants to municipalities or public or private nonprofit corporations designated as tax exempt under 26 U.S.C. 501(c)(3) and (4) (Internal Revenue Code of 1954) for the purpose of developing low cost, low income multiple family housing.

(b) Application for a grant under (a) of this section shall be in the form prescribed by the corporation. The application

(1) shall demonstrate the need for low cost, low income multiple family housing in the area to be served, the feasibility of the proposed project; and

(2) must include an adequate management plan that shall demonstrate the ability of the eligible recipient to sustain the proposed project.

(c) A low cost and low income multiple family housing project developed under this section

(1) shall be prepared in accordance with facility procurement policies developed by the Department of Transportation and Public Facilities under AS 35.10.160 - 35.10.200; and

(2) is a public facility under AS 35.10.160 - 35.10.200.

(d) The corporation shall adopt regulations under AS 18.56.088 to carry out the purposes of this section.

(e) In this section, "low cost and low income multiple family housing"

(1) means a specific work or improvement undertaken primarily to provide multiple family dwelling accommodations for low income persons;

(2) includes the acquisition, construction, or rehabilitation of land, buildings, improvements, and other nonhousing facilities that are incidental or appurtenant to the housing.

Sec. 29.25.074. Surcharge.

(a) A municipality may not enforce a penalty for violation of an ordinance for which a surcharge is required to be imposed under AS 12.55.039 unless the municipality authorizes the imposition of and provides for the collection of the surcharge. The surcharge shall be deposited into the general fund of the state and accounted for under AS 37.05.142. Subject to appropriation, the legislature may reimburse a municipality that collects a surcharge required to be imposed under AS 12.55.039 for the cost to the municipality in collecting the surcharge and transmitting the surcharge to the state. The reimbursement may not exceed 10 percent of the surcharge collected and transmitted to the state.

(b) This section applies to home rule and general law municipalities.

Sec. 36.30.695. Other rules of procedure.

(a) The commissioner may adopt by regulation additional rules of procedure providing for the expeditious arbitration, hearing, and other administrative review of all contract claims, both before the contracting agency and through an appeal heard de novo.

(b) Except as provided by (c) of this section, an arbitrator shall issue a final decision, and a hearing officer shall issue a recommended decision, within the following time limits after the date the record on the claim is closed:

- (1) 30 calendar days for a claim of less than \$100,000;
- (2) 45 calendar days for a claim of \$100,000 or more but less than \$1,000,000; or
- (3) 60 calendar days for a claim of \$1,000,000 or more.

(c) The commissioner of administration or the commissioner of transportation and public facilities may, for good cause shown, grant an arbitrator or a hearing officer additional time to issue a decision.

(d) If an arbitrator or hearing officer fails to issue a decision within the time allowed for a decision under (b) or (c) of this section, the arbitrator or hearing officer is disqualified from acting as an arbitrator or hearing officer in another proceeding under this chapter for one year after the decision is issued.

(e) The venue for an arbitration or hearing under this chapter is the judicial district where the office of the contracting agency is located, unless the agency and the contractor agree on another location.

(f) If a party fails to appear at a proceeding under this chapter, the arbitrator or hearing officer may proceed in the party's absence.

(g) Subject to appropriation, any money awarded by an arbitrator's decision shall be paid within 45 days after the date that the arbitrator's decision is final. Subject to appropriation, any money awarded by a hearing officer's recommended decision that is approved by the commissioner of transportation and public facilities shall be paid within 45 days after the date that the commissioner's decision is delivered to the contractor and the agency, unless the commissioner's decision is appealed under AS 36.30.685.

Sec. 37.14.300. Investment loss trust fund.

(a) There is established as a separate fund in the state treasury the investment loss trust fund. The trust fund consists of money appropriated to it by the legislature. The Department of Revenue is the custodian of the trust fund and shall invest the trust fund in accordance with AS 37.10.071. Subject to appropriation, the amount earned on money in the trust fund shall be retained in the trust fund. The trust fund shall be held in trust for the benefit of participants in the supplemental annuity plan established under AS 39.30.150 - 39.30.180 and for other purposes authorized by this section, subject to the conditions set out in this section.

(b) The Department of Administration shall spend money from the trust fund as necessary to

(1) hold participants in the plan and annuity holders harmless from a loss on investments in guaranteed investment and annuity contracts issued by Executive Life Insurance Company of California;

(2) pursue a right to recover amounts from persons who may have unlawfully caused or contributed to the loss on investments; and

(3) protect the interest of participants in the plan and annuity holders during proceedings to conserve or liquidate the assets of Executive Life Insurance Company of California.

(c) If the plan or an annuity holder does not incur a loss on investments, or, if after compensating the plan and annuity holders for the loss on investments, a balance remains in the trust fund, the trust fund created in (a) of this section is terminated and the balance of the trust fund lapses pro rata into the funds from which the appropriations to the trust fund were made. The state is subrogated to a right of claim held by participants in the plan and annuity holders to the extent of amounts spent from the trust fund.

(d) In this section,

(1) "annuity holder" means

(A) a plan participant who elects to receive an annuity contract acquired by the Department of Administration and issued by Executive Life Insurance Company of California; and

(B) members of the Unlicensed Vessel Personnel Annuity Retirement Plan who receive an annuity contract acquired by the Department of Administration and issued by Executive Life Insurance Company of California;

(2) "loss on investments" means

(A) the difference between the principal amount plus accrued interest earned through May 3, 1991, on the guaranteed investment contracts issued by Executive Life Insurance Company of California, according to the terms of the contracts, and a lesser amount received by the plan upon maturity, sale, or other termination of the contracts; plus

(B) accrued earnings on the amount described in (A) of this subsection, beginning May 4, 1991, and continuing until the earlier of a participant's benefit commencement date or the maturity, sale, or other termination of the contracts, at a rate equal to the rate, less one percent to be used for the purposes of (b)(2) - (3) of this section, earned each month on the investment loss trust fund; or

(C) any unpaid annuity amounts due to annuity holders under an annuity contract issued by Executive Life Insurance Company of California;

(3) "plan" means the supplemental annuity plan established under AS 39.30.150 - 39.30.180;

(4) "trust fund" means the investment loss trust fund established under this section.

Sec. 38.35.145. Agreement to provide for payment of preapplication costs.

(a) To accommodate preliminary work in advance of the receipt of an application for a lease under this chapter, the department may enter into an agreement with a prospective lessee desiring to own an oil or natural gas pipeline that is proposed to be located in whole or in part on state land. The agreement must provide that the prospective lessee reimburse the department for the reasonable costs of work incurred in preparing for activities before receipt of an application.

(b) Expenditure of amounts received by the department under (a) of this section is subject to appropriation by the legislature. Appropriations made to satisfy the requirement of (a) of this section may be made by general appropriations of program receipts conditioned on compliance with the program review provisions of AS 37.07.080(h).

(c) The department may not exercise authority to enter into an agreement under (a) of this section after December 31, 2003, but an agreement entered into before January 1, 2004, is valid and enforceable on and after that date.

Sec. 39.30.050. Administrative costs.

The department shall collect from each participating political subdivision its respective pro rata share of the expenses incurred in the administration of AS 39.30.010 - 39.30.080. The amounts collected from participating political subdivisions, together with money appropriated by the state for covering the state's share of administrative costs, shall be deposited in an FICA administration fund and are not allocable to any other purpose. Expenditures from the FICA administration fund shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. At the time of preparation of the governor's annual budget the department shall review the FICA administration fund and adjust the rate of assessment on political subdivisions so as to prevent the accumulation of more money than is needed to administer AS 39.30.010 - 39.30.080.

Sec. 43.77.060. Revenue sharing.

(a) Subject to appropriation by the legislature and except as provided in (b) of this section, the commissioner shall pay to each

(1) unified municipality and to each city located in the unorganized borough, 50 percent of the amount of tax revenue collected from taxes levied under this chapter on the fishery resource landed in the municipality and accounted for under AS 43.77.050(b);

(2) city located within a borough, 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b); and

(3) borough

(A) 50 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the area of the borough outside cities and accounted for under AS 43.77.050(b); and

(B) 25 percent of the amount of the tax revenue collected from taxes levied under this chapter on fishery resources landed in cities located within the borough and accounted for under AS 43.77.050(b).

(b) Notwithstanding the provisions of (a)(2) and (a)(3)(B) of this section, and subject to appropriation by the legislature, the commissioner shall pay to each

(1) city that is located in a borough incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the city and accounted for under AS 43.77.050(b):

(A) 45 percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 40 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 35 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 30 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated; and

(2) borough that is incorporated after the effective date of this Act, the following percentages of the tax revenue collected from taxes levied under this chapter on fishery resources landed in the cities located within the borough and accounted for under AS 43.77.050(b):

(A) five percent of the tax revenue collected during the calendar year in which the borough is incorporated;

(B) 10 percent of the tax revenue collected during the first calendar year after the calendar year in which the borough is incorporated;

(C) 15 percent of the tax revenue collected during the second calendar year after the calendar year in which the borough is incorporated; and

(D) 20 percent of the tax revenue collected during the third calendar year after the calendar year in which the borough is incorporated.

(c) Notwithstanding the provisions of (b) of this section, a city may adopt an ordinance to transfer a portion of the funds received under (b)(1) of this section to the borough in which the city is located.

(d) To the extent that appropriations are available for the purpose, and notwithstanding the requirement of AS 37.07.080(e) that approval of the office of management and budget is required, an amount equal to 50 percent of the tax revenue that is collected under this chapter and

is not subject to division with a municipality under (a) - (c) of this section shall be transmitted each fiscal year, without the approval of the office of management and budget, by the department to the Department of Community and Economic Development for disbursement to eligible municipalities under AS 29.60.450.

(e) For purposes of this section, tax revenue collected under AS 43.77.010 from a person entitled to a credit under AS 43.77.035 or 43.77.045 shall be calculated as if the person's tax had been collected without applying the credits.

Sec. 47.37.125. Payment for services.

Subject to appropriation by the legislature, money in the mental health trust settlement income account established in AS 37.14.036 may be used to support a service provided under the authority given in this chapter.

SB

393

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

First Committee of Referral

REPORTED OUT

DATE: 04/21/04

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

APR 29 2004

DATE TURNED IN TO OFFICE: 29 April 2004

SENATE FINANCE
COMMITTEE

Finance Committee considered

SENATE BILL NO. 393

SB 393 TAKE PERM FUND DIVIDEND FOR UNIV FEES

"An Act relating to default on tuition, fees, and other charges of the University of Alaska and to claims on permanent fund dividends for tuition, fees, and other charges of the University of Alaska that are in default."

and recommends:

- be replaced with _____ CS SB 393 (FIN)
- adopt previous _____ CS as forthcoming (_____)
- 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 Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
UA	4/28/04	100.0			
Revenue	4/25/04	15.0			

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
<i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

REPORTED OUT

APR 29 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB0393A
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: UA
Title TAKE PERM FUND DIVIDEND FOR U BRU UA
Sponsor FINANCE Component _____
Requester _____ 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	75.0	25.0	25.0	25.0	25.0	25.0
Travel	5.0					
Contractual	15.0					
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	100.0	30.0	30.0	30.0	30.0	30.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1048)	400.0	350.0	300.0	250.0	180.0	130.0
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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						
1048 University Receipts	100.0	30.0	30.0	30.0	30.0	30.0
TOTAL	100.0	30.0	30.0	30.0	30.0	30.0

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

POSITIONS

Full-time						
Part-time		1	1	1	1	1
Temporary	1					

ANALYSIS: (Attach a separate page if necessary)
Currently, UA has a very aggressive process to collect unpaid tuition, fees and other charges such as dorm fees, parking tickets, lost library books, etc. The process includes notices at 30, 60, 90, 120 and 180 days, administering deferred payment plans, and employing collection agencies. However, even with these collection efforts there is currently over \$1M owed to the university that is at least 180 days past due. Given the number of Alaska resident students, we estimate that \$800K of the \$1M, that is over 180 days old, is attributed to students receiving a PFD. For appropriate protection of each citizen, this legislation provides for extensive notification, warning and appeals processes in advance of being able to garnish a permanent fund dividend. Therefore, of the \$800K, we estimate about \$400K would be collectible via this mechanism in the first year. Thereafter, that amount will likely decline each year to a minimum of \$100K annually in 5 to 10 years.

Prepared by: Pat Pitney Phone 474-5889
Division: University of Alaska Date/Time 4/28/04 8:57 AM
Approved by: Pat Pitney Date 4/28/2004
Agency: University of Alaska

FISCAL NOTE

REPORTED OUT

APR 29 2004

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 393
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Take Perm Fund Dividend for RDU Revenue Programs & Services
University Fees Component Permanent Fund Dividend
Sponsor Senate Finance Committee
Requester Senate Finance Committee Component No. 981

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	15.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	15.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Permanent Fund Dividend Fund	15.0					
TOTAL	15.0	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						0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would authorize the university to claim up to 100% of an individual's Permanent Fund Dividend for payment of defaulted tuition, fees and other charges of the University of Alaska. The university estimates approximately 1,700 garnishments in the first year and something less in subsequent years.

This fiscal note covers the cost of programming the PFD garnishment system, warrant, and direct deposit programs as needed to accommodate a new agency with authority to claim up to 100% of an individual's dividend. Once the computer programs are in place, claims will be handled electronically and there should be no increase in cost to process the university garnishments from year to year.

Prepared by: Sharon Barton Phone 465-4785
Division Permanent Fund Dividend Date/Time 4/25/04 11:45 PM
Approved by: Steve Porter, Deputy Commissioner Date 4/25/2004
Agency Department of Revenue



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 29 April 2004 TIME: 3:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

CS SB 393 (FIN) 23-LS1945\ D

Cook 4/28/04

no changes (yipee!)

Thanks

Mindy

ADOP TED

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1945D

Cook

4/28/04

CS FOR SENATE BILL NO. 393(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to default on tuition, fees, and other charges of the University of
2 Alaska and to claims on permanent fund dividends for tuition, fees, and other charges of
3 the University of Alaska that are in default."

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

5 * Section 1. AS 14.40 is amended by adding a new section to read:

6 **Sec. 14.40.251. Default on tuition, fees, and charges.** (a) For the purposes
7 of this chapter, tuition, a fee, or another charge to an individual by the University of
8 Alaska is in default after payment has become 180 or more days past due. Upon
9 default, the university may take the individual's permanent fund dividend under
10 AS 43.23.073.

11 (b) The University of Alaska shall notify the individual of the default and the
12 consequences of default imposed under (a) of this section by mailing a notice to the
13 individual's most recent address provided to the university by the individual or
14 obtained by the university.

1 (c) An individual may appeal a notice of default by filing a statement with the
2 chief finance officer of the University of Alaska within 30 days after the date of the
3 notice, requesting that the default status be reviewed. AS 44.62 (Administrative
4 Procedure Act) does not apply to the review of default under this section. Within 40
5 days after receiving a written request for review, the chief finance officer shall inform
6 the individual in writing of the decision. The decision of the chief finance officer is a
7 final decision that may be appealed to the superior court under the Alaska Rules of
8 Appellate Procedure.

9 * Sec. 2. AS 43.23.065(b) is amended to read:

10 (b) An exemption is not available under this section for permanent fund
11 dividends taken to satisfy

12 (1) child support obligations required by court order or decision of the
13 child support enforcement agency under AS 25.27.140 - 25.27.220;

14 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
15 12.55.100, or AS 47.12.120(b)(4);

16 (3) claims on defaulted education loans under AS 43.23.067;

17 (4) court ordered fines;

18 (5) writs of execution under AS 09.35 of a judgment that is entered

19 (A) against a minor in a civil action to recover damages and
20 court costs;

21 (B) under AS 34.50.020 against the parent, parents, or legal
22 guardian of an unemancipated minor;

23 (6) a debt owed by an eligible individual to an agency of the state,
24 including the University of Alaska, unless the debt is contested and an appeal is
25 pending, or the time limit for filing an appeal has not expired;

26 (7) a debt owed to a person for a program for the rehabilitation of
27 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
28 AS 25.20.061(3), or AS 33.16.150(f)(2).

29 * Sec. 3. AS 43.23 is amended by adding a new section to read:

30 **Sec. 43.23.073. Claims of the University of Alaska.** (a) AS 09.38 does not
31 apply to a permanent fund dividend taken under AS 14.40.251. Notwithstanding

1 AS 09.35, the University of Alaska may take a permanent fund dividend under
2 AS 14.40.251 by delivering a claim to the department certifying the following
3 information:

4 (1) the name and social security number of the individual whose
5 dividend is being claimed;

6 (2) the amount the individual owes the university; and

7 (3) a statement that

8 (A) the amount claimed is in default under AS 14.40.251;

9 (B) the university has notified the individual that future
10 permanent fund dividends will be taken to satisfy the claim;

11 (C) the individual was notified of the right to request a hearing
12 and allowed 30 days after the date of the notice described in (B) of this
13 paragraph to request the university to hold a hearing on the claim;

14 (D) the claim has not been contested or, if contested, the issue
15 has been resolved in favor of the university; and

16 (E) if the claim has been contested and resolved in favor of the
17 university, no appeal is pending, the time limit for filing an appeal has expired,
18 or the appeal has been resolved in favor of the university.

19 (b) The University of Alaska shall notify the individual of a claim under (a) of
20 this section. The notice shall be sent to the address provided in the individual's
21 permanent fund dividend application and must provide the following information:

22 (1) the amount of the claim;

23 (2) notice that the amount of the permanent fund dividend up to the
24 amount of the claim shall be paid to the university to be credited against the
25 individual's default balance; and

26 (3) notice of the individual's right to a hearing under (c) of this section.

27 (c) Within 30 days after the date of the notice under (b) of this section, the
28 individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under
29 this subsection. At the hearing, the individual has the burden to show that

30 (1) the university has not sent a notice of default in compliance with
31 AS 14.40.251(b);

1
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(2) the notice of default has been rescinded after review under AS 14.40.251(c); or

(3) the amount owed by the individual is less than the amount claimed from the permanent fund dividend.

(d) If the amount owed is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the University of Alaska may amend its claim to the amount determined to be owing.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB0393A
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: UA
 Title TAKE PERM FUND DIVIDEND FOR U BRU UA
 Component _____
 Sponsor FINANCE
 Requester _____ 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	75.0	25.0	25.0	25.0	25.0	25.0
Travel	5.0					
Contractual	15.0					
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	300.0	320.0	270.0	220.0	150.0	100.0
TOTAL OPERATING	400.0	350.0	300.0	250.0	180.0	130.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Receipts	400.0	350.0	300.0	250.0	180.0	130.0
TOTAL	400.0	350.0	300.0	250.0	180.0	130.0

Estimate of any current year (FY2004) cost: 0 0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time		1	1	1	1	1
Temporary	1					

ANALYSIS: (Attach a separate page if necessary)
 Currently, UA has a very aggressive process to collect unpaid tuition, fees and other charges such as dorm fees, parking tickets, lost library books, etc. The process includes notices at 30, 60, 90, 120 and 180 days, administering deferred payment plans, and employing collection agencies. However, even with these collection efforts there is currently over \$1M owed to the university that is at least 180 days past due. Given the number of Alaska resident students, we estimate that \$800K of the \$1M, that is over 180 days old, is attributed to students receiving a PFD. For appropriate protection of each citizen, this legislation provides for extensive notification, warning and appeals processes in advance of being able to garnish a permanent fund dividend. Therefore, of the \$800K, we estimate about \$400K would be collectible via this mechanism in the first year. Thereafter, that amount will likely decline each year to a minimum of \$100K annually in 5 to 10 years.

Prepared by: Pat Pitney Phone 474-5689
 Division: University of Alaska Date/Time 4/23/04 4 58 PM
 Approved by: Pat Pitney Date 4/23/2004
 Agency: University of Alaska



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

Sponsor Statement

SB 393

Take Permanent Fund Dividend for University Fees

This legislation provides the University of Alaska the ability to collect outstanding debt through garnishing a person's permanent fund check in a manner similar to the collection process used by the Alaska Student Loan Corporation on defaulted loans.

Currently, UA has a very aggressive process to collect unpaid tuition, fees and other charges such as dorm fees, parking tickets, lost library books, etc. The process includes notices at 30, 60, 90, 120 and 180 days, administering deferred payment plans, and employing collection agencies.

However, even with these collection efforts there is currently over \$1M owed to the university that is at least 180 days past due. Given the number of Alaska resident students, UA estimates that \$800K of the \$1M, that is over 180 days old, is attributed to students receiving a PFD. For appropriate protection of each citizen, this legislation provides for extensive notification, warning and appeals processes in advance of being able to garnish a permanent fund dividend. Therefore, of the \$800K, UA estimates about \$400K would be collectible via this mechanism in the first year. Thereafter, that amount will likely decline each year to a minimum of \$100K annually in 5 to 10 years.

This legislation provides UA one additional avenue to collect revenue, that in the past has been un-collectible and written off as bad debt.

A handwritten signature in cursive script, appearing to read "Tony Weiler".

SENATE FINANCE COMMITTEE

SIGN-IN

SB 393-TAKE PERM FUND DIVIDEND FOR UNIV FEES

✓ NAME: Pat Pitney Subject/Bill No: _____

Co./Dept./Title: Patrol Officer UN Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

✓ NAME: SHARON BURTON Subject/Bill No: _____

Co./Dept./Title: REVENUE - PERM FUND Div Div Phone: 465-4785

Address: 11th floor SOB Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SB

394

SFIN

FILE

SB 394

was referred to the
Senate Finance
Committee

No hearing was held
on this bill

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						
TOTAL OPERATING	0.0	500,000.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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				
TOTAL	0.0	500,000.0	0.0	0.0	0.0	0.0

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)

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 265-2498
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

CHAIR
Senator John Cowdery
Capitol Room 101
(907) 465-3879



MEMBERS
Senator Gene Theriault
Senator Ben Stevens
Senator Johnny Ellis
Senator Gretchen Guess

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.

ALASKA STATE LEGISLATURE

CHAIR
Senator John Cowdery
Capitol Room 101
(907) 465-3879



MEMBERS
Senator Gene Therriault
Senator Ben Stevens
Senator Johnny Ellis
Senator Gretchen Guess

Senate Rules Committee

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.

SB

395

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 15 2004
SENATE FINANCE
COMMITTEE

DATE: 5/1/04

FURTHER:

DATE TURNED IN TO OFFICE: 5 May 2004

Finance Committee considered

SENATE BILL NO. 395

SB 395 MUNICIPAL LAND USE REGULATION

"An Act relating to application of municipal ordinances providing for planning, platting, and land use regulation to interests in land owned by the Alaska Railroad Corporation; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 395 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- 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 Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#
DCEd	5/1/04	✓		✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	

MAY 05 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB395(TRA)
() Publish Date: _____

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						
TOTAL OPERATING	0.0	500,000.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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				
TOTAL	0.0	500,000.0	0.0	0.0	0.0	0.0

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

next page

Prepared by: Wendy Lindskoog, Director of External Affairs Phone (907) 265-2498
Division: Alaska Railroad Corporation Date/Time 5/3/04 9:51 AM
Approved by: Gar Blatchford, Commissioner Date 5/3/2004
Agency: Department of Community & Economic Development

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. CSSB 395(TRA)

ANALYSIS CONTINUATION

continued.

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.

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.

ADOPTED
SENATE FINANCE
COMMITTEE #1
Amendment Number: #1
Bill Number: SB 395
Sponsor: B. Stevens Date: 5/4/04
Logged In By: Mindy

SENATE FINANCE COMMITTEE

AMENDMENT No. #1

By Sen. B. Stevens

To: _____ SENATE BILL No. SB 395

To: _____ SENATE BILL No. _____

Pg 2 - line 31:
delete "an"
insert "a binding"

Pg 3 - line 1:
delete "Will"
insert "shall"
delete "in the judgement of the corporation"
delete "consideration"
insert "revenue"

SB395

SENATE FINANCE COMMITTEE

AMENDMENT No. ± 1

By B. Stevens

To: _____ SENATE BILL No. 395

To: _____ SENATE BILL No. _____

Page 2 -

Line 3: delete "An"

Insert "a binding"

Page 3 -

Line 1 = Delete "will", insert "shall"

Delete "in the judgment of the Corporation,
the Corporation,"

Delete "Consideration",

Insert "Revenue"

SENATE FINANCE COMMITTEE
5 / 4 / 2004 COMMITTEE ACTION

Bill Number	SB 395		
Amendment	#1		
Motion	to adopt		
<u>Motion by</u>	Stevens		
<u>Objection by</u>	Stevens		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

Sheila -

did I get
it?

We need to keep the
legislative appts in with
per diem -

Gary said he wanted the
intent of the leg known
that no money be spent
on the other members.

- 1 (J) Kenai Peninsula Borough;
- 2 (K) Matanuska-Susitna Borough;
- 3 (L) City of Whittier;
- 4 (M) City of Seward.

5 (b) The members of the task force appointed under (a)(1) and (2) of this section shall
 6 serve as co-chairs of the task force. The task force shall meet as frequently as its members
 7 determine necessary and may meet during sessions or during the interim. The task force may
 8 meet and vote by teleconference.

9 (c) The members of the task force appointed under (a) ^{(3) and} ~~(A) and~~ (4) of this section are
 10 not eligible for compensation ^{or} ~~but~~ are entitled to per diem and travel expenses authorized for
 11 boards and commissions under AS 39.20.180.

12 (d) The task force shall consider and make recommendation to the legislature on
 13 whether and to what extent municipal planning, platting, and land use regulations should
 14 apply to interests in land owed by the Alaska Railroad Corporation. The task force shall
 15 submit a written report of its findings and recommendations on or before the first day of the
 16 First Regular Session of the Twenty-Fourth Alaska State Legislature.

17 * Sec. 6. Section 5 of this Act is repealed on the second day of the First Regular Session of
 18 the Twenty-Fourth Alaska State Legislature.

19 * Sec. 7. AS 42.40.390(b) is repealed on July 1, 2005.

20 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

don't
← change
← change

Note: If this language change eliminates
 the necessity ~~for~~ of the provisions of
 Sec. 5 in statute, delete Sec. 5

Conceptual

SENATE FINANCE COMMITTEE
5/5/2004 COMMITTEE ACTION

Bill Number	SB 395		
Amendment	# 2		
Motion	adopt		
<u>Motion by</u>			
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Amendment #3
adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1965\Q
Cook
5/4/04

CS FOR SENATE BILL NO. 395()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to application of municipal ordinances providing for planning,
2 platting, and land use regulation to interests in land owned by the Alaska Railroad
3 Corporation; authorizing the Alaska Railroad Corporation to extend its rail line to Fort
4 Greely, Alaska; authorizing the Alaska Railroad Corporation to issue bonds to finance
5 the cost of the extension and necessary facilities and equipment; and providing for an
6 effective date."

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

8 * Section 1. AS 42.40.390 is amended by adding a new subsection to read:

9 (b) Municipal ordinances providing for planning, platting, and land use
10 regulation adopted under AS 29.35.180 or other law do not apply to the land of the
11 corporation unless the land is leased to another person by the corporation and the
12 corporation has not retained a right to use the land during the term of the lease.
13

to the extent permitted under 49 U.S.C. § 701, the Interstate
Commerce
Commission
Act (ICCTA)

* Sec. 2. AS 42.40 is amended by adding a new section to read:

SENATE FINANCE COMMITTEE
5/15/2004 COMMITTEE ACTION

Bill Number	SB 395		
Amendment	# 3		
Motion			
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

pg 1 line 11 following corporation
 insert:

Amendment #4
adopted

(supersedes by #5)

AS 42.40.390 is amended to read:

~~Sec. 42.40.390. Land use rules. (a) The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.~~

~~(b) Pursuant to 49 U.S.C. 10501(b), Municipal ordinances providing for planning, platting, and land use regulation adopted under AS 29.35.180 or other law do not apply to the practices, routes, services and rail facilities of the corporation and the construction, acquisition, operation, abandonment or discontinuance of spur, industrial, team, switching, or side tracks or other rail facilities on land of the corporation unless the land is leased to another person by the corporation and the corporation has not retained a right to use the land during the term of the lease. For the purposes of this section, the term "rail facilities" includes tracks, rail yards, repair shops and maintenance buildings, freight and passenger terminals, rail car loading and unloading structures, operation centers, supply warehouses, communication structures and other facilities directly related to railroad operations. Notwithstanding the foregoing, the term "rail facilities" does not include rock quarries or gravel pits.~~

(c) By January 10 of each year, the corporation shall provide notice to municipalities of any new land use proposed for that year by the corporation within municipal boundaries. The corporation shall provide amended notice if a proposed land use is changed or an additional land use is proposed during the course of the year. Except in the event of an emergency, an affected municipality shall have at least 30 days after its receipt of the notice to provide advisory comment to the corporation. In the event of an emergency, the corporation will provide notice to an affected municipality promptly after the event.

SENATE FINANCE COMMITTEE
5/5/2004 COMMITTEE ACTION

Bill Number	SB 395		
Amendment	=#4-		
Motion	adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Sec. 1

AS 42.40.390 is amended to read:

~~Sec. 42.40.390. Land use rules. (a) The board may adopt exclusive rules governing land use by parties having interests in or permits for land owned or managed by the corporation. The power conferred by this section is exercised for the common health, safety, and welfare of the public and to the extent constitutionally permissible, may not be limited by the terms and conditions of leases, contracts, or other transactions.~~

(b) Pursuant to 49 U.S.C. 10501(b), Municipal ordinances providing for planning, platting, and land use regulation adopted under AS 29.35.180 or other law do not apply to the practices, routes, services and rail facilities of the corporation and the construction, acquisition, operation, abandonment or discontinuance of spur, industrial, team, switching, or side tracks or other rail facilities on land of the corporation unless the land is leased to another person by the corporation and the corporation has not retained a right to use the land during the term of the lease. For the purposes of this section, the term "rail facilities" includes tracks, rail yards, repair shops and maintenance buildings, freight and passenger terminals, rail car loading and unloading structures, operation centers, supply warehouses, communication structures and other facilities directly related to railroad operations. Notwithstanding the foregoing, the term "rail facilities" does not include rock quarries or gravel pits.

(c) By January 10 of each year, the corporation shall provide notice to municipalities of any new land use proposed for that year by the corporation within municipal boundaries. The corporation shall provide amended notice if a proposed land use is changed or an additional land use is proposed during the course of the year. Except in the event of an emergency, an affected municipality shall have at least 30 days after its receipt of the notice to provide advisory comment to the corporation. In the event of an emergency, the corporation will provide notice to an affected municipality promptly after the event.

Incorporate with changes from Amendment #3

SENATE FINANCE COMMITTEE
5/5/2004 COMMITTEE ACTION

Bill Number	SB 395		
Amendment	#5		
Motion	adpt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

RUSH

FAX COVER SHEET

Calandered
for 11:00am
Senate.

DATE: 5 May 2004 TIME: 10:25am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 4

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

CS SB 395 (FIN)

23-LS 1965 \ Q Cook 5/4/04

Plus 3 amendments - attached

Conceptual

The
Mundy

23-LS1965\U
Cook
5/5/04

CS FOR SENATE BILL NO. 395(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to application of municipal ordinances providing for planning,
2 platting, and land use regulation to interests in land owned by the Alaska Railroad
3 Corporation; authorizing the Alaska Railroad Corporation to extend its rail line to Fort
4 Greely, Alaska; authorizing the Alaska Railroad Corporation to issue bonds to finance
5 the cost of the extension and necessary facilities and equipment; and providing for an
6 effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * Section 1. AS 42.40.390 is amended by adding new subsections to read:

9 (b) Notwithstanding (a) of the section, municipal ordinances providing for
10 planning, platting, and land use regulation adopted under AS 29.35.180 or other law
11 apply to the land of the corporation to the extent permitted under federal law. / Under
12 49 U.S.C. 10501(b), municipal ordinances providing for planning, platting, and land
13 use regulation adopted under AS 29.35.180 or other law do not apply to the practices,

Amend
#3
#5

#5

1 routes, services, and rail facilities of the corporation and the construction, acquisition,
 2 operation, abandonment, or discontinuance of spur, industrial, team, switching, or side
 3 tracks or other rail facilities on land of the corporation unless the land is leased to
 4 another person by the corporation and the corporation has not retained a right to use
 5 the land during the term of the lease. For the purposes of this subsection, "rail
 6 facilities" includes tracks, rail yards, repair shops, and maintenance buildings, freight
 7 and passenger terminals, rail car loading and unloading structures, operation centers,
 8 supply warehouses, communication structures, and other facilities directly related to
 9 railroad operations, but does not include rock quarries or gravel pits.

10 (c) By January 10 of each year, the corporation shall provide notice to
 11 municipalities of any new land use proposed for that year by the corporation within
 12 municipal boundaries. The corporation shall provide amended notice if a proposed
 13 land use is changed or an additional land use is proposed during the course of the year.
 14 Except in the event of an emergency, an affected municipality shall have at least 30
 15 days after its receipt of the notice to provide advisory comments to the corporation. In
 16 the event of an emergency, the corporation shall provide notice to an affected
 17 municipality promptly after the event.

18 * Sec. 2. AS 42.40 is amended by adding a new section to read:

19 **Article 6A. Specific Projects.**

20 **Sec. 42.40.550. Extension of railroad to Fort Greely.** The corporation may
 21 acquire a transportation corridor between the existing railroad corridor and Fort
 22 Greely, Alaska, and construct a rail line within the corridor to provide rail service to
 23 the Fort Greely area and points between. The transportation corridor may be
 24 designated for a use identified under AS 42.40.350(b) and other transportation and
 25 utility uses. The corporation may also acquire land along the corridor for use as rail
 26 land that can be developed for terminal, station, and maintenance facilities, switching
 27 yards, and any other purposes associated with the railroad utility corridor. The
 28 corporation may provide financing for the acquisition, construction, improvement,
 29 maintenance, equipping, and operation of the rail line and related facilities between
 30 the existing railroad corridor and Fort Greely, Alaska.

31 * Sec. 3. AS 42.40.695 is amended to read:

1 **Sec. 42.40.695. Public purpose of bonds.** Bonds of the corporation issued to
2 finance facilities described in AS 42.40.250(31) and bonds of the corporation issued
3 to finance facilities described in AS 42.40.550 are issued by a public corporation and
4 an instrumentality of the state for an essential public and governmental purpose.

5 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **LEGISLATIVE AUTHORIZATION AND APPROVAL.** (a) The Alaska Railroad
8 Corporation is authorized to issue bonds under the power granted to it in AS 42.40.550, added
9 by sec. 2 of this Act, to finance the acquisition, construction, improvement, maintenance,
10 equipping, and operation of a rail line and related facilities from its existing railroad corridor
11 to Fort Greely, Alaska. The maximum principal amount of bonds that the Alaska Railroad
12 Corporation may issue under this section is \$500,000,000. The Alaska Railroad Corporation
13 may issue the bonds in a single issuance or in several issuances, without limitation as to
14 number of issuances or timing, and as the Alaska Railroad Corporation determines best
15 furthers the purpose of financing the rail line extension to Fort Greely and the related
16 facilities.

17 (b) Before issuing bonds to provide the financing described in this section, the Alaska
18 Railroad Corporation shall enter into a binding agreement with the United States government
19 that will provide sufficient revenue to

20 (1) pay the principal of and interest on the bonds as they become due;

21 (2) create and maintain the reserves for the bond payments that the
22 corporation considers necessary or desirable; and

23 (3) pay all costs necessary to service or additionally secure the bonds,
24 including trustee's fees and bond insurance premiums, unless those costs are to be paid by a
25 party other than the corporation.

26 (c) This section constitutes the approval required by AS 42.40.285 for the issuance of
27 the bonds and rail line extension described in this section.

28 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 **RAILROAD PLANNING, PLATTING, AND LAND USE REGULATION TASK**
31 **FORCE.** (a) There is established in the legislative branch of state government the Railroad

1 Planning, Platting, and Land Use Regulation Task Force. The task force consists of the
2 following members:

- 3 (1) one senator appointed by the president of the senate;
4 (2) one representative appointed by the speaker of the house of
5 representatives;
6 (3) one person representing the Alaska Railroad Corporation jointly appointed
7 by the president of the senate and the speaker of the house of representatives;
8 (4) one municipal official from each of the following municipalities appointed
9 jointly by the president of the senate and the speaker of the house of representatives:

- 10 (A) Fairbanks North Star Borough;
11 (B) City of Fairbanks;
12 (C) City of Nenana;
13 (D) City of Houston;
14 (E) City of North Pole;
15 (F) City of Wasilla;
16 (G) City of Palmer;
17 (H) Municipality of Anchorage;
18 (I) Denali Borough;
19 (J) Kenai Peninsula Borough;
20 (K) Matanuska-Susitna Borough;
21 (L) City of Whittier;
22 (M) City of Seward.

23 (b) The members of the task force appointed under (a)(1) and (2) of this section shall
24 serve as co-chairs of the task force. The task force shall meet as frequently as its members
25 determine necessary and may meet during sessions or during the interim. The task force may
26 meet and vote by teleconference.

27 (c) The members of the task force appointed under (a)(3) and (4) of this section are
28 not eligible for compensation or entitled to per diem and travel expenses authorized for boards
29 and commissions under AS 39.20.180.

30 (d) The task force shall consider and make recommendation to the legislature on
31 whether and to what extent municipal planning, platting, and land use regulations should

1 apply to interests in land owed by the Alaska Railroad Corporation. The task force shall
2 submit a written report of its findings and recommendations on or before the first day of the
3 First Regular Session of the Twenty-Fourth Alaska State Legislature.

4 * Sec. 6. Section 5 of this Act is repealed on the second day of the First Regular Session of
5 the Twenty-Fourth Alaska State Legislature.

6 * Sec. 7. AS 42.40.390(b) is repealed on July 1, 2005.

7 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1965\Q
Cook
5/4/04

CS FOR SENATE BILL NO. 395()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

By

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to application of municipal ordinances providing for planning,
2 platting, and land use regulation to interests in land owned by the Alaska Railroad
3 Corporation; authorizing the Alaska Railroad Corporation to extend its rail line to Fort
4 Greely, Alaska; authorizing the Alaska Railroad Corporation to issue bonds to finance
5 the cost of the extension and necessary facilities and equipment; and providing for an
6 effective date."

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

8 * Section 1. AS 42.40.390 is amended by adding a new subsection to read:
9 (b) Municipal ordinances providing for planning, platting, and land use
10 regulation adopted under AS 29.35.180 or other law do not apply to the land of the
11 corporation unless the land is leased to another person by the corporation and the
12 corporation has not retained a right to use the land during the term of the lease.

13 * Sec. 2. AS 42.40 is amended by adding a new section to read:

L

Article 6A. Specific Projects.

1
2 Sec. 42.40.550. Extension of railroad to Fort Greely. The corporation may
3 acquire a transportation corridor between the existing railroad corridor and Fort
4 Greely, Alaska, and construct a rail line within the corridor to provide rail service to
5 the Fort Greely area and points between. The transportation corridor may be
6 designated for a use identified under AS 42.40.350(b) and other transportation and
7 utility uses. The corporation may also acquire land along the corridor for use as rail
8 land that can be developed for terminal, station, and maintenance facilities, switching
9 yards, and any other purposes associated with the railroad utility corridor. The
10 corporation may provide financing for the acquisition, construction, improvement,
11 maintenance, equipping, and operation of the rail line and related facilities between
12 the existing railroad corridor and Fort Greely, Alaska.

13 * Sec. 3. AS 42.40.695 is amended to read:

14 Sec. 42.40.695. Public purpose of bonds. Bonds of the corporation issued to
15 finance facilities described in AS 42.40.250(31) and bonds of the corporation issued
16 to finance facilities described in AS 42.40.550 are issued by a public corporation and
17 an instrumentality of the state for an essential public and governmental purpose.

18 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 LEGISLATIVE AUTHORIZATION AND APPROVAL. (a) The Alaska Railroad
21 Corporation is authorized to issue bonds under the power granted to it in AS 42.40.550, added
22 by sec. 2 of this Act, to finance the acquisition, construction, improvement, maintenance,
23 equipping, and operation of a rail line and related facilities from its existing railroad corridor
24 to Fort Greely, Alaska. The maximum principal amount of bonds that the Alaska Railroad
25 Corporation may issue under this section is \$500,000,000. The Alaska Railroad Corporation
26 may issue the bonds in a single issuance or in several issuances, without limitation as to
27 number of issuances or timing, and as the Alaska Railroad Corporation determines best
28 furthers the purpose of financing the rail line extension to Fort Greely and the related
29 facilities.

30 (b) Before issuing bonds to provide the financing described in this section, the Alaska
31 Railroad Corporation shall enter into a binding agreement with the United States government

1 that will provide sufficient revenue to

2 (1) pay the principal of and interest on the bonds as they become due;

3 (2) create and maintain the reserves for the bond payments that the
4 corporation considers necessary or desirable; and

5 (3) pay all costs necessary to service or additionally secure the bonds,
6 including trustee's fees and bond insurance premiums, unless those costs are to be paid by a
7 party other than the corporation.

8 (c) This section constitutes the approval required by AS 42.40.285 for the issuance of
9 the bonds and rail line extension described in this section.

10 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 RAILROAD PLANNING, PLATTING, AND LAND USE REGULATION TASK
13 FORCE. (a) There is established in the legislative branch of state government the Railroad
14 Planning, Platting, and Land Use Regulation Task Force. The task force consists of the
15 following members:

16 (1) one senator appointed by the president of the senate;

17 (2) one representative appointed by the speaker of the house of
18 representatives;

19 (3) one person representing the Alaska Railroad Corporation jointly appointed
20 by the president of the senate and the speaker of the house of representatives;

21 (4) one municipal official from each of the following municipalities appointed
22 jointly by the president of the senate and the speaker of the house of representatives:

23 (A) Fairbanks North Star Borough;

24 (B) City of Fairbanks;

25 (C) City of Nenana;

26 (D) City of Houston;

27 (E) City of North Pole;

28 (F) City of Wasilla;

29 (G) City of Palmer;

30 (H) Municipality of Anchorage;

31 (I) Denali Borough;

- 1 (J) Kenai Peninsula Borough;
2 (K) Matanuska-Susitna Borough;
3 (L) City of Whittier;
4 (M) City of Seward.

5 (b) The members of the task force appointed under (a)(1) and (2) of this section shall
6 serve as co-chairs of the task force. The task force shall meet as frequently as its members
7 determine necessary and may meet during sessions or during the interim. The task force may
8 meet and vote by teleconference.

9 (c) The members of the task force appointed under (a)(3) and (4) of this section are
10 not eligible for compensation but are entitled to per diem and travel expenses authorized for
11 boards and commissions under AS 39.20.180.

12 (d) The task force shall consider and make recommendation to the legislature on
13 whether and to what extent municipal planning, platting, and land use regulations should
14 apply to interests in land owed by the Alaska Railroad Corporation. The task force shall
15 submit a written report of its findings and recommendations on or before the first day of the
16 First Regular Session of the Twenty-Fourth Alaska State Legislature.

17 * Sec. 6. Section 5 of this Act is repealed on the second day of the First Regular Session of
18 the Twenty-Fourth Alaska State Legislature.

19 * Sec. 7. AS 42.40.390(b) is repealed on July 1, 2005.

20 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

Not Offered
attached to CS"Q"
distributed

23-LS1965\H.1
Cook
5/4/04

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 395(TRA)

BY SENATOR THERRIAULT

1 Page 1, line 3, following the first occurrence of "Corporation":

2 Insert "and to notices of proposed land uses by the corporation"

3

4 Page 1, line 8:

5 Delete "a new subsection"

6 Insert "new subsections"

7

8 Page 1, following line 12:

9 Insert a new subsection to read:

10 "(c) By January 10 of each year, the corporation shall provide a notice to each
11 municipality of all new land uses the corporation proposes to begin that year within
12 the municipal boundaries. The corporation shall provide a supplemental notice during
13 the year if a previously proposed land use is changed or an additional land use is
14 proposed to begin. After receipt of a notice or supplemental notice, the municipality
15 shall have at least 30 days to provide advisory comments to the corporation before the
16 corporation begins operations under the proposed land use. However, the corporation
17 may immediately begin operations under a new land use that is necessary to address
18 an emergency situation without providing prior notice to the municipality. The
19 corporation shall provide notice of that emergency land use to the municipality
20 promptly after beginning operations."

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

**KENAI PENINSULA BOROUGH**

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

BOROUGH ASSEMBLY

May 5, 2004

The Honorable Gary Wilken, Co-Chair
Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99801

Dear Senator Wilken:

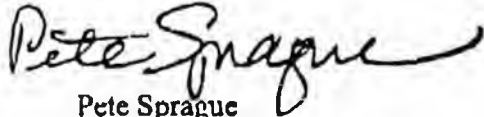
The Kenai Peninsula Borough Assembly respectfully requests that SB 395 be amended so that local municipal planning authority applies to the development of the Alaska Railroad Corporation's real estate assets. In addition, we urge the Senate to postpone any action on Section 1 of this bill until next session in order to allow sufficient time for a full review and assessment of the impacts the bill in its current form are likely to have on railbelt communities.

The Assembly recognizes and understands the Alaska Railroad's need to operate its rail system in an efficient and safe manner across jurisdictional boundaries without undue interference. The ability of the railroad to do so is guaranteed under the Interstate Commerce Commission Termination Act which prohibits state or local economic regulation that would significantly interfere with rail operations. Thus, the railroad's claim that it needs a blanket exemption from local zoning in order to operate is simply not true. The Alaska Supreme Court recently ruled that the Alaska Railroad must comply with local planning rules and regulations. SB 395 as currently written would exempt the railroad from municipal zoning and grant the railroad rights not enjoyed by any other state agency. We ask that your committee recognize the legitimate interests of local governments in the development of real estate within its boundaries.

The Alaska Railroad owns a considerable amount of real estate within the Kenai Peninsula Borough that is not essential for its rail transportation operations. Mandating compliance with local planning, platting and land use authority would minimize potential negative local impacts while allowing development of railroad real estate assets consistent with the local community's adopted goals and plans. In addition, following the normal public process would give both the citizens of the community and the local governing body an opportunity for input, assuring a greater chance of public support for the planned development.

Finally, we urge you to consider the creation of a constituent and stakeholder task force from within the railbelt to develop mutually acceptable legislation for consideration early in the next legislative session.

Sincerely,

A handwritten signature in black ink that reads "Pete Sprague". The signature is written in a cursive style with a long, sweeping underline.

Pete Sprague
Assembly President

SB 395

Adopted: 05/04/04

**MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 04-072**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY RECOMMENDING THAT THE ALASKA STATE LEGISLATURE AMEND PROPOSED LEGISLATION TO ALLOW AFFECTED RAILBELT MUNICIPALITIES AND THE ALASKA RAILROAD THE ABILITY TO DEVELOP MUTUALLY AGREEABLE LEGISLATION REGARDING LOCAL PLANNING AUTHORITY.

WHEREAS, the Alaska Supreme Court recently ruled that the Alaska Railroad must comply with local planning authority; and

WHEREAS, the Alaska Railroad has a significant amount of real estate holdings within the Matanuska-Susitna Borough and other railbelt communities; and

WHEREAS, the Matanuska-Susitna Borough understands the Alaska Railroad's need to operate its rail system in an efficient and safe manner; and

WHEREAS, the manner in which the Alaska Railroad develops its real estate assets has impacts on the borough's and other municipalities' economic development efforts, road systems, and infrastructure; and

WHEREAS, members of the communities along the railbelt should have the opportunity to comment on the proposed legislation; and

WHEREAS, the Alaska Railroad should work cooperatively with local communities and local governments to achieve the best development projects having the least negative impacts.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly respectfully requests the Alaska State Legislature

distributed by Sen. Green

to amend House Bill 560 and Senate Bill 395 to remove the exemption of local planning authority; and

BE IT FURTHER RESOLVED, that a task force be created comprised of representatives from railbelt municipalities, members of the public, and the Alaska Railroad to develop legislation that addresses the needs of each party; and

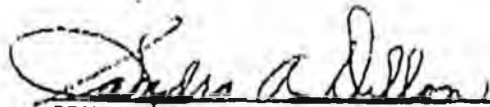
BE IT FURTHER RESOLVED, that local municipal planning authority should apply to development of the Alaska Railroad's real estate assets.

ADOPTED by the Matanuska-Susitna Borough Assembly this 4th day of May, 2004.



TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:



SANDRA A. DILLON, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Bush, Allen, Colberg, Kvalheim, Simpson, Colver, and Vehre

ALASKA STATE LEGISLATURE

CHAIR
Senator John Cowdery
Capitol Room 101
(907) 465-3879



MEMBERS
Senator Gene Theriault
Senator Ben Stevens
Senator Johnny Ellis
Senator Gretchen Guess

Senate Rules Committee

Sponsor Statement for 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 secured by 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. This bill would clarify the Legislature's intent that such local regulations do not apply to the Railroad's land unless it is leased to another person without retaining a railroad right of use.

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.

**Alaska Railroad Corporation
Regulatory Oversight and Public Involvement requirements**

Activities of the Alaska Railroad Corporation (ARRC) are well-regulated and responsive to the views of Alaska's citizens. Through federal and state law, ARRC provides the general public and local communities with a variety of public involvement opportunities with regard to its projects and land use proposals. It is also the Railroad's public involvement policy to coordinate planning, project and real estate activities with railbelt communities in order to reflect community planning efforts and needs.

Specifically, the Railroad's comprehensive public involvement process includes:

- Board of Director meetings that are open to the public
- Direct mail correspondence to potentially impacted citizens
- Stakeholder meetings and briefings
- Agency and local government briefings
- Focus groups and surveys
- Newsletters distributed to government, business and civic leaders statewide
- Public notice advertisements
- Production of public information materials, including fact sheets, display boards and frequently asked questions
- Up-to-date information published on the ARRC web site
- News releases and other media relations efforts designed to inform the public
- Open house events
- Presentations at community council meetings and other community organization forums
- A dedicated public involvement e-mail address
- Public comment hotlines
- Timely responses to public comment

The Railroad also supports local regional transportation planning and serves on a number of planning groups including AMATS, FMATS, the Wasilla Intermodal Planning Steering Committee, Regional Transportation Planning Organization (MOA & Mat-Su), Anchorage's TransVision, the Port Commission, and the Fairbanks-North Star Borough Rail Task Force.

Following is a list of regulatory oversight, including public involvement requirements, with regard to Railroad projects and development:

National Environmental Policy Act (NEPA): Approximately 80% of the Railroad's capital program is funded with federal dollars and therefore is subject to NEPA regulations, which often includes public notice and opportunity to comment.

Local, State, and Federal Permits: Depending on the project, a variety of local, state, and federal permits are required, some of which provide opportunities for public and community input. These include but are not limited to:

- U.S. Army Corps of Engineers Nationwide or Section 404 permits
- U.S. Coast Guard - Bridge Permits

Provide by Wendy Lindskoog, ARR

Alaska Department of Natural Resources (ADNR), Office of Project Management and Permitting - Coastal Zone Consistency Approvals
ADNR, Office of Habitat Management and Permitting - Fish Habitat Permits
ADNR, Office of History and Archeology - National Historic Preservation Act Section 106 Concurrence
City or Borough - Flood Hazard Permits

FTA/FHWA transportation planning requirements:

Because so much of the Railroad's Capital program includes the use of federal funds, the Railroad is required to participate in the development of the Statewide Transportation Plan and other Transportation Improvement Plans required for Metropolitan Planning Organizations (MPO's) including AMATS and FMATS.

Legislative Approval of Significant Railroad Activities: The Railroad's statute, AS 42.40.285, required legislative approval before the Railroad can fully dispose of its land, issue bonds, extend the rail line, lease land for longer than 55 years, or even apply for a grant of federal land within municipal boundaries. Under AS 42.40.280, the Railroad must provide the legislature and the governor with an oversight report before making a significant and permanent change in services.

Local building codes: The Railroad is required by its statute, AS 42.40.935, to comply with local building and safety codes and state occupational safety and health guidelines.

Railroad Lessees subject to Public Notice and local Planning and Zoning regulation: Of the 36,000 acres of land owned by the Alaska Railroad, about half is dedicated to operational purposes. The other half is available to lease. Railroad lessees are required to comply with local planning, zoning, platting and land use regulations. The Railroad must give public notice before entering into a lease, and also for permits that involve significant investments and are not likely to be terminated at will.

Pesticide Use:

The Railroad's statute, AS 42.40.440, states that vegetation control involving the use of pesticides or herbicides on land owned or managed by the corporation may be conducted only in compliance with state requirements applicable to other state pesticide or herbicide use. The state's permit process requires the Railroad to issue a number of public notices and provide opportunities for public hearings and meetings.

Alaska Railroad Board of Directors – A Public Process:

The Railroad's statute provides for public participation in Board meetings. AS 42.40.150 states that (a) The chairman of the board shall call meetings of the board at least once every three months... (b) Except for executive sessions, the meetings of the board are public. The board shall provide by rule for a method of providing reasonable notice to the public of its meetings. (c) The board shall keep minutes of each meeting.

Among other management powers, the Alaska Railroad Board of Directors must adopt annual operating and capital budgets and must approve all capital projects that will cost more than \$500,000 or will take more than one year to complete. The Board and the Governor must approve the use of eminent domain authority.

Train Operations and Interstate Commerce Protections: