

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3778

HTRA

HB 159

684



# RECORDS CERTIFICATION



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*James O. Smith*  
Signature of Camera Operator

*10/31/89*  
Date

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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Transportation Committee, 3/14/85, 7:00 am.  
" " " 3/19/85 7:00 am.  
" " " 4/9/85 7:00 am.

House Community & Regional Affairs Com. 2/20/85, 3 pm.  
" " " " " 2/21/85, 3 pm.



STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 159  
 Title: Utility Relocation-Airport  
           g. Pub. Fac. Construction  
 Sponsor: DOT&PF  
 Requestor: Commissioner  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DOT&PF  
 Program Category Affected: Utilities  
 BRU, Program or Subprogram(s) Affected:  
           N/A

EXPENDITURES/REVENUES: (Thousands of Dollars)

	F1 83	F1 84	F1 87	F1 88	F1 89	F1 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>		-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars) N/A

GENERAL FUND					
FEDERAL FUNDS					
OTHER					
<b>TOTAL</b>					

POSITIONS: N/A

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

See attachment.

Prepared By: Bruce R. Freitag Phone: 465-2957  
 Division: Standards and Technical Services Date: 10/17/84  
 Approved by Commissioner: *[Signature]* Date: 10/15/84  
 Agency: DOT&PF

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Utility Relocation - Airports and Public Facilities Construction

Analysis

The need for this law is to provide statutory authority for the accommodation and relocation of utility facilities within State rights-of-way for the other Department modes - airports, harbors, and public buildings - similar to what AS 19.25.010 - 19.25.020 presently allows for State highways.

We don't anticipate any Department fiscal impact because we are presently reimbursing utility facility relocation costs for these modes if they meet code and are under permit. However, no statute authority for this reimbursement presently exists. In 1981, department policy evolved to allow for reimbursement.

We don't anticipate any opposition to this proposal.

We don't anticipate any savings/costs differences from the present situation due to this proposal for either the Department or the Utility.

This law would provide statutory authority for the Department to permit utility facility accommodation/relocation reimbursement similar to that presently allowed within highway rights-of-way. Also, this Act is necessary for consistency with highway projects, and housekeeping for the Department operations.

## SUMMARY/EXPLANATION OF INTENT

This legislation would provide the State a means to require proper utility installment, and to ensure that the utility companies are financially responsible for relocating utility facilities when they were illegally placed in State right-of-ways. It would also provide the State statutory authority to issue utility permits for proper utility facility installments in airports, public buildings and harbors, and reimburse utility companies for facility relocation due to State construction projects.

Utilities And Encroachments Within State Rights-Of-Way At

Airports And Public Facilities

The need for this legislation is to provide statute authority for the accommodation and relocation of utility facilities within State Rights-Of-Way for other Departmental modes - airports, harbors, and public buildings. This addition would be similar to what AS 19.25.020 presently allows for State Highways. Statute authority presently doesn't exist to allow for relocation reimbursement.

## Mailbox Permits - ANALYSIS

AS 19.25.200 requires written permits for all encroachments within the highway rights of way. Historically, no permits have been issued for mailboxes within the right-of-way. Recently the Ombudsman's office criticized the Department for not complying with statutory and regulatory laws concerning issuance of permits for encroachments, indicating a need to either issue permits for mailboxes or modify the law so permits are not required as a general rule.

If permits were to be issued in accordance with present law, substantial field and office work would be required with virtually no increase in either the safety or efficiency of our transportation system. First, a complete inventory of all rural roadways would be required to determine the location and addressee of each mailbox. Second, permits would have to be written and mailed to each mailbox owner. Based on the costs of our continuing photologging inventory, we estimate the mailbox inventory at \$200,000 over a three year period. (The photologging images alone do not provide sufficient information from which to compile a mailbox inventory). Assuming 10,000 mailboxes presently exist and each permit takes five minutes to complete, the cost of writing the initial permits equals approximately \$20,000 and the cost of mailing same equals \$2,000.00. Consequently, the total cost over a three year period to inventory and issue permits for 10,000 existing mailboxes would approximate \$222,000, or approximately \$22/box.

In addition to the initial expense there would be continuing expenses to maintain the permit system for mailboxes. Estimated cost to maintain the mailbox permit system is \$5,000/annum.

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

3 CS FOR HOUSE BILL NO. 159 (Transportation)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to utilities and encroachments in  
8 state airports, public facilities, and highways; and  
9 providing for an effective date."

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

11 \* Section 1. AS 02.15 is amended by adding new sections to article 2 to  
12 read:

13 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
14 ity may be constructed, placed, or maintained across, along, over,  
15 under, or within a state airport only in accordance with regulations  
16 adopted or procedures prescribed by the department and only if au-  
17 thorized by a written permit issued by the department.

18 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
19 AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
20 project, the department determines and orders that a utility facility  
21 located across, along, over, under, or within a state airport must be  
22 changed, relocated, or removed, the utility owning or maintaining the  
23 facility shall change, relocate, or remove it in accordance with the  
24 order, within a reasonable time set by the department in the order.

25 (b) If the utility facility is not changed, relocated, or re-  
26 moved in accordance with the order, any permit authorizing the facil-  
27 ity issued by the department under AS 02.15.102 becomes invalid and  
28 the facility will be considered an unauthorized encroachment subject  
29 to the provisions of AS 02.15.114.

(c) The cost of change, relocation, or removal, as defined in

1  
2 AS 02.15.260, ordered under (a) of this section is to be paid as  
3 follows:

4 (1) by the department as a cost of airport construction, if  
5 the utility facility is installed or authorized under a utility  
6 permit, <sup>or regulation</sup> after the effective date of this Act;

7 (2) by the department as a cost of highway construction if  
8 the facility is installed before the effective date of this Act;

9 (3) by the utility in all other cases unless the commis-  
10 sioner finds it is in the public interest for the cost to be paid by  
11 the department.

12 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
13 constructed, placed, changed, or maintained across or within an air-  
14 port, but only in accordance with regulations or procedures adopted by  
15 the department. An encroachment may not be constructed, placed, main-  
16 tained, or changed until it is authorized by a written permit issued  
17 by the department, unless the department provides otherwise by regula-  
18 tion.

19 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
20 incidental to the construction or maintenance of a state airport the  
21 department determines and orders that an encroachment previously  
22 authorized by written permit must be changed, relocated, or removed,  
23 the owner of the encroachment shall change, relocate, or remove it  
24 within a reasonable time set by the department in the order. The cost  
25 of the change, relocation, or removal shall be paid as provided in  
26 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
27 encroachment within the time set by the department, the encroachment  
28 will be considered an unauthorized encroachment subject to the pro-  
29 visions of AS 02.15.114.

Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized

1  
2 encroachment exists in, on, under, or over a state airport the depart-  
3 ment may require the removal of the encroachment, at the expense of  
4 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

5 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
6 Notice shall be given the owner, occupant, or person in possession of  
7 an unauthorized encroachment, or to another person causing or per-  
8 mitting the encroachment to exist, by serving upon any of them a  
9 notice demanding the removal of the encroachment within a time limit  
10 set by the department. The notice shall describe the encroachment  
11 with reasonable certainty as to its character and location. Service  
12 of the notice may be made by certified mail.

13 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
14 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
15 encroachment to comply with a notice or order of the department under  
16 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
17 encroachment, or cause it to be removed. The owner of the unauthor-  
18 ized encroachment shall pay to the department

19 (1) the expense of the removal of the encroachment;

20 (2) all costs and expenses paid by the state as a result of  
21 a claim or claims filed against the state by third parties for damages  
22 due to delays because the encroachment was not changed, removed, or  
23 relocated according to the order of the department; and

24 (3) costs and expense of suit.

25 \* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

26 (15) "cost of change, relocation, or removal" means the  
27 entire cost incurred by the utility properly attributed to the change  
28 relocation, or removal of a facility, less the costs for improvement  
29 or upgrading over and above the cost of a functionally equal facility  
if a facility is to be relocated and replaced with new equipment

1  
2 there shall also be subtracted from the entire cost the salvage value  
3 derived from the old facility;

4 (16) "encroachment" includes a tower, pole, poleline, pipe,  
5 pipeline, driveway, private road, fence, billboard, stand or building,  
6 or structure or object of any kind that is or has been placed in, on,  
7 under, or over a portion of an airport;

8 (17) "utility" includes a corporation, company, individual,  
9 or association of individuals, or a lessee, trustee, or court-appointed  
10 receiver, that owns, operates, manages, or controls a line, plant,  
11 pipeline, or system for furnishing, producing, generating, transmitting,  
12 or distributing power, electricity, communications, telecommu-  
13 nications, water, gas, oil, petroleum products, coal or other mineral  
14 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
15 connected with airport drainage, irrigation, or similar products  
16 including publicly owned fire and police signal systems and street  
17 lighting systems that directly or indirectly serve the public or a  
18 segment of the public; "utility" also includes a corporation, company,  
19 individual, or association of individuals, or a lessee, trustee, or  
20 court-appointed receiver that owns, operates, manages, or controls a  
21 system for furnishing transportation of goods or persons by means of a  
22 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
23 or a similar means;

24 (18) "utility facility" includes poles, plants, lines,  
25 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
26 for furnishing, producing, generating, transmitting, or distributing  
27 power, electricity, communications, telecommunications, water, gas,  
28 oil, petroleum products, coal or other mineral slurry, steam, heat,  
29 light, chemicals, air, sewage, drainage not connected with an airport  
drainage system, irrigation, or another substance; "utility facility"

1  
2 also includes a system for furnishing transportation of goods or  
3 persons by means of a railway, tramway, cableway, conveyor, flume,  
4 canal, tunnel, pipeline, or a similar means.

5 \* Sec. 3. AS 19.25.200 is amended to read:

6 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be  
7 constructed, placed, changed, or maintained across or along a highway,  
8 but only in accordance with regulations adopted by the department. An  
9 [NO] encroachment may not be constructed, placed, maintained, or  
10 changed until it is [DULY] authorized by a written permit issued by  
11 the department, <sup>underlying as all mailboxes are personal in nature</sup> unless the department provides otherwise by regula-  
12 tion. This section does not apply to mailboxes or attached newspaper boxes.

13 \* Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

14 (12) "utility" includes a corporation, company, individual,  
15 or association of individuals, or a lessee, trustee, or court-appointed  
16 receiver, that owns, operates, manages, or controls a line, plant,  
17 pipeline, or system for furnishing, producing, generating, transmit-  
18 ting, or distributing power, electricity, communications, telecommu-  
19 nications, water, gas, oil, petroleum products, coal or other mineral  
20 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
21 connected with highway drainage, irrigation, or similar products  
22 including publicly owned fire and police signal systems and street  
23 lighting systems that directly or indirectly serve the public or a  
24 segment of the public; "utility" also includes a corporation, company,  
25 individual, or association of individuals, or a lessee, trustee, or  
26 court-appointed receiver that owns, operates, manages, or controls a  
27 system for furnishing transportation of goods or persons by means of a  
28 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
29 or a similar means;

\* Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

1  
2 (14) "utility facility" includes poles, plants, lines,  
3 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
4 for furnishing, producing, generating, transmitting, or distributing  
5 power, electricity, communications, telecommunications, water, gas,  
6 oil, petroleum products, coal or other mineral slurry, steam, heat,  
7 light, chemicals, air, sewage, drainage not connected with a highway  
8 drainage system, irrigation, or another substance; "utility facility"  
9 also includes a system for furnishing transportation of goods or  
10 persons by means of railway, tramway, cableway, conveyor, flume,  
11 canal, tunnel, pipeline, or a similar means.

12 \* Sec. 6. AS 35.10 is amended by adding new sections to read:

13 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

14 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
15 utility facility may be constructed, placed, or maintained across,  
16 along, over, under, or within a state public facility only in accor-  
17 dance with regulations adopted or procedures prescribed by the depart-  
18 ment and only if authorized by a written permit issued by the depart-  
19 ment.

20 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
21 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
22 public facility project, the department determines and orders that a  
23 utility facility located across, along, over, under, or within a state  
24 public facility must be changed, relocated, or removed, the utility  
25 owning or maintaining the facility shall change, relocate, or remove  
26 it in accordance with the order, within a reasonable time set by the  
27 department in the order.

28 (b) If the utility facility is not changed, relocated, or re-  
29 moved in accordance with the order, a permit authorizing the utility  
issued by the department under AS 35.10.210 becomes invalid and the

1 facility will be considered an unauthorized encroachment subject to  
2 the provisions of AS 35.10.270.

3  
4 (c) The cost of change, relocation, or removal, as defined in  
5 AS 35.25.020, ordered under (a) of this section is to be paid as  
6 follows:

7 (1) by the department as a cost of public facility con-  
8 struction, if the utility facility is installed or authorized under a  
9 permit <sup>or regulation</sup> after the effective date of this Act;

10 (2) by the department as a cost of highway construction if  
11 the facility is installed before the effective date of this Act;

12 (3) by the utility in all other cases unless the commis-  
13 sioner finds it is in the public interest for the cost to be paid by  
14 the department.

15 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
16 constructed, placed, changed, or maintained across or within a public  
17 facility, but only in accordance with regulations or procedures adopt-  
18 ed by the department. An encroachment may not be constructed, placed,  
19 maintained, or changed until it is authorized by a written permit  
20 issued by the department, unless the department provides otherwise by  
21 regulation.

22 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
23 incidental to the construction or maintenance of a state public facil-  
24 ity, the department determines and orders that an encroachment pre-  
25 viously authorized by written permit must be changed, relocated, or  
26 removed, the owner of the encroachment shall change, relocate, or  
27 remove it within a reasonable time set by the department in the order.  
28 The cost of the change, relocation, or removal shall be paid as pro-  
29 vided in AS 35.10.220(c). If the owner does not change, relocate, or  
remove an encroachment within the time set by the department, the

1  
2 encroachment will be considered an unauthorized encroachment and  
3 subject to the provisions of AS 35.10.270.

4 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
5 encroachment exists in, on, under, or over a state public facility,  
6 the department may require the removal of the encroachment, at the  
7 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-  
8 270.

9 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
10 Notice shall be given the owner, occupant, or person in possession of  
11 an unauthorized encroachment, or to another person causing or per-  
12 mitting the encroachment to exist, by serving upon any of them a  
13 notice demanding the removal of the encroachment within a time limit  
14 set by the department. The notice shall describe the encroachment  
15 with reasonable certainty as to its character and location. Service  
16 of the notice may be made by certified mail.

17 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
18 After a failure of the owner of an unauthorized encroachment to comply  
19 with the notice or order of the department under AS 35.10.220, 35.10.-  
20 240, or 35.10.260, the department may remove the encroachment, or  
21 cause it to be removed. The owner of the unauthorized encroachment  
22 shall pay to the department

23 (1) the expense of the removal of the encroachment;

24 (2) all costs and expenses paid by the state as a result of  
25 a claim or claims filed against the state by third parties for damages  
26 due to delays because the encroachment was not changed, removed, or  
27 relocated according to the order of the department; and

28 (3) costs and expense of suit.

29 \* Sec. 7. AS 35.25.020 is repealed and reenacted to read:

Sec. 35.25.020. DEFINITIONS. In this title, unless the context

1  
2 requires otherwise,

3 (1) "construction" or a derivative of the term "construc-  
4 tion" means construction, reconstruction, alteration, improvement, or  
5 major repair;

6 (2) "cost of change, relocation, or removal" means the  
7 entire cost incurred by the utility properly attributed to the change,  
8 relocation, or removal of a facility, less any costs for improvements  
9 or upgrading over and above the cost of a functionally equal facility;  
10 if a facility is to be relocated and replaced with new equipment,  
11 there shall also be subtracted from the entire cost any salvage value  
12 derived from the old facility;

13 (3) "department" means the Department of Transportation and  
14 Public Facilities;

15 (4) "encroachment" includes a tower, pole, poleline, pipe,  
16 pipeline, driveway, private road, fence, billboard, stand or building,  
17 or a structure or object of any kind that is or has been placed in,  
18 on, under, or over a portion of a public facility;

19 (5) "maintenance" means the preservation of each type of  
20 facility as nearly as possible in its original condition as construct-  
21 ed, or as improved;

22 (6) "public building" means a building owned or controlled  
23 and held by the state for government or public use;

24 (7) "public facility" or "public work" means a structure or  
25 project constructed or maintained by the department except airports  
26 and highways, and includes public buildings, boat harbors, port facil-  
27 ities, dikes, jetties, and breakwaters;

28 (8) "utility" includes a corporation, company, individual,  
29 or association of individuals, or a lessee, trustee, or court-appoint-  
ed receiver, that owns, operates, manages, or controls a line, plant,

1  
2 pipeline, or system for furnishing, producing, generating, transmit-  
3 ting, or distributing power, electricity, communications, telecommu-  
4 nications, water, gas, oil, petroleum products, coal or other mineral  
5 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
6 connected with public facility drainage, irrigation, or similar prod-  
7 ucts including publicly owned fire and police signal systems and  
8 street lighting systems that directly or indirectly serve the public  
9 or a segment of the public; "utility" also includes a corporation,  
10 company, individual, or association of individuals, or a lessee,  
11 trustee, or court-appointed receiver that owns, operates, manages, or  
12 controls any system for furnishing transportation of goods or persons  
13 by means of a railway, tramway, cableway, conveyor, flume, canal,  
14 tunnel, pipeline, or a similar means;

15 (9) "utility facility" includes poles, plants, lines,  
16 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
17 for furnishing, producing, generating, transmitting, or distributing  
18 power, electricity, communications, telecommunications, water, gas,  
19 oil, petroleum products, coal or other mineral slurry, steam, heat,  
20 light, chemicals, air, sewage, drainage not connected with a public  
21 facility drainage system, irrigation, or another substance; "utility  
22 facility" also includes a system for furnishing transportation of  
23 goods or persons by means of a railway, tramway, cableway, conveyor,  
24 flume, canal, tunnel, pipeline, or a similar means.

25 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

*Checked  
4/10/85  
4/10/85  
4/10/85*

Moen  
4/9/85

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE  
3 CS FOR HOUSE BILL NO. 159 (Transportation)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to utilities and encroachments in  
8 state airports, public facilities, and highways; and  
9 providing for an effective date."

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

11 \* Section 1. AS 02.15 is amended by adding new sections to article 2 to  
12 read:

13 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
14 ity may be constructed, placed, or maintained across, along, over,  
15 under, or within a state airport only in accordance with regulations  
16 adopted or procedures prescribed by the department and only if au-  
17 thorized by a written permit issued by the department.

18 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
19 AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
20 project, the department determines and orders that a utility facility  
21 located across, along, over, under, or within a state airport must be  
22 changed, relocated, or removed, the utility owning or maintaining the  
23 facility shall change, relocate, or remove it in accordance with the  
24 order, within a reasonable time set by the department in the order.

25 (b) If the utility facility is not changed, relocated, or re-  
26 moved in accordance with the order, any permit authorizing the facil-  
27 ity issued by the department under AS 02.15.102 becomes invalid and  
28 the facility will be considered an unauthorized encroachment subject  
29 to the provisions of AS 02.15.114.

(c) The cost of change, relocation, or removal, as defined in

1  
2 AS 02.15.260, ordered under (a) of this section is to be paid as  
3 follows:

4 (1) by the department as a cost of airport construction, if  
5 the utility facility is installed or authorized under a utility  
6 permit, or a regulation after the effective date of this Act;

7 (2) by the department as a cost of highway construction if  
8 the facility is installed before the effective date of this Act;

9 (3) by the utility in all other cases unless the commis-  
10 sioner finds it is in the public interest for the cost to be paid by  
11 the department.

12 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
13 constructed, placed, changed, or maintained across or within an air-  
14 port, but only in accordance with regulations or procedures adopted by  
15 the department. An encroachment may not be constructed, placed, main-  
16 tained, or changed until it is authorized by a written permit issued  
17 by the department, unless the department provides otherwise by regula-  
18 tion.

19 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
20 incidental to the construction or maintenance of a state airport the  
21 department determines and orders that an encroachment previously  
22 authorized by written permit must be changed, relocated, or removed,  
23 the owner of the encroachment shall change, relocate, or remove it  
24 within a reasonable time set by the department in the order. The cost  
25 of the change, relocation, or removal shall be paid as provided in  
26 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
27 encroachment within the time set by the department, the encroachment  
28 will be considered an unauthorized encroachment subject to the pro-  
29 visions of AS 02.15.114.

Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized

1  
2 encroachment exists in, on, under, or over a state airport the depart-  
3 ment may require the removal of the encroachment, at the expense of  
4 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

5 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
6 Notice shall be given the owner, occupant, or person in possession of  
7 an unauthorized encroachment, or to another person causing or per-  
8 mitting the encroachment to exist, by serving upon any of them a  
9 notice demanding the removal of the encroachment within a time limit  
10 set by the department. The notice shall describe the encroachment  
11 with reasonable certainty as to its character and location. Service  
12 of the notice may be made by certified mail.

13 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
14 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
15 encroachment to comply with a notice or order of the department under  
16 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
17 encroachment, or cause it to be removed. The owner of the unauthor-  
18 ized encroachment shall pay to the department

19 (1) the expense of the removal of the encroachment;

20 (2) all costs and expenses paid by the state as a result of  
21 a claim or claims filed against the state by third parties for damages  
22 due to delays because the encroachment was not changed, removed, or  
23 relocated according to the order of the department; and

24 (3) costs and expense of suit.

25 \* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

26 (15) "cost of change, relocation, or removal" means the  
27 entire cost incurred by the utility properly attributed to the change,  
28 relocation, or removal of a facility, less the costs for improvements  
29 or upgrading over and above the cost of a functionally equal facility;  
if a facility is to be relocated and replaced with new equipment,

1  
2 there shall also be subtracted from the entire cost the salvage value  
3 derived from the old facility;

4 (16) "encroachment" includes a tower, pole, poleline, pipe,  
5 pipeline, driveway, private road, fence, billboard, stand or building,  
6 or structure or object of any kind that is or has been placed in, on,  
7 under, or over a portion of an airport;

8 (17) "utility" includes a corporation, company, individual,  
9 or association of individuals, or a lessee, trustee, or court-appointed  
10 receiver, that owns, operates, manages, or controls a line, plant,  
11 pipeline, or system for furnishing, producing, generating, transmitting,  
12 or distributing power, electricity, communications, telecommunications,  
13 water, gas, oil, petroleum products, coal or other mineral  
14 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
15 connected with airport drainage, irrigation, or similar products  
16 including publicly owned fire and police signal systems and street  
17 lighting systems that directly or indirectly serve the public or a  
18 segment of the public; "utility" also includes a corporation, company,  
19 individual, or association of individuals, or a lessee, trustee, or  
20 court-appointed receiver that owns, operates, manages, or controls a  
21 system for furnishing transportation of goods or persons by means of a  
22 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
23 or a similar means;

24 (18) "utility facility" includes poles, plants, lines,  
25 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
26 for furnishing, producing, generating, transmitting, or distributing  
27 power, electricity, communications, telecommunications, water, gas,  
28 oil, petroleum products, coal or other mineral slurry, steam, heat,  
29 light, chemicals, air, sewage, drainage not connected with an airport  
drainage system, irrigation, or another substance; "utility facility"

1  
2 also includes a system for furnishing transportation of goods or  
3 persons by means of a railway, tramway, cableway, conveyor, flume,  
4 canal, tunnel, pipeline, or a similar means.

5 \* Sec. 3. AS 19.25.200 is amended to read:

6 Sec. 19.25.200. ENCROACHMENT PERMITS. (a) An encroachment may  
7 be constructed, placed, changed, or maintained across or along a  
8 highway, but only in accordance with regulations adopted by the  
9 department. An [NO] encroachment may not be constructed, placed,  
10 maintained, or changed until it is [DULY] authorized by a written  
11 permit issued by the department, unless the department provides  
12 otherwise by regulation.

13 (b) The provisions under (a) of this section do not apply to a  
14 mailbox or <sup>attached</sup> newspaper box.

15 \* Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

16 (12) "utility" includes a corporation, company, individual,  
17 or association of individuals, or a lessee, trustee, or court-appointed  
18 receiver, that owns, operates, manages, or controls a line, plant,  
19 pipeline, or system for furnishing, producing, generating, transmit-  
20 ting, or distributing power, electricity, communications, telecommu-  
21 nications, water, gas, oil, petroleum products, coal or other mineral  
22 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
23 connected with highway drainage, irrigation, or similar products  
24 including publicly owned fire and police signal systems and street  
25 lighting systems that directly or indirectly serve the public or a  
26 segment of the public; "utility" also includes a corporation, company,  
27 individual, or association of individuals, or a lessee, trustee, or  
28 court-appointed receiver that owns, operates, manages, or controls a  
29 system for furnishing transportation of goods or persons by means of a  
railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,

1  
2 or a similar means;

3 \* Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

4 (14) "utility facility" includes poles, plants, lines,  
5 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
6 for furnishing, producing, generating, transmitting, or distributing  
7 power, electricity, communications, telecommunications, water, gas,  
8 oil, petroleum products, coal or other mineral slurry, steam, heat,  
9 light, chemicals, air, sewage, drainage not connected with a highway  
10 drainage system, irrigation, or another substance; "utility facility"  
11 also includes a system for furnishing transportation of goods or  
12 persons by means of railway, tramway, cableway, conveyor, flume,  
13 canal, tunnel, pipeline, or a similar means.

14 \* Sec. 6. AS 35.10 is amended by adding new sections to read:

15 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

16 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
17 utility facility may be constructed, placed, or maintained across,  
18 along, over, under, or within a state public facility only in accor-  
19 dance with regulations adopted or procedures prescribed by the depart-  
20 ment and only if authorized by a written permit issued by the depart-  
21 ment.

22 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
23 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
24 public facility project, the department determines and orders that a  
25 utility facility located across, along, over, under, or within a state  
26 public facility must be changed, relocated, or removed, the utility  
27 owning or maintaining the facility shall change, relocate, or remove  
28 it in accordance with the order, within a reasonable time set by the  
29 department in the order.

(b) If the utility facility is not changed, relocated, or

1  
2 removed in accordance with the order, a permit authorizing the utility  
3 issued by the department under AS 35.10.210 becomes invalid and the  
4 facility will be considered an unauthorized encroachment subject to  
5 the provisions of AS 35.10.270.

6 (c) The cost of change, relocation, or removal, as defined in  
7 AS 35.25.020, ordered under (a) of this section is to be paid as  
8 follows:

9 (1) by the department as a cost of public facility con-  
10 struction, if the utility facility is installed or authorized under a  
11 utility permit or a regulation after the effective date of this Act;

12 (2) by the department as a cost of highway construction if  
13 the facility is installed before the effective date of this Act;

14 (3) by the utility in all other cases unless the commis-  
15 sioner finds it is in the public interest for the cost to be paid by  
16 the department.

17 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
18 constructed, placed, changed, or maintained across or within a public  
19 facility, but only in accordance with regulations or procedures adopt-  
20 ed by the department. An encroachment may not be constructed, placed,  
21 maintained, or changed until it is authorized by a written permit  
22 issued by the department, unless the department provides otherwise by  
23 regulation.

24 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
25 incidental to the construction or maintenance of a state public facil-  
26 ity, the department determines and orders that an encroachment pre-  
27 viously authorized by written permit must be changed, relocated, or  
28 removed, the owner of the encroachment shall change, relocate, or  
29 remove it within a reasonable time set by the department in the order.  
The cost of the change, relocation, or removal shall be paid as

1 provided in AS 35.10.220(c). If the owner does not change, relocate,  
2 or remove an encroachment within the time set by the department, the  
3 encroachment will be considered an unauthorized encroachment and  
4 subject to the provisions of AS 35.10.270.  
5

6 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
7 encroachment exists in, on, under, or over a state public facility,  
8 the department may require the removal of the encroachment, at the  
9 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-  
10 270.

11 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
12 Notice shall be given the owner, occupant, or person in possession of  
13 an unauthorized encroachment, or to another person causing or per-  
14 mitting the encroachment to exist, by serving upon any of them a  
15 notice demanding the removal of the encroachment within a time limit  
16 set by the department. The notice shall describe the encroachment  
17 with reasonable certainty as to its character and location. Service  
18 of the notice may be made by certified mail.

19 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
20 After a failure of the owner of an unauthorized encroachment to comply  
21 with the notice or order of the department under AS 35.10.220, 35.10.-  
22 240, or 35.10.260, the department may remove the encroachment, or  
23 cause it to be removed. The owner of the unauthorized encroachment  
24 shall pay to the department

- 25 (1) the expense of the removal of the encroachment;  
26 (2) all costs and expenses paid by the state as a result of  
27 a claim or claims filed against the state by third parties for damages  
28 due to delays because the encroachment was not changed, removed, or  
29 relocated according to the order of the department; and  
(3) costs and expense of suit.

1  
2 \* Sec. 7. AS 35.25.020 is repealed and reenacted to read:

3       Sec. 35.25.020. DEFINITIONS. In this title, unless the context  
4 requires otherwise,

5           (1) "construction" or a derivative of the term "construc-  
6 tion" means construction, reconstruction, alteration, improvement, or  
7 major repair;

8           (2) "cost of change, relocation, or removal" means the  
9 entire cost incurred by the utility properly attributed to the change,  
10 relocation, or removal of a facility, less any costs for improvements  
11 or upgrading over and above the cost of a functionally equal facility;  
12 if a facility is to be relocated and replaced with new equipment,  
13 there sha' also be subtracted from the entire cost any salvage value  
14 derived from the old facility;

15           (3) "department" means the Department of Transportation and  
16 Public Facilities;

17           (4) "encroachment" includes a tower, pole, poleline, pipe,  
18 pipeline, driveway, private road, fence, billboard, stand or building,  
19 or a structure or object of any kind that is or has been placed in,  
20 on, under, or over a portion of a public facility;

21           (5) "maintenance" means the preservation of each type of  
22 facility as nearly as possible in its original condition as construct-  
23 ed, or as improved;

24           (6) "public building" means a building owned or controlled  
25 and held by the state for government or public use;

26           (7) "public facility" or "public work" means a structure or  
27 project constructed or maintained by the department except airports  
28 and highways, and includes public buildings, boat harbors, port facil-  
29 ities, dikes, jetties, and breakwaters;

(8) "utility" includes a corporation, company, individual,

1  
2 or association of individuals, or a lessee, trustee, or court-appointed  
3 ed receiver, that owns, operates, manages, or controls a line, plant,  
4 pipeline, or system for furnishing, producing, generating, transmit-  
5 ting, or distributing power, electricity, communications, telecommu-  
6 nications, water, gas, oil, petroleum products, coal or other mineral  
7 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
8 connected with public facility drainage, irrigation, or similar prod-  
9 ucts including publicly owned fire and police signal systems and  
10 street lighting systems that directly or indirectly serve the public  
11 or a segment of the public; "utility" also includes a corporation,  
12 company, individual, or association of individuals, or a lessee,  
13 trustee, or court-appointed receiver that owns, operates, manages, or  
14 controls any system for furnishing transportation of goods or persons  
15 by means of a railway, tramway, cableway, conveyor, flume, canal,  
16 tunnel, pipeline, or a similar means;

17 (9) "utility facility" includes poles, plants, lines,  
18 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
19 for furnishing, producing, generating, transmitting, or distributing  
20 power, electricity, communications, telecommunications, water, gas,  
21 oil, petroleum products, coal or other mineral slurry, steam, heat,  
22 light, chemicals, air, sewage, drainage not connected with a public  
23 facility drainage system, irrigation, or another substance; "utility  
24 facility" also includes a system for furnishing transportation of  
25 goods or persons by means of a railway, tramway, cableway, conveyor,  
26 flume, canal, tunnel, pipeline, or a similar means.

27 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
28 10.070(c).

Alaska State Legislature



House of Representatives

REPRESENTATIVE  
BETTE CATO  
DISTRICT 6  
BOX 775  
VALDEZ, ALASKA 99686  
(907) 835-4568  
WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4858  
(907) 586-2660

COMMITTEES  
CHAIRMAN  
HOUSE TRANSPORTATION  
MEMBER  
RESOURCES  
STATE AFFAIRS

DATE: 09 April 1985  
TO: Randall Moen, Legal Services  
FROM: Rhonda Cargill, Professional Assistant *Rhonda*  
House Transportation Committee  
RE: CSHB 159(TRSP) and CSHB 160(TRSP)

Please make the following changes to CSHB 159(TRSP) and CSHB 160(TRSP):

CSHB 160(TRSP):

Page 1, line 16 insert or regulation between "permit or regulation after the effective..."

CSHB 159(TRSP):

Page 2, line 6 insert or regulation between "permit or regulation after the effective..."

Page 5, line 12 insert This section does not apply to mailboxes nor attached newspaper boxes.

Page 7, line 9 insert utility before "permit" (I believe this is a typographical error as this is the only place it was missing).

Page 7, line 9 insert or regulation between "permit or regulation after the effective..."

I have attached a copy of the committee discussion on these bills from this morning's meeting. Should you have additional questions, please give me a call at 465-4858.

Thanks much.

Committee Substitute for House Bills 159 and 160:

Dave Hutchen: I have one remaining question, on page 5 of HB 159. The section there entitled ENCROACHMENT PERMITS has been redrafted. I understand from talking with Mr. Frietag late yesterday that the purpose of the way this is written here is to make it possible for the department to handle the mailbox problem by regulation instead of permit. I think that's fine, the problem that we have with it though is that it is more broadly written than that and it would be possible for some later management of the department to begin allowing utility facilities to be installed in the right-of-way on the basis of regulation rather than permit which is in itself not bad, but the problem it causes if you look over here at HB 160 for example, there'd be no way for the utility to be reimbursed for the move if the facility was installed there to regulation instead of permit. Think the problem is very easy to solve, I would suggest that on HB 160, after the end of line 15, insert the words "or regulations". "By the department as a cost of highway construction , if the utility facility is installed or authorized under a utility permit or regulation after the effective date of this Act;

The same language would need to go into HB 159 on Page 2, line 6 and Page 7 line

Cato: Dave slow up a bit, I didn't quite get on 160 exactly where you wanted to put that.

Dave: I was proposing to put it after the end of line 15 after the word "permit". And insert the same two words after "permit" on line 5 on page 2 (of HB 159) and page 7, line 9.

Marco: Dave, what's the problem that we're trying to solve by adding this language?

Dave: What's happened here is the re-draft, in this proposed CS on page 5, this section entitled ENCROACHMENT PERMITS, has been redrafted and it is intended to resolve the problem of mailboxes and paper boxes, but it permits any type of encroachment really to be installed either by a permit or by regulation. And I'm saying that if a utility facility were later authorized to be installed by regulation, say in those cases they would tell you to build it under regulation, instead of permit, then when you go over here to the language in HB 160, the utility would have no way to be reimbursed.

Marco: I'm just trying to figure out how by regulation department tells you to build something.

Dave: I'm not sure either, but if they can permit, if they can allow the mailboxes to be in the right-of-way according to regulation, I would think they could allow certain classes of utility facilities to be in the right-of-way on the same basis.

Frietag: Neither I or Jack McGhee have any problems at all.

Cato: In other words you like both bills.

Frietag: Both bills.

Marrou: Mr. Hutchen had brought up a problem which was discussed in C&RA and that is this matter of mailbox permits which would be addressed by section 3, which is line 6-12 on page 5 of 159. It was suggested in C&RA that we should put a sentence at the end of that which says that "this section does not apply to mailboxes or attached newspaper boxes" The department has taken a position that they, in the future may want to issue mailbox permits in any case they don't want to put it in here, they have objected to that. I don't, perhaps Rep. Furnace can refresh my memory, but I don't see any particular problem with exempting mailboxes or newspaper boxes, and I disagree with the department in saying that well they want to maintain the capability in the future. They've already done a study, by the way, I don't know if I pointed that out, what it would cost to issue mailbox permits, but they would have to take pictures of all the mailboxes in the state, they would have to find the owner of all the mailboxes in the state and write a letter to each owner, of the 10,000 estimated mailboxes in the state and that this program over 3 years would cost over \$222,000 which comes out to \$22.20 per mailbox, which would be the approximate cost of a mailbox permit; this has all been done by the department already, they've already done a study on what it would cost for a mailbox permit program. I would strongly recommend that we put a sentence in here that states that this section does not apply to mailboxes or attached newspaper boxes.

...Furnace: move amendment of adding of two works (Hutchens amendment)

...Marrou: I here by move that at the end of line 12, page 5, HB 159, we add words that say "this section does not apply to mailboxes nor attached paper boxes" ...the meaning being that the little newspaper boxes, like the Daily news has the little yellow, open ended that some people attach to the pole of mailboxes.

...Pignalberi: I move that the committee pass out CSHB 160 amended and CSHE 159 amended with individual recommendations.

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

3 CS FOR HOUSE BILL NO. 160 (Transportation)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to relocation of utilities; and  
8 providing for an effective date."

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

10 \* Section 1. AS 19.25.020(c) is amended to read:

11 (c) The cost of change, relocation, or removal necessitated by  
12 highway construction is a cost of highway construction to be paid [BY  
13 THE STATE] in accordance with AS 19.45.001(4) as follows:

14 (1) by the department as a cost of highway construction, if  
15 the utility facility is installed or authorized under a utility permit  
16 after the effective date of this Act;

17 (2) by the department as a cost of highway construction if  
18 the facility is installed before the effective date of this Act;

19 (3) by the utility in all other cases unless the commis-  
20 sioner finds it is in the public interest for the cost to be paid by  
21 the department [, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY  
22 EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY].

23 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

Original sponsor: Rules/Governor

1  
2 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

3 CS FOR HOUSE BILL NO. 159 (Transportation)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to utilities and encroachments in  
8 state airports, public facilities, and highways; and  
9 providing for an effective date."

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

11 \* Section 1. AS 02.15 is amended by adding new sections to article 2 to  
12 read:

13 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
14 ity may be constructed, placed, or maintained across, along, over,  
15 under, or within a state airport only in accordance with regulations  
16 adopted or procedures prescribed by the department and only if au-  
17 thorized by a written permit issued by the department.

18 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
19 AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
20 project, the department determines and orders that a utility facility  
21 located across, along, over, under, or within a state airport must be  
22 changed, relocated, or removed, the utility owning or maintaining the  
23 facility shall change, relocate, or remove it in accordance with the  
24 order, within a reasonable time set by the department in the order.

25 (b) If the utility facility is not changed, relocated, or re-  
26 moved in accordance with the order, any permit authorizing the facil-  
27 ity issued by the department under AS 02.15.102 becomes invalid and  
28 the facility will be considered an unauthorized encroachment subject  
29 to the provisions of AS 02.15.114.

(c) The cost of change, relocation, or removal, as defined in

1  
2 AS 02.15.260, ordered under (a) of this section is to be paid a  
3 follows:

4 (1) by the department as a cost of airport construction, if  
5 the utility facility is installed or authorized under a utility  
6 permit, <sup>or regulation</sup> after the effective date of this Act;

7 (2) by the department as a cost of highway construction if  
8 the facility is installed before the effective date of this Act;

9 (3) by the utility in all other cases unless the commis-  
10 sioner finds it is in the public interest for the cost to be paid by  
11 the department.

12 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
13 constructed, placed, changed, or maintained across or within an air-  
14 port, but only in accordance with regulations or procedures adopted by  
15 the department. An encroachment may not be constructed, placed, main-  
16 tained, or changed until it is authorized by a written permit issued  
17 by the department, unless the department provides otherwise by regula-  
18 tion.

19 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If  
20 incidental to the construction or maintenance of a state airport the  
21 department determines and orders that an encroachment previously  
22 authorized by written permit must be changed, relocated, or removed  
23 the owner of the encroachment shall change, relocate, or remove it  
24 within a reasonable time set by the department in the order. The cost  
25 of the change, relocation, or removal shall be paid as provided in  
26 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
27 encroachment within the time set by the department, the encroachment  
28 will be considered an unauthorized encroachment subject to the pro-  
29 visions of AS 02.15.114.

Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized

1  
2 encroachment exists in, on, under, or over a state airport the depart-  
3 ment may require the removal of the encroachment, at the expense of  
4 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

5 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
6 Notice shall be given the owner, occupant, or person in possession of  
7 an unauthorized encroachment, or to another person causing or per-  
8 mitting the encroachment to exist, by serving upon any of them a  
9 notice demanding the removal of the encroachment within a time limit  
10 set by the department. The notice shall describe the encroachment  
11 with reasonable certainty as to its character and location. Service  
12 of the notice may be made by certified mail.

13 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
14 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
15 encroachment to comply with a notice or order of the department under  
16 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
17 encroachment, or cause it to be removed. The owner of the unauthor-  
18 ized encroachment shall pay to the department

19 (1) the expense of the removal of the encroachment;

20 (2) all costs and expenses paid by the state as a result of  
21 a claim or claims filed against the state by third parties for damages  
22 due to delays because the encroachment was not changed, removed, or  
23 relocated according to the order of the department; and

24 (3) costs and expense of suit.

25 \* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

26 (15) "cost of change, relocation, or removal" means the  
27 entire cost incurred by the utility properly attributed to the change,  
28 relocation, or removal of a facility, less the costs for improvements  
29 or upgrading over and above the cost of a functionally equal facility;  
if a facility is to be relocated and replaced with new equipment,

1  
2 there shall also be subtracted from the entire cost the salvage value  
3 derived from the old facility;

4 (16) "encroachment" includes a tower, pole, poleline, pipe,  
5 pipeline, driveway, private road, fence, billboard, stand or building,  
6 or structure or object of any kind that is or has been placed in, on,  
7 under, or over a portion of an airport;

8 (17) "utility" includes a corporation, company, individual,  
9 or association of individuals, or a lessee, trustee, or court-appointed  
10 receiver, that owns, operates, manages, or controls a line, plant,  
11 pipeline, or system for furnishing, producing, generating, transmitting,  
12 or distributing power, electricity, communications, telecommunications,  
13 water, gas, oil, petroleum products, coal or other mineral  
14 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
15 connected with airport drainage, irrigation, or similar products  
16 including publicly owned fire and police signal systems and street  
17 lighting systems that directly or indirectly serve the public or a  
18 segment of the public; "utility" also includes a corporation, company,  
19 individual, or association of individuals, or a lessee, trustee, or  
20 court-appointed receiver that owns, operates, manages, or controls a  
21 system for furnishing transportation of goods or persons by means of a  
22 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
23 or a similar means;

24 (18) "utility facility" includes poles, plants, lines,  
25 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
26 for furnishing, producing, generating, transmitting, or distributing  
27 power, electricity, communications, telecommunications, water, gas,  
28 oil, petroleum products, coal or other mineral slurry, steam, heat,  
29 light, chemicals, air, sewage, drainage not connected with an airport  
drainage system, irrigation, or another substance; "utility facility"

1  
2 also includes a system for furnishing transportation of goods or  
3 persons by means of a railway, tramway, cableway, conveyor, flume,  
4 canal, tunnel, pipeline, or a similar means.

5 \* Sec. 3. AS 19.25.200 is amended to read:

6 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be  
7 constructed, placed, changed, or maintained across or along a highway,  
8 but only in accordance with regulations adopted by the department. An  
9 [NO] encroachment may not be constructed, placed, maintained, or  
10 changed until it is [DULY] authorized by a written permit issued by  
11 the department, unless the department provides otherwise by regula-  
12 tion. *This section does not apply to mailboxes nor attached newspaper boxes.*

13 \* Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

14 (12) "utility" includes a corporation, company, individual,  
15 or association of individuals, or a lessee, trustee, or court-appointed  
16 receiver, that owns, operates, manages, or controls a line, plant,  
17 pipeline, or system for furnishing, producing, generating, transmit-  
18 ting, or distributing power, electricity, communications, telecommu-  
19 nications, water, gas, oil, petroleum products, coal or other mineral  
20 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
21 connected with highway drainage, irrigation, or similar products  
22 including publicly owned fire and police signal systems and street  
23 lighting systems that directly or indirectly serve the public or a  
24 segment of the public; "utility" also includes a corporation, company,  
25 individual, or association of individuals, or a lessee, trustee, or  
26 court-appointed receiver that owns, operates, manages, or controls a  
27 system for furnishing transportation of goods or persons by means of a  
28 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
29 or a similar means;

\* Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

1  
2 (14) "utility facility" includes poles, plants, lines,  
3 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
4 for furnishing, producing, generating, transmitting, or distributing  
5 power, electricity, communications, telecommunications, water, gas,  
6 oil, petroleum products, coal or other mineral slurry, steam, heat,  
7 light, chemicals, air, sewage, drainage not connected with a highway  
8 drainage system, irrigation, or another substance; "utility facility"  
9 also includes a system for furnishing transportation of goods or  
10 persons by means of railway, tramway, cableway, conveyor, flume,  
11 canal, tunnel, pipeline, or a similar means.

12 \* Sec. 6. AS 35.10 is amended by adding new sections to read:

13 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

14 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
15 utility facility may be constructed, placed, or maintained across,  
16 along, over, under, or within a state public facility only in accor-  
17 dance with regulations adopted or procedures prescribed by the depart-  
18 ment and only if authorized by a written permit issued by the depart-  
19 ment.

20 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
21 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
22 public facility project, the department determines and orders that a  
23 utility facility located across, along, over, under, or within a state  
24 public facility must be changed, relocated, or removed, the utility  
25 owning or maintaining the facility shall change, relocate, or remove  
26 it in accordance with the order, within a reasonable time set by the  
27 department in the order.

28 (b) If the utility facility is not changed, relocated, or re-  
29 moved in accordance with the order, a permit authorizing the utility  
issued by the department under AS 35.10.210 becomes invalid and the

1  
2 facility will be considered an unauthorized encroachment subject to  
3 the provisions of AS 35.10.270.

4 (c) The cost of change, relocation, or removal, as defined in  
5 AS 35.25.020, ordered under (a) of this section is to be paid as  
6 follows:

7 (1) by the department as a cost of public facility con-  
8 struction, if the utility facility is installed or authorized under a  
9 permit, <sup>or regulation</sup> after the effective date of this Act;

10 (2) by the department as a cost of highway construction if  
11 the facility is installed before the effective date of this Act;

12 (3) by the utility in all other cases unless the commis-  
13 sioner finds it is in the public interest for the cost to be paid by  
14 the department.

15 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
16 constructed, placed, changed, or maintained across or within a public  
17 facility, but only in accordance with regulations or procedures adopt-  
18 ed by the department. An encroachment may not be constructed, placed,  
19 maintained, or changed until it is authorized by a written permit  
20 issued by the department, unless the department provides otherwise by  
21 regulation.

22 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
23 incidental to the construction or maintenance of a state public facil-  
24 ity, the department determines and orders that an encroachment pre-  
25 viously authorized by written permit must be changed, relocated, or  
26 removed, the owner of the encroachment shall change, relocate, or  
27 remove it within a reasonable time set by the department in the order.  
28 The cost of the change, relocation, or removal shall be paid as pro-  
29 vided in AS 35.10.220(c). If the owner does not change, relocate, or  
remove an encroachment within the time set by the department, the

1  
2 encroachment will be considered an unauthorized encroachment and  
3 subject to the provisions of AS 35.10.270.

4 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
5 encroachment exists in, on, under, or over a state public facility,  
6 the department may require the removal of the encroachment, at the  
7 expense of the owner, in the manner provided in AS 35.10.260 - 35.10.-  
8 270.

9 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
10 Notice shall be given the owner, occupant, or person in possession of  
11 an unauthorized encroachment, or to another person causing or per-  
12 mitting the encroachment to exist, by serving upon any of them a  
13 notice demanding the removal of the encroachment within a time limit  
14 set by the department. The notice shall describe the encroachment  
15 with reasonable certainty as to its character and location. Service  
16 of the notice may be made by certified mail.

17 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
18 After a failure of the owner of an unauthorized encroachment to comply  
19 with the notice or order of the department under AS 35.10.220, 35.10.-  
20 240, or 35.10.260, the department may remove the encroachment, or  
21 cause it to be removed. The owner of the unauthorized encroachment  
22 shall pay to the department

23 (1) the expense of the removal of the encroachment;

24 (2) all costs and expenses paid by the state as a result of  
25 a claim or claims filed against the state by third parties for damages  
26 due to delays because the encroachment was not changed, removed, or  
27 relocated according to the order of the department; and

28 (3) costs and expense of suit.

29 \* Sec. 7. AS 35.25.020 is repealed and reenacted to read:

Sec. 35.25.020. DEFINITIONS. In this title, unless the context

1  
2 requires otherwise,

3 (1) "construction" or a derivative of the term "construc-  
4 tion" means construction, reconstruction, alteration, improvement, or  
5 major repair;

6 (2) "cost of change, relocation, or removal" means the  
7 entire cost incurred by the utility properly attributed to the change,  
8 relocation, or removal of a facility, less any costs for improvements  
9 or upgrading over and above the cost of a functionally equal facility;  
10 if a facility is to be relocated and replaced with new equipment,  
11 there shall also be subtracted from the entire cost any salvage value  
12 derived from the old facility;

13 (3) "department" means the Department of Transportation and  
14 Public Facilities;

15 (4) "encroachment" includes a tower, pole, poleline, pipe,  
16 pipeline, driveway, private road, fence, billboard, stand or building,  
17 or a structure or object of any kind that is or has been placed in,  
18 on, under, or over a portion of a public facility;

19 (5) "maintenance" means the preservation of each type of  
20 facility as nearly as possible in its original condition as construct-  
21 ed, or as improved;

22 (6) "public building" means a building owned or controlled  
23 and held by the state for government or public use;

24 (7) "public facility" or "public work" means a structure or  
25 project constructed or maintained by the department except airports  
26 and highways, and includes public buildings, boat harbors, port facil-  
27 ities, dikes, jetties, and breakwaters;

28 (8) "utility" includes a corporation, company, individual,  
29 or association of individuals, or a lessee, trustee, or court-appointed  
receiver, that owns, operates, manages, or controls a line, plant,

1  
2 pipeline, or system for furnishing, producing, generating, transmit  
3 ting, or distributing power, electricity, communications, telecommu  
4 nications, water, gas, oil, petroleum products, coal or other minera  
5 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
6 connected with public facility drainage, irrigation, or similar prod  
7 ucts including publicly owned fire and police signal systems and  
8 street lighting systems that directly or indirectly serve the public  
9 or a segment of the public; "utility" also includes a corporation  
10 company, individual, or association of individuals, or a lessee  
11 trustee, or court-appointed receiver that owns, operates, manages, or  
12 controls any system for furnishing transportation of goods or persons  
13 by means of a railway, tramway, cableway, conveyor, flume, canal  
14 tunnel, pipeline, or a similar means;

15 (9) "utility facility" includes poles, plants, lines  
16 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
17 for furnishing, producing, generating, transmitting, or distributing  
18 power, electricity, communications, telecommunications, water, gas  
19 oil, petroleum products, coal or other mineral slurry, steam, heat  
20 light, chemicals, air, sewage, drainage not connected with a public  
21 facility drainage system, irrigation, or another substance; "utility  
22 facility" also includes a system for furnishing transportation of  
23 goods or persons by means of a railway, tramway, cableway, conveyor  
24 flume, canal, tunnel, pipeline, or a similar means.

25 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.  
26 10.070(c).

Offered: 2/22/85  
Referred: Transportation  
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 159 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to utilities and encroachments in  
state airports, public facilities, and highways; and  
providing for an effective date."

7

8

9

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

10

\* Section 1. AS 02.15 is amended by adding new sections to article 2 to  
read:

11

12

Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
ity may be constructed, placed, or maintained across, along, over,  
under, or within a state airport only in accordance with regulations  
adopted or procedures prescribed by the department and only if au-  
thorized by a written permit issued by the department.

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Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
project, the department determines and orders that a utility facility  
located across, along, over, under, or within a state airport must be  
changed, relocated, or removed, the utility owning or maintaining the  
facility shall change, relocate, or remove it in accordance with the  
order, within a reasonable time set by the department in the order.

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(b) If the utility facility is not changed, relocated, or re-  
moved in accordance with the order, any permit authorizing the facil-  
ity issued by the department under AS 02.15.102 becomes invalid and  
the facility will be considered an unauthorized encroachment subject  
to the provisions of AS 02.15.114.

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(c) The cost of change, relocation, or removal, as defined in

*Regulation - joint act*

1 AS 02.15.260, ordered under (a) of this section is to be paid as  
2 follows:

3 (1) by the department as a cost of airport construction,  
4 provided that the utility facility is properly installed in accordance  
5 with a permit, or in the absence of a permit, was installed before the  
6 effective date of this Act in the proper location in accordance with  
7 department regulations;

8 (2) by the utility in all other cases.

9 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
10 constructed, placed, changed, or maintained across or within an air-  
11 port, but only in accordance with regulations or procedures adopted by  
12 the department. An encroachment may not be constructed, placed, main-  
13 tained, or changed until it is authorized by a written permit issued  
14 by the department, unless the department provides otherwise by regula-  
15 tion.

16 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
17 incidental to the construction or maintenance of a state airport the  
18 department determines and orders that an encroachment previously  
19 authorized by written permit must be changed, relocated, or removed,  
20 the owner of the encroachment shall change, relocate, or remove it  
21 within a reasonable time set by the department in the order. The cost  
22 of the change, relocation, or removal shall be paid as provided in  
23 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
24 encroachment within the time set by the department, the encroachment  
25 will be considered an unauthorized encroachment subject to the pro-  
26 visions of AS 02.15.114.

27 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
28 encroachment exists in, on, under, or over a state airport the depart-  
29 ment may require the removal of the encroachment, at the expense of

1 the owner, in the manner provided in AS 02.15.112 - 02.15.114.

2 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
3 Notice shall be given the owner, occupant, or person in possession of  
4 an unauthorized encroachment, or to another person causing or per-  
5 mitting the encroachment to exist, by serving upon any of them a  
6 notice demanding the removal of the encroachment within a time limit  
7 set by the department. The notice shall describe the encroachment  
8 with reasonable certainty as to its character and location. Service  
9 of the notice may be made by certified mail.

10 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
11 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
12 encroachment to comply with a notice or order of the department under  
13 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
14 encroachment, or cause it to be removed. The owner of the unauthor-  
15 ized encroachment shall pay to the department

- 16 (1) the expense of the removal of the encroachment;  
17 (2) all costs and expenses paid by the state as a result of  
18 a claim or claims filed against the state by third parties for damages  
19 due to delays because the encroachment was not changed, removed, or  
20 relocated according to the order of the department; and  
(3) costs and expense of suit.

22 \* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

23 (15) "cost of change, relocation, or removal" means the  
24 entire cost incurred by the utility properly attributed to the change,  
25 relocation, or removal of a facility, less the costs for improvements  
26 or upgrading over and above the cost of a functionally equal facility;  
27 if a facility is to be relocated and replaced with new equipment,  
28 there shall also be subtracted from the entire cost the salvage value  
29 derived from the old facility;

1           (16) "encroachment" includes a tower, pole, poleline, pipe,  
2 pipeline, driveway, private road, fence, billboard, stand or building,  
3 or structure or object of any kind that is or has been placed in, on,  
4 under, or over a portion of an airport;

5           (17) "utility" includes a corporation, company, individual,  
6 or association of individuals, or a lessee, trustee, or court-appointed  
7 receiver, that owns, operates, manages, or controls a line, plant,  
8 pipeline, or system for furnishing, producing, generating, transmitting,  
9 or distributing power, electricity, communications, telecommu-  
10 nications, water, gas, oil, petroleum products, coal or other mineral  
11 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
12 connected with airport drainage, irrigation, or similar products  
13 including publicly owned fire and police signal systems and street  
14 lighting systems that directly or indirectly serve the public or a  
15 segment of the public; "utility" also includes a corporation, company,  
16 individual, or association of individuals, or a lessee, trustee, or  
17 court-appointed receiver that owns, operates, manages, or controls a  
18 system for furnishing transportation of goods or persons by means of a  
19 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
20 or a similar means;

21           (18) "utility facility" includes poles, plants, lines,  
22 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
23 for furnishing, producing, generating, transmitting, or distributing  
24 power, electricity, communications, telecommunications, water, gas,  
25 oil, petroleum products, coal or other mineral slurry, steam, heat,  
26 light, chemicals, air, sewage, drainage not connected with an airport  
27 drainage system, irrigation, or another substance; "utility facility"  
28 also includes a system for furnishing transportation of goods or  
29 persons by means of a railway, tramway, cableway, conveyor, flume,

1 canal, tunnel, pipeline, or a similar means.

2 \* Sec. 3. AS 19.25.200 is amended to read:

3 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be  
4 constructed, placed, changed, or maintained across or along a highway,  
5 but only in accordance with regulations adopted by the department. An  
6 [NO] encroachment may not be constructed, placed, maintained, or  
7 changed until it is [DULY] authorized by a written permit issued by  
8 the department, unless the department provides otherwise by regula-  
9 tion.

10 \* Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

11 (12) "utility" includes a corporation, company, individual,  
12 or association of individuals, or a lessee, trustee, or court-appointed  
13 ed receiver, that owns, operates, manages, or controls a line, plant,  
14 pipeline, or system for furnishing, producing, generating, transmit-  
15 ting, or distributing power, electricity, communications, telecommu-  
16 nications, water, gas, oil, petroleum products, coal or other mineral  
17 slurry, steam, heat, light, chemicals, air, sewage, drainage not  
18 connected with highway drainage, irrigation, or similar products  
19 including publicly owned fire and police signal systems and street  
20 lighting systems that directly or indirectly serve the public or a  
21 segment of the public; "utility" also includes a corporation, company,  
22 individual, or association of individuals, or a lessee, trustee, or  
23 court-appointed receiver that owns, operates, manages, or controls a  
24 system for furnishing transportation of goods or persons by means of a  
25 railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline,  
26 or a similar means;

27 \* Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

28 (14) "utility facility" includes poles, plants, lines,  
29 trenches, bridges, utilidors, tunnels, pipelines, and any other system

*Proposed  
Amendment  
including  
AS 19.45.001  
AS 19.45.002*

1 for furnishing, producing, generating, transmitting, or distributing  
2 power, electricity, communications, telecommunications, water, gas,  
3 oil, petroleum products, coal or other mineral slurry, steam, heat,  
4 light, chemicals, air, sewage, drainage not connected with a highway  
5 drainage system, irrigation, or another substance; "utility facility"  
6 also includes <sup>(b)(2)</sup> a system for furnishing transportation of goods or  
7 persons by means of railway, tramway, cableway, conveyor, flume,  
8 canal, tunnel, pipeline, or a similar means.

9 \* Sec. 6. AS 35.10 is amended by adding new sections to read:

10 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

11 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
12 utility facility may be constructed, placed, or maintained across,  
13 along, over, under, or within a state public facility only in accor-  
14 dance with regulations adopted or procedures prescribed by the depart-  
15 ment and only if authorized by a written permit issued by the depart-  
16 ment.

17 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
18 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
19 public facility project, the department determines and orders that a  
20 utility facility located across, along, over, under, or within a state  
21 public facility must be changed, relocated, or removed, the utility  
22 owning or maintaining the facility shall change, relocate, or remove  
23 it in accordance with the order, within a reasonable time set by the  
24 department in the order.

25 (b) If the utility facility is not changed, relocated, or re-  
26 moved in accordance with the order, <sup>per 11/1/20</sup> a permit authorizing the utility  
27 issued by the department under AS 35.10.210 becomes invalid and the  
28 facility will be considered an unauthorized encroachment subject to  
29 the provisions of AS 35.10.270.

1 (c) The cost of change, relocation, or removal, as defined in  
2 AS 35.25.020, ordered under (a) of this section is to be paid as  
3 follows:

4 (1) by the department as a cost of public facility con-  
5 struction, provided that the utility facility is properly installed in  
6 accordance with a permit, or in the absence of a permit, was installed  
7 before the effective date of this Act in the proper location in accor-  
8 dance with department regulations;

9 (2) by the utility in all other cases.

10 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
11 constructed, placed, changed, or maintained across or within a public  
12 facility, but only in accordance with regulations or procedures adopt-  
13 ed by the department. An encroachment may not be constructed, placed,  
14 maintained, or changed until it is authorized by a written permit  
15 issued by the department, unless the department provides otherwise by  
16 regulation.

17 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
18 incidental to the construction or maintenance of a state public facil-  
19 ity, the department determines and orders that an encroachment pre-  
20 viously authorized by written permit must be changed, relocated, or  
21 removed, the owner of the encroachment shall change, relocate, or  
22 remove it within a reasonable time set by the department in the order.  
23 The cost of the change, relocation, or removal shall be paid as pro-  
24 vided in AS 35.10.220(c). If the owner does not change, relocate, or  
25 remove an encroachment within the time set by the department, the  
26 encroachment will be considered an unauthorized encroachment and  
27 subject to the provisions of AS 35.10.270.

28 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
29 encroachment exists in, on, under, or over a state public facility,

*New language*

1 the department may require the removal of the encroachment, at the  
2 expense of the owner, in the manner provided in AS 35.10.260 -  
3 35.10.270.

4 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
5 Notice shall be given the owner, occupant, or person in possession of  
6 an unauthorized encroachment, or to another person causing or per-  
7 mitting the encroachment to exist, by serving upon any of them a  
8 notice demanding the removal of the encroachment within a time limit  
9 set by the department. The notice shall describe the encroachment  
10 with reasonable certainty as to its character and location. Service  
11 of the notice may be made by certified mail.

12 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
13 After a failure of the owner of an unauthorized encroachment to comply  
14 with the notice or order of the department under AS 35.10.220, 35.10.-  
15 240, or 35.10.260, the department may remove the encroachment, or  
16 cause it to be removed. The owner of the unauthorized encroachment  
17 shall pay to the department

18 (1) the expense of the removal of the encroachment;

19 (2) all costs and expenses paid by the state as a result of  
20 a claim or claims filed against the state by third parties for damages  
21 due to delays because the encroachment was not changed, removed, or  
22 relocated according to the order of the department; and

23 (3) costs and expense of suit.

24 \* Sec. 7. AS 35.25.020 is repealed and reenacted to read:

25 Sec. 35.25.020. DEFINITIONS. In this title, unless the context  
26 requires otherwise,

27 (1) "construction" or a derivative of the term "construc-  
28 tion" means construction, reconstruction, alteration, improvement, or  
29 major repair;

1 (2) "cost of change, relocation, or removal" means the  
2 entire cost incurred by the utility properly attributed to the change,  
3 relocation, or removal of a facility, less any costs for improvements  
4 or upgrading over and above the cost of a functionally equal facility;  
5 if a facility is to be relocated and replaced with new equipment,  
6 there shall also be subtracted from the entire cost any salvage value  
7 derived from the old facility;

8 (3) "department" means the Department of Transportation and  
9 Public Facilities;

10 (4) "encroachment" includes a tower, pole, poleline, pipe,  
11 pipeline, driveway, private road, fence, billboard, stand or building,  
12 or a structure or object of any kind <sup>which</sup> that is or has been placed in,  
13 on, under, or over a portion of a public facility;

14 (5) "maintenance" means the preservation of each type of  
15 facility as nearly as possible in its original condition as construct-  
16 ed, or as improved;

17 (6) "public building" means a building owned or controlled  
18 and held by the state for government or public use;

19 (7) "public facility" or "public work" means a <sup>any</sup> structure or  
20 project constructed or maintained by the department except airports  
21 and highways, and includes public buildings, boat harbors, port facil-  
22 ities, dikes, jetties, and breakwaters;

23 (8) "utility" includes a corporation, com ny, individual,  
24 or association of individuals, or a lessee, trustee, or court-appoint-  
25 ed receiver, that owns, operates, manages, or controls <sup>any</sup> a line, plant,  
26 pipeline, or system for furnishing, producing, generating, transmit-  
27 ting, or distributing power, electricity, communications, telecommu-  
28 nications, water, gas, oil, petroleum products, coal or other mineral  
29 slurry, steam, heat, light, chemicals, air, sewage, drainage not

No definition  
for any class  
lands.

1 connected with public facility drainage, irrigation, or similar prod-  
2 ucts including publicly owned fire and police signal systems and  
3 street lighting systems that directly or indirectly serve the public  
4 or a segment of the public; "utility" also includes a corporation,  
5 company, individual, or association of individuals, or a lessee,  
6 trustee, or court-appointed receiver that owns, operates, manages, or  
7 controls any system for furnishing transportation of goods or persons  
8 by means of a railway, tramway, cableway, conveyor, flume, canal,  
9 tunnel, pipeline, or a similar means;

10 (9) "utility facility" includes poles, plants, lines,  
11 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
12 for furnishing, producing, generating, transmitting, or distributing  
13 power, electricity, communications, telecommunications, water, gas,  
14 oil, petroleum products, coal or other mineral slurry, steam, heat,  
15 light, chemicals, air, sewage, drainage not connected with a public  
16 facility drainage system, irrigation, or another substance; "utility  
17 facility" also includes a system for furnishing transportation of  
18 goods or persons by means of a railway, tramway, cableway, conveyor,  
19 flume, canal, tunnel, pipeline, or a similar means.

20 \* Sec. 8. This Act takes effect immediately in accordance with AS 01.-  
21 10.070(c).

RONDA  
HSE TPS P. - Room 108  
4858

HOUSE BILL 160  
PROPOSED AMENDMENTS

Section 1. AS 19.25.020(c) is amended to read:

(c) The cost of change, relocation or removal necessitated by highway construction is [A COST OF HIGHWAY CONSTRUCTION] to be paid [BY THE STATE] in accordance with AS 19.45.001(4) as follows:

(1) by the department as a cost of highway construction if the facility was installed before the effective date of this act;

(2) by the department as a cost of highway construction if the facility was installed or authorized under the authority of a utility permit issued after the effective date of this act;

(3) by the utility in all other cases. *NOT NECESSARY - repetitions*

→ (3) by the utility in all other cases, except when the Commissioner finds it in the public interest for the cost to be paid by the department

Please apply same amendments, where appropriate, to ~~#~~ CS HB 159 (C&RA).

Committee had since bills 159 & 160 before them on March 19, 1985. At that time Bruce Truog, DOT explained the extent of the bills & attempted to answer a multitude of questions & concerns of our committee.

Mr. Ken Gibson, Alaska Rural Electric Co-op Association expressed concern that any relocation of facilities or any facilities that are in fact new & built on grandfathered in. Any relocation of a utility facility that was in place prior to the enactment of this legislation would be paid for by the state.

CSHB 160 (TRSP) Changes include:  
Title Change -

Offered: 2/22/85  
Referred: Transportation  
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE  
2  
3 CS FOR HOUSE BILL NO. 160 (C&RA)  
4 IN THE LEGISLATURE OF THE STATE OF ALASKA  
5 FOURTEENTH LEGISLATURE - FIRST SESSION  
6 A BILL  
7 For an Act entitled: "An Act relating to relocation of utilities incident  
8 to highway projects; and providing for an effective  
9 date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. AS 19.25.020(c) is amended to read:  
12 (c) The cost of change, relocation, or removal necessitated by  
13 highway construction is a cost of highway construction to be paid [BY  
14 THE STATE] in accordance with AS 19.45.001(4) as follows:  
15 (1) by the department as a cost of highway construction,  
16 provided that the utility facility is properly installed in accordance  
17 with a permit, or in the absence of a permit, was installed before the  
18 effective date of this paragraph in the proper location in accordance  
19 with department regulations;  
20 (2) by the utility in all other cases [, NOTWITHSTANDING THE  
21 TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR  
22 STATUTE TO THE CONTRARY].  
23 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

Offered: 2/22/85  
Referred: Transportation  
and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

2

CS FOR HOUSE BILL NO. 160 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to relocation of utilities, incident-  
7 to highway projects; and providing for an effective-  
8 date."

9

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

10

\* Section 1. AS 19.25.020(c) is amended to read:

11

(c) The cost of change, relocation, or removal necessitated by

12

highway construction is a cost of highway construction to be paid [BY

13

THE STATE] in accordance with AS 19.45.001(4) as follows:

14

~~2 (1)~~ <sup>2 (1)</sup> by the department as a cost of highway construction,

15

provided that the utility facility is properly installed in accordance

16

with a permit, or in the absence of a permit, was installed before the

17

effective date of this paragraph in the proper location in accordance

18

with department regulations;

19

<sup>3</sup> (2) by the utility in all other cases [, NOTWITHSTANDING THE

20

TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR

21

STATUTE TO THE CONTRARY].

22

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

23

10.070(c).

*(1) by the dept. as a cost of hwy construction  
if the facility was installed before July 1, 1960,  
regardless of whether the facility is  
authorized by a permit at the time the  
change, relocation, or removal of the  
facility is required.*

-1-

CSHB 160(C&RA)

DAVE HUTCHENS —

Got basics of HB 160 +

DRASTIC CHANGE OF CSHB 160(C&RA)

WHAT IS CSHB 160(CTRSP) 9021

proposed — how does it fit?

Why leave in "a cost of hwy  
construction"



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUN AK

February 1, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies authority of the Department of Transportation and Public Facilities (DOT/PF) to set up a permit system to authorize utilities and other encroachments in state airports and other public facilities. In addition, the bill amends AS 19.25.200 so that DOT/PF will have the statutory authority to allow encroachments in highways without a permit so long as such exceptions are provided for by regulation. The bill also provides for dealing with the relocation or removal of utilities and encroachments in state airports and public facilities.

For the most part, the bill tracks existing statutory language that deals with utilities and encroachments in highway rights-of-way, (AS 19.25.010, 19.25.020, and 19.25.200 -- 19.25.250). A section-by-section analysis of the bill follows.

I urge your favorable action on this measure so that there is no doubt that DOT/PF has the authority to implement a utility and encroachment permit system for state airports and public facilities.

SECTION-BY-SECTION ANALYSIS

Section 1 amends art. 2 of AS 02.15 concerning state airports by adding eight new sections. A brief explanation of each of these new sections is set out below:

AS 02.15.102 authorizes utilities to be installed in state airports so long as they are installed under permit.

AS 02.15.104 sets out a procedure for relocating a utility if the relocation is required because of airport construction. The procedure requires that notice be given the utility. Subsection (b) authorizes the state to move the utility, at no cost to the state, if the notice to relocate is disregarded. Subsection (c) makes it clear that the cost of change or relocation in compliance with (a) of that section is to be determined by the language of the utility permit. Subsection (c) also makes it clear that the utility is required to pay for relocation costs if there is no utility permit issued for the utility facility, or if the utility facility is not installed in the location provided for in the utility permit.

AS 02.15.106 authorizes encroachments to be installed in state airports so long as they are installed under permit, unless the department provides otherwise by regulation.

AS 02.15.108 creates a procedure for relocating or removing encroachments when relocation or removal is required by construction or maintenance of a state airport. The procedure requires that notice be given to the owner of the encroachment.

AS 02.15.110 authorizes the state to require the removal of unauthorized encroachments.

AS 02.15.112 requires the state to give notice to owner of unauthorized encroachments in the event the state determines that the encroachment must be removed.

AS 02.15.114 gives the state the authority to remove an encroachment if the owner fails to comply with the notice given under AS 02.15.104 or 02.15.108, or 02.15.112. This section also makes it clear that if the state removes an encroachment under these circumstances, the cost of removal is to be borne by the owner of the encroachment.

AS 02.15.116 gives the state the authority to summarily remove any encroachment that obstructs the use of a state airport by the public, or interferes with the safe operation of the airport.

Section 2 of the bill amends AS 02.15.260 by adding four new definitions. The new definitions added are: "cost of change, relocation or removal," "encroachment," "utility" and "utility facility."

Section 3 of the bill amends AS 19.25.200 by adding a clause that grants DOT/PF the authority to allow encroachments in highways without a permit so long as such exceptions are provided for by regulation.

Section 4 of the bill repeals and reenacts AS 19.45.001(12), in the general definition section relating to highways, to make the definition of "utility" consistent with the definition of that term in the statute dealing with airports in sec. 1 of the bill and with public facilities in sec. 7 of the bill.

Section 5 of the bill amends AS 19.45.001 by adding a definition of "utility facility" that is consistent with the definition of that term in secs. 1 and 7 of the bill.

Section 6 of the bill amends AS 35.10 by adding a new article concerning utilities and encroachment in public facilities. This article is nearly identical to the eight new sections which sec. 1 of the bill would add to AS 02.15 concerning utilities and encroachment in state airports.

Section 7 of the bill repeals and reenacts AS 35.25.020, the general definition section for Title 35. The existing definition of "public works" is deleted. New definitions for "cost of change, relocation, or removal," "encroachment," "public facility" or "public work," "utility," and "utility facility" are added. Five of the existing definitions are retained.

Section 8 of the bill establishes an effective date of July 1, 1985.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

Introduced: 2/1/85  
Referred: Community & Regional  
Affairs, Transportation and  
Finance

*Clarified authority of DOT to set  
up a permit system to regulate  
utilities - other encroachments on  
state airports & other public  
facilities*

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 159

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to utilities and encroachments in  
7 state airports, public facilities, and highways; and  
8 providing for an effective date."

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

10 \* Section 1. AS 02.15 is amended by adding new sections to article 2 to  
11 read:

12 Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
13 ity may be constructed, placed, or maintained across, along, over,  
14 under, or within a state airport only in accordance with regulations  
15 adopted or procedures prescribed by the department and only if au-  
16 thorized by a written permit issued by the department.

17 Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
18 AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
19 project, the department determines and orders that a utility facility  
20 located across, along, over, under, or within a state airport must be  
21 changed, relocated, or removed, the utility owning or maintaining the  
22 facility must change, relocate, or remove it in accordance with the  
23 order, within a reasonable time set by the department in the order.

24 (b) If the utility facility is not changed, relocated, or  
25 removed in accordance with the order, any permit authorizing the  
26 facility issued by the department under AS 02.15.102 becomes invalid  
27 and the facility will be considered an unauthorized encroachment  
28 subject to the provisions of AS 02.15.114.

29 (c) The cost of change, relocation, or removal, as defined in

1 AS 02.15.260(15), ordered under (a) of this section is to be paid as  
2 follows:

3 (1) by either the department as a cost of airport construc-  
4 tion, or by the utility, depending on the terms of the utility permit;

5 (2) by the utility if there is no utility permit issued for  
6 the utility facility;

7 (3) by the utility if the utility facility is not installed  
8 in the location provided for in the utility permit, regardless of  
9 whether the utility permit requires payment by the department.

10 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
11 constructed, placed, changed, or maintained across or within an air-  
12 port, but only in accordance with regulations or procedures adopted by  
13 the department. No encroachment may be constructed, placed, main-  
14 tained, or changed until it is authorized by a written permit issued  
15 by the department, unless the department provides otherwise by regula-  
16 tion.

17 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
18 incidental to the construction or maintenance of a state airport the  
19 department determines and orders that an encroachment previously  
20 authorized by written permit must be changed, relocated, or removed,  
21 the owner of the encroachment shall change, relocate, or remove it  
22 within a reasonable time set by the department in the order. The cost  
23 of the change, relocation, or removal shall be paid as provided in  
24 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
25 encroachment within the time set by the department, the encroachment  
26 will be considered an unauthorized encroachment and subject to the  
27 provisions of AS 02.15.114.

28 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
29 encroachment exists in, on, under, or over a state airport the

*Deleted  
& new language  
inserted in  
AS*

1 department may require the removal of the encroachment, at the expense  
2 of the owner, in the manner provided in AS 02.15.112 -- 02.15.114.

3 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
4 Notice shall be given the owner, occupant, or person in possession of  
5 an unauthorized encroachment, or to any other person causing or per-  
6 mitting the encroachment to exist, by serving upon any of them a  
7 notice demanding the removal of the encroachment within a time limit  
8 set by the department. The notice shall describe the encroachment  
9 with reasonable certainty as to its character and location. Service  
10 of the notice may be made by certified mail.

11 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
12 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
13 encroachment to comply with a notice or order of the department under  
14 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
15 encroachment, or cause it to be removed. The owner of the unauthor-  
16 ized encroachment shall pay to the department

17 (1) the expense of the removal of the encroachment;

18 (2) all costs and expenses paid by the state as a result of  
19 a claim or claims filed against the state by third parties for damages  
20 due to delays because the encroachment was not changed, removed, or  
21 relocated according to the order of the department; and

22 (3) costs and expense of suit.

23 Deleted  
24 No new  
25 language  
26 added  
27 Sec. 02.15.116. SUMMARY REMOVAL. The department may at any time  
28 and without notice remove from a state airport an encroachment or  
29 utility facility which obstructs or prevents the use of the airport by  
the public, or interferes with the safe operation of the airport.

\* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

28 (15) "cost of change, relocation, or removal" means the  
29 entire cost incurred by the utility properly attributed to the change,

1 relocation, or removal of a facility, less any costs for improvements  
2 or upgrading over and above the cost of a functionally equal facility;  
3 if a facility is to be relocated and replaced with new equipment,  
4 there shall also be subtracted from the entire cost any salvage value  
5 derived from the old facility;

6 (16) "encroachment" includes a tower, pole, poleline, pipe,  
7 pipeline, driveway, private road, fence, billboard, stand or building,  
8 or structure or object of any kind <sup>there</sup> which is or has been placed in, on,  
9 under, or over a portion of an airport;

10 (17) "utility" includes any corporation, company, individu-  
11 al, or association of individuals, or any lessee, trustee, or court-  
12 appointed receiver, that owns, operates, manages, or controls any  
13 line, plant, pipeline, or system for furnishing, producing, generat-  
14 ing, transmitting, or distributing power, electricity, communications,  
15 telecommunications, water, gas, oil, petroleum products, coal or other  
16 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage  
17 not connected with airport drainage, irrigation, or similar products  
18 including publicly owned fire and police signal systems and street  
19 lighting systems which directly or indirectly serve the public or a  
20 segment of the public; "utility" also includes any corporation, compa-  
21 ny, individual, or association of individuals, or any lessee, trustee,  
22 or court-appointed receiver that owns, operates, manages, or controls  
23 any system for furnishing transportation of goods or persons by means  
24 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,  
25 pipeline, or a similar means;

26 (18) "utility facility" includes poles, plants, lines,  
27 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
28 for furnishing, producing, generating, transmitting, or distributing  
29 power, electricity, communications, telecommunications, water, gas,

1 oil, petroleum products, coal or other mineral slurry, steam, heat,  
2 light, chemicals, air, sewage, drainage not connected with an airport  
3 drainage system, irrigation, or any other substance; "utility facili-  
4 ty" also includes any system for furnishing transportation of goods or  
5 persons by means of a railway, tramway, cableway, conveyor, flume,  
6 canal, tunnel, pipeline, or a similar means.

7 \* Sec. 3. AS 19.25.200 is amended to read:

8 Sec. 19.25.200. ENCROACHMENT PERMITS. An encroachment may be  
9 constructed, placed, changed, or maintained across or along a highway,  
10 but only in accordance with regulations adopted by the department. No  
11 encroachment may be constructed, placed, maintained, or changed until  
12 it is [DULY] authorized by a written permit issued by the department,  
13 unless the department provides otherwise by regulation.

14 \* Sec. 4. AS 19.45.001(12) is repealed and reenacted to read:

15 (12) "utility" includes any corporation, company, individu-  
16 al, or association of individuals, or any lessee trustee, or court-  
17 appointed receiver, that owns, operates, manages, or controls any  
18 line, plant, pipeline, or system for furnishing, producing, generat-  
19 ing, transmitting, or distributing power, electricity, communications,  
20 telecommunications, water, gas, oil, petroleum products, coal or other  
21 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage  
22 not connected with highway drainage, irrigation, or similar products  
23 including publicly owned fire and police signal systems and street  
24 lighting systems which directly or indirectly serve the public or a  
25 segment of the public; "utility" also includes any corporation, compa-  
26 ny, individual, or association of individuals, or any lessee, trustee,  
27 or court-appointed receiver that owns, operates, manages, or controls  
28 any system for furnishing transportation of goods or persons by means  
29 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,

1 pipeline, or a similar means;

2 \* Sec. 5. AS 19.45.001 is amended by adding a new paragraph to read:

3 (14) "utility facility" includes poles, plants, lines,  
4 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
5 for furnishing, producing, generating, transmitting, or distributing  
6 power, electricity, communications, telecommunications, water, gas,  
7 oil, petroleum products, coal or other mineral slurry, steam, heat,  
8 light, chemicals, air, sewage, drainage not connected with a highway  
9 drainage system, irrigation, or any other substance; "utility facili-  
10 ty" also includes any system for furnishing transportation of goods or  
11 persons by means of railway, tramway, cableway, conveyor, flume,  
12 canal, tunnel, pipeline, or a similar means.

13 \* Sec. 6. AS 35.10 is amended by adding new sections to read:

14 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

15 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
16 utility facility may be constructed, placed, or maintained across,  
17 along, over, under, or within a state public facility only in accor-  
18 dance with regulations adopted or procedures prescribed by the depart-  
19 ment and only if authorized by a written permit issued by the depart-  
20 ment.

21 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
22 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
23 public facility project, the department determines and orders that a  
24 utility facility located across, along, over, under, or within a state  
25 public facility must be changed, relocated, or removed, the utility  
26 owning or maintaining the facility <sup>shall</sup> must change, relocate, or remove it  
27 in accordance with the order, within a reasonable time set by the  
28 department in the order.

29 (b) If the utility facility is not changed, relocated, or

1 removed in accordance with the order, any permit authorizing the  
2 utility issued by the department under AS 35.10.210 becomes invalid  
3 and the facility will be considered an unauthorized encroachment  
4 subject to the provisions of AS 35.10.270.

5 (c) The cost of change, relocation, or removal, as defined in  
6 AS 35.25.020(2), ordered under (a) of this section is to be paid as  
7 follows:

8 (1) by either the department as a cost of public facility  
9 construction, or by the utility, depending on the terms of the utility  
10 permit;

11 (2) by the utility if there is no utility permit issued for  
12 the utility facility;

13 (3) by the utility if the utility facility is not installed  
14 in the location provided for in the utility permit, regardless of  
15 whether the utility permit requires payment by the department.

16 Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
17 constructed, placed, changed, or maintained across or within a public  
18 facility, but only in accordance with regulations or procedures adopt-  
19 ed by the department. No encroachment may be constructed, placed,  
20 maintained, or changed until it is authorized by a written permit  
21 issued by the department, unless the department provides otherwise by  
22 regulation.

23 Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
24 incidental to the construction or maintenance of a state public facili-  
25 ty, the department determines and orders that an encroachment pre-  
26 viously authorized by written permit must be changed, relocated, or  
27 removed, the owner of the encroachment shall change, relocate, or  
28 remove it within a reasonable time set by the department in the order.  
29 The cost of the change, relocation, or removal shall be paid as

*Deleted  
New added  
12/25*

1 provided in AS 35.10.220(c). If the owner does not change, relocate,  
2 or remove an encroachment within the time set by the department, the  
3 encroachment will be considered an unauthorized encroachment and  
4 subject to the provisions of AS 35.10.270.

5 Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
6 encroachment exists in, on, under, or over a state public facility,  
7 the department may require the removal of the encroachment, at the  
8 expense of the owner, in the manner provided in AS 35.10.260 --  
9 35.10.270.

10 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
11 Notice shall be given the owner, occupant, or person in possession of  
12 an unauthorized encroachment, or to any other person causing or per-  
13 mitting the encroachment to exist, by serving upon any of them a  
14 notice demanding the removal of the encroachment within a time limit  
15 set by the department. The notice shall describe the encroachment  
16 with reasonable certainty as to its character and location. Service  
17 of the notice may be made by certified mail.

18 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
19 After a failure of the owner of an unauthorized encroachment to comply  
20 with the notice or order of the department under AS 35.10.220, 35.10.-  
21 240, or 35.10.260, the department may remove the encroachment, or  
22 cause it to be removed. The owner of the unauthorized encroachment  
23 shall pay to the department

- 24 (1) the expense of the removal of the encroachment;  
25 (2) all costs and expenses paid by the state as a result of  
26 a claim or claims filed against the state by third parties for damages  
27 due to delays because the encroachment was not changed, removed, or  
28 relocated according to the order of the department; and  
29 (3) costs and expense of suit.

*Deleted*

1           Sec. 35.10.280. SUMMARY REMOVAL. The department may at any time  
2 and without notice remove from a state public facility an encroachment  
3 or a utility facility which obstructs or prevents the use of the  
4 public facility by the public, or interferes with the safe operation  
5 of the public facility.

6 \* Sec. 7. AS 35.25.020 is repealed and reenacted to read:

7           Sec. 35.25.020. DEFINITIONS. In this title, unless the context  
8 requires otherwise,

9                   (1) "construction" or any derivative of the term "con-  
10 struction" means construction, reconstruction, alteration, improve-  
11 ment, or major repair;

12                   (2) "cost of change, relocation, or removal" means the  
13 entire cost incurred by the utility properly attributed to the change,  
14 relocation, or removal of a facility, less any costs for improvements  
15 or upgrading over and above the cost of a functionally equal facility;  
16 if a facility is to be relocated and replaced with new equipment,  
17 there shall also be subtracted from the entire cost any salvage value  
18 derived from the old facility;

19                   (3) "department" means the Department of Transportation and  
20 Public Facilities;

21                   (4) "encroachment" includes a tower, pole, poleline, pipe,  
22 pipeline, driveway, private road, fence, billboard, stand or building,  
23 or a structure or object of any kind which is or has been placed in,  
24 on, under, or over a portion of a public facility;

25                   (5) "excess lands" means lands acquired for the state in  
26 excess of land required for a public facility, when the remaining  
27 portion of a parcel of land acquired is left in a shape or condition  
28 as to be of little or no value to its owner, or to give rise to claims  
29 or litigation concerning severance or other damage;

*Deleted*

1           (6) "maintenance" means the preservation of each type of  
2 facility as nearly as possible in its original condition as construct-  
3 ed, or as improved;

4           (7) "public building" means a building owned or controlled  
5 and held by the state for government or public use;

6           (8) "public facility" or "public work" means any <sup>a</sup> structure  
7 or project constructed or maintained by the department except airports  
8 and highways, and includes public buildings, boat harbors, port facil-  
9 ities, dikes, jetties, and breakwaters;

10           (9) "utility" includes any corporation, company, individu-  
11 al, or association of individuals, or any lessee, trustee, or court-  
12 appointed receiver, that owns, operates, manages, or controls any  
13 line, plant, pipeline, or system for furnishing, producing, generat-  
14 ing, transmitting, or distributing power, electricity, communications,  
15 telecommunications, water, gas, oil, petroleum products, coal or other  
16 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage  
17 not connected with public facility drainage, irrigation, or similar  
18 products including publicly owned fire and police signal systems and  
19 street lighting systems which directly or indirectly serve the public  
20 or a segment of the public; "utility" also includes any corporation,  
21 company, individual, or association of individuals, or any lessee,  
22 trustee, or court-appointed receiver that owns, operates, manages, or  
23 controls any system for furnishing transportation of goods or persons  
24 by means of a railway, tramway, cableway, conveyer, flume, canal,  
25 tunnel, pipeline, or a similar means;

26           (10) "utility facility" includes poles, plants, lines,  
27 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
28 for furnishing, producing, generating, transmitting, or distributing  
29 power, electricity, communications, telecommunications, water, gas,

1 oil, petroleum products, coal or other mineral slurry, steam, heat,  
2 light, chemicals, air, sewage, drainage not connected with a public  
3 facility drainage system, irrigation, or any other substance; "utility  
4 facility" also includes any system for furnishing transportation of  
5 goods or persons by means of a railway, tramway, cableway, conveyor,  
6 flume, canal, tunnel, pipeline, or a similar means.

7 \* Sec. 8. This Act takes effect July 1, 1985. *Changed to "immediate effect"*

# Alaska State Legislature



## House of Representatives

### Committee on Transportation

Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

#### MEMORANDUM

Date: 16 March 1985  
To: House Transportation Committee Members  
From: Representative Bette Cato, Chairman *BC*  
House Transportation Committee  
Re: CSHB 159(C&RA)

According to Governor Sheffield's transmittal letter of February 1, 1985 for HB 159, the bill was introduced to clarify the authority of the Department of Transportation and Public Facilities to set up a permit system to authorize utilities and other encroachments in state airports and other public facilities (similar to what already is established for highways).

During the House Community and Regional Affairs Committee meeting of February 18, 1985, Mr. Freitag, DOT, pointed out, in response to questions, that currently the state of Alaska pays for relocation of utilities in the case of highways and now DOT was trying to do that for other facilities.

It seems that at the present time, DOT does not have the statutory authority to do some of the things it is doing by regulation, and both the department and the utility companies want to clarify responsibility for the cost of relocating utility facilities.

The Administration proposed a very similar bill last session (SB 398), but it never received any hearings. The differences in last year's bill and HB 159 is the addition of Section 3 (which grants DOT the authority to allow encroachments in highways without a permit so long as such exceptions are provided for by regulation) and Section 5 (which adds a definition of utility facility to be consistent with the definition in sections 1 and 7 of the bill).

The bill which some members were thinking of during our last hearing, I believe, is SB 67 which would grant municipalities the authority to order a utility to relocate its facility if necessary for construction of a highway project. Please, let's not get the bills before us at this time confused with SB 67.

Additional information comparing HB 159 and CSHB 159(C&RA) is in your packets, along with the previously provided information which included the governor's transmittal letter, fiscal note, statutes, regulations, and minutes the Community and Regional Affairs Committee meetings.

Introduced: 1/31/86  
Referred: Labor and Commerce,  
Transportation and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 398

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to utilities and encroachments in  
7 state airports, public facilities, and highways; and  
8 providing for an effective date."

9

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

10

\* Section 1. AS 02.15 is amended by adding new sections to article 2 to

11

read:

12

Sec. 02.15.102. USE OF AIRPORTS FOR UTILITIES. A utility facil-  
13 ity may be constructed, placed, or maintained across, along, over,  
14 under, or within a state airport only in accordance with regulations  
15 adopted or procedures prescribed by the department and only if au-  
16 thorized by a written permit issued by the department.

17

Sec. 02.15.104. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
18 AIRPORT PROJECTS. (a) If, incident to the construction of an airport  
19 project, the department determines and orders that a utility facility  
20 located across, along, over, under, or within a state airport must be  
21 changed, relocated, or removed, the utility owning or maintaining the  
22 facility must change, relocate, or remove it in accordance with the  
23 order, within a reasonable time set by the department in the order.

24

(b) If the utility facility is not changed, relocated, or  
25 removed in accordance with the order, any permit authorizing the  
26 facility issued by the department under AS 02.15.102 becomes invalid  
27 and the facility will be considered an unauthorized encroachment  
28 subject to the provisions of AS 02.15.114.

29

(c) The cost of change, relocation, or removal, as defined in

1 AS 02.15.260(15), ordered under (a) of this section is to be paid as  
2 follows:

3 (1) by either the department as a cost of airport construc-  
4 tion, or by the utility, depending on the terms of the utility permit;

5 (2) by the utility if there is no utility permit issued for  
6 the utility facility;

7 (3) by the utility if the utility facility is not installed  
8 in the location provided for in the utility permit, regardless of  
9 whether the utility permit requires payment by the department.

10 Sec. 02.15.106. ENCROACHMENT PERMITS. An encroachment may be  
11 constructed, placed, changed, or maintained across or within an air-  
12 port, but only in accordance with regulations or procedures adopted by  
13 the department. No encroachment may be constructed, placed, main-  
14 tained, or changed until it is authorized by a written permit issued  
15 by the department.

16 Sec. 02.15.108. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
17 incidental to the construction or maintenance of a state airport the  
18 department determines and orders that an encroachment previously  
19 authorized by written permit must be changed, relocated, or removed,  
20 the owner of the encroachment shall change, relocate, or remove it  
21 within a reasonable time set by the department in the order. The cost  
22 of the change, relocation, or removal shall be paid as provided in  
23 AS 02.15.104(c). If the owner does not change, relocate, or remove an  
24 encroachment within the time set by the department, the encroachment  
25 will be considered an unauthorized encroachment and subject to the  
26 provisions of AS 02.15.114.

27 Sec. 02.15.110. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
28 encroachment exists in, on, under, or over a state airport the depart-  
29 ment may require the removal of the encroachment, at the expense of

1 the owner, in the manner provided in AS 02.15.112 -- 02.15.114.

2 Sec. 02.15.112. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.

3 Notice shall be given the owner, occupant, or person in possession of  
4 an unauthorized encroachment, or to any other person causing or per-  
5 mitting the encroachment to exist, by serving upon any of them a  
6 notice demanding the removal of the encroachment within a time limit  
7 set by the department. The notice shall describe the encroachment  
8 with reasonable certainty as to its character and location. Service  
9 of the notice may be made by certified mail.

10 Sec. 02.15.114. REMOVAL AT OWNER'S EXPENSE AFTER NONCOMPLIANCE;  
11 REMOVAL EXPENSE. After a failure of the owner of an unauthorized  
12 encroachment to comply with a notice or order of the department under  
13 AS 02.15.104, 02.15.108, or 02.15.112, the department may remove the  
14 encroachment, or cause it to be removed. The owner of the unauthor-  
15 ized encroachment shall pay to the department

16 (1) the expense of the removal of the encroachment;

17 (2) all costs and expenses paid by the state as a result of  
18 a claim or claims filed against the state by third parties for damages  
19 due to delays because the encroachment was not changed, removed, or  
20 relocated according to the order of the department; and

21 (3) costs and expense of suit.

22 Sec. 02.15.116. SUMMARY REMOVAL. The department may at any time  
23 and without notice remove from a state airport an encroachment or  
24 utility facility which obstructs or prevents the use of the airport by  
25 the public, or interferes with the safe operation of the airport.

26 \* Sec. 2. AS 02.15.260 is amended by adding new paragraphs to read:

27 (15) "cost of change, relocation, or removal" means the  
28 entire cost incurred by the utility properly attributed to the change,  
29 relocation, or removal of a facility, less any costs for improvements

1 or upgrading over and above the cost of a functionally equal facility;  
2 if a facility is to be relocated and replaced with new equipment,  
3 there shall also be subtracted from the entire cost any salvage value  
4 derived from the old facility;

5 (16) "encroachment" includes a tower, pole, poleline, pipe,  
6 pipeline, driveway, private road, fence, billboard, stand or building,  
7 or structure or object of any kind which is or has been placed in, on,  
8 under, or over a portion of an airport;

9 (17) "utility" includes any corporation, company, individu-  
10 al, or association of individuals, or any lessee, trustee, or court-  
11 appointed receiver, that owns, operates, manages, or controls any  
12 line, plant, pipeline, or system for furnishing, producing, generat-  
13 ing, transmitting, or distributing power, electricity, communications,  
14 telecommunications, water, gas, oil, petroleum products, coal or other  
15 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage  
16 not connected with highway drainage, irrigation, or similar products  
17 including publicly owned fire and police signal systems and street  
18 lighting systems which directly or indirectly serve the public or a  
19 segment of the public; "utility" also includes any corporation, compa-  
20 ny, individual, or association of individuals, or any lessee, trustee,  
21 or court-appointed receiver that owns, operates, manages, or controls  
22 any system for furnishing transportation of goods or persons by means  
23 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,  
24 pipeline, or a similar means;

25 (18) "utility facility" includes poles, plants, lines,  
26 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
27 for furnishing, producing, generating, transmitting, or distributing  
28 power, electricity, communications, telecommunications, water, gas,  
29 oil, petroleum products, coal or other mineral slurry, steam, heat,

1 light, chemicals, air, sewage, drainage not connected with an airport  
2 drainage system, irrigation, or any other substance; "utility facili-  
3 ty" also includes any system for furnishing transportation of goods or  
4 persons by means of a railway, tramway, cableway, conveyor, flume,  
5 canal, tunnel, pipeline, or a similar means.

6 \* Sec. 3. AS 35.10 is amended by adding new sections to read:

7 ARTICLE 6. UTILITIES AND ENCROACHMENTS IN PUBLIC FACILITIES.

8 Sec. 35.10.210. USE OF PUBLIC FACILITIES FOR UTILITIES. A  
9 utility facility may be constructed, placed, or maintained across,  
10 along, over, under, or within a state public facility only in accor-  
11 dance with regulations adopted or procedures prescribed by the depart-  
12 ment and only if authorized by a written permit issued by the depart-  
13 ment.

14 Sec. 35.10.220. RELOCATION OF UTILITY FACILITIES INCIDENT TO  
15 PUBLIC FACILITY PROJECTS. (a) If, incident to the construction of a  
16 public facility project, the department determines and orders that a  
17 utility facility located across, along, over, under, or within a state  
18 public facility must be changed, relocated, or removed, the utility  
19 owning or maintaining the facility must change, relocate, or remove it  
20 in accordance with the order, within a reasonable time set by the  
21 department in the order.

22 (b) If the utility facility is not changed, relocated, or  
23 removed in accordance with the order, any permit authorizing the  
24 utility issued by the department under AS 35.10 210 becomes invalid  
25 and the facility will be considered an unauthorized encroachment  
26 subject to the provisions of AS 35.10.270.

27 (c) The cost of change, relocation, or removal, as defined in  
28 AS 35.25.020(2), ordered under (a) of this section is to be paid as  
29 follows:

1           (1) by either the department as a cost of public facility  
2 construction, or by the utility, depending on the terms of the utility  
3 permit;

4           (2) by the utility if there is no utility permit issued for  
5 the utility facility;

6           (3) by the utility if the utility facility is not installed  
7 in the location provided for in the utility permit, regardless of  
8 whether the utility permit requires payment by the department.

9           Sec. 35.10.230. ENCROACHMENT PERMITS. An encroachment may be  
10 constructed, placed, changed, or maintained across or within a public  
11 facility, but only in accordance with regulations or procedures adopt-  
12 ed by the department. No encroachment may be constructed, placed,  
13 maintained, or changed until it is authorized by a written permit  
14 issued by the department.

15           Sec. 35.10.240. RELOCATION OR REMOVAL OF ENCROACHMENT. If,  
16 incidental to the construction or maintenance of a state public facil-  
17 ity, the department determines and orders that an encroachment pre-  
18 viously authorized by written permit must be changed, relocated, or  
19 removed, the owner of the encroachment shall change, relocate, or  
20 remove it within a reasonable time set by the department in the order.  
21 The cost of the change, relocation, or removal shall be paid as pro-  
22 vided in AS 35.10.220(c). If the owner does not change, relocate, or  
23 remove an encroachment within the time set by the department, the  
24 encroachment will be considered an unauthorized encroachment and  
25 subject to the provisions of AS 35.10.270.

26           Sec. 35.10.250. UNAUTHORIZED ENCROACHMENTS. If an unauthorized  
27 encroachment exists in, on, under, or over a state public facility,  
28 the department may require the removal of the encroachment, at the  
29 expense of the owner, in the manner provided in AS 35.10.260 --

1 35.10.270.

2 Sec. 35.10.260. NOTICE OF REMOVAL OF UNAUTHORIZED ENCROACHMENT.  
3 Notice shall be given the owner, occupant, or person in possession of  
4 an unauthorized encroachment, or to any other person causing or per-  
5 mitting the encroachment to exist, by serving upon any of them a  
6 notice demanding the removal of the encroachment within a time limit  
7 set by the department. The notice shall describe the encroachment  
8 with reasonable certainty as to its character and location. Service  
9 of the notice may be made by certified mail.

10 Sec. 35.10.270. REMOVAL AFTER NONCOMPLIANCE; REMOVAL EXPENSE.  
11 After a failure of the owner of an unauthorized encroachment to comply  
12 with the notice or order of the department under AS 35.10.220, 35.10.-  
13 240, or 35.10.260, the department may remove the encroachment, or  
14 cause it to be removed. The owner of the unauthorized encroachment  
15 shall pay to the department

- 16 (1) the expense of the removal of the encroachment;  
17 (2) all costs and expenses paid by the state as a result of  
18 a claim or claims filed against the state by third parties for damages  
19 due to delays because the encroachment was not changed, removed, or  
20 relocated according to the order of the department; and  
21 (3) costs and expense of suit.

22 Sec. 35.10.280. SUMMARY REMOVAL. The department may at any time  
23 and without notice remove from a state public facility an encroachment  
24 or a utility facility which obstructs or prevents the use of the  
25 public facility by the public, or interferes with the safe operation  
26 of the public facility.

27 \* Sec. 4. AS 35.25.020 is repealed and reenacted to read:

28 Sec. 35.25.020. DEFINITIONS. In this title, unless the context  
29 requires otherwise,

1           (1) "construction" or any derivative of the term "con-  
2           struction" means construction, reconstruction, alteration, improve-  
3           ment, or major repair;

4           (2) "cost of change, relocation, or removal" means the  
5           entire cost incurred by the utility properly attributed to the change,  
6           relocation, or removal of a facility, less any costs for improvements  
7           or upgrading over and above the cost of a functionally equal facility;  
8           if a facility is to be relocated and replaced with new equipment,  
9           there shall also be subtracted from the entire cost any salvage value  
10          derived from the old facility;

11          (3) "department" means the Department of Transportation and  
12          Public Facilities;

13          (4) "encroachment" includes a tower, pole, poleline, pipe,  
14          pipeline, driveway, private road, fence, billboard, stand or building,  
15          or a structure or object of any kind which is or has been placed in,  
16          on, under, or over a portion of a public facility;

17          (5) "excess lands" means lands acquired for the state in  
18          excess of land required for a public facility, when the remaining  
19          portion of a parcel of land acquired is left in a shape or condition  
20          as to be of little or no value to its owner, or to give rise to claims  
21          or litigation concerning severance or other damage;

22          (6) "maintenance" means the preservation of each type of  
23          facility as nearly as possible in its original condition as construct-  
24          ed, or as improved;

25          (7) "public building" means a building owned or controlled  
26          and held by the state for government or public use;

27          (8) "public facility" or "public work" means any structure  
28          or project constructed or maintained by the department except airports  
29          and highways, and includes public buildings, boat harbors, port

1 facilities, dikes, jetties, and breakwaters;

2 (9) "utility" includes any corporation, company, individu-  
3 al, or association of individuals, or any lessee, trustee, or court-  
4 appointed receiver, that owns, operates, manages, or controls any  
5 line, plant, pipeline, or system for furnishing, producing, generat-  
6 ing, transmitting, or distributing power, electricity, communications,  
7 telecommunications, water, gas, oil, petroleum products, coal or other  
8 mineral slurry, steam, heat, light, chemicals, air, sewage, drainage  
9 not connected with highway drainage, irrigation, or similar products  
10 including publicly owned fire and police signal systems and street  
11 lighting systems which directly or indirectly serve the public or a  
12 segment of the public; "utility" also includes any corporation, compa-  
13 ny, individual, or association of individuals, or any lessee, trustee,  
14 or court-appointed receiver that owns, operates, manages, or controls  
15 any system for furnishing transportation of goods or persons by means  
16 of a railway, tramway, cableway, conveyor, flume, canal, tunnel,  
17 pipeline, or a similar means;

18 (10) "utility facility" includes poles, plants, lines,  
19 trenches, bridges, utilidors, tunnels, pipelines, and any other system  
20 for furnishing, producing, generating, transmitting, or distributing  
21 power, electricity, communications, telecommunications, water, gas,  
22 oil, petroleum products, coal or other mineral slurry, steam, heat,  
23 light, chemicals, air, sewage, drainage not connected with a public  
24 facility drainage system, irrigation, or any other substance; "utility  
25 facility" also includes any system for furnishing transportation of  
26 goods or persons by means of a railway, tramway, cableway, conveyor,  
27 flume, canal, tunnel, pipeline, or a similar means.

28 \* Sec. 5. AS 19.45.001(12) is repealed and reenacted to read:

29 (12) "utility" includes any corporation, company,

1 individual, or association of individuals, or any lessee, trustee, or  
2 court-appointed receiver, that owns, operates, manages, or controls  
3 any line, plant, pipeline, or system for furnishing, producing, gen-  
4 erating, transmitting, or distributing power, electricity, communica-  
5 tions, telecommunications, water, gas, oil, petroleum products, coal  
6 or other mineral slurry, steam, heat, light, chemicals, air, sewage,  
7 drainage not connected with highway drainage, irrigation, or similar  
8 products including publicly owned fire and police signal systems and  
9 street lighting systems which directly or indirectly serve the public  
10 or a segment of the public; "utility" also includes any corporation,  
11 company, individual, or association of individuals, or any lessee,  
12 trustee, or court-appointed receiver that owns, operates, manages, or  
13 controls any system for furnishing transportation of goods or persons  
14 by means of a railway, tramway, cableway, conveyor, flume, canal,  
15 tunnel, pipeline, or a similar means;

16 \* Sec. 6. This Act takes effect July 1, 1984.