

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3779 HTRA HB 159 - HB 160

088



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4833

MEMORANDUM

TO: Richard Knapp
Commissioner
Department of Transportation

FROM: Peter Goll
Chairman

A handwritten signature in cursive script that reads "Peter Goll".

SUBJECT: HB159 AMENDMENTS

IN HOUSE BILL 159:

ON PAGE 2, DELETE: Lines 3 through 9.

ON PAGE 2, INSERT NEW LANGUAGE:

- (1) by the Department as a cost of airport construction, provided that the utility facility is properly installed in accordance with a permit, or in the absence of a permit, was installed prior to the effective date of this act in the proper location in accordance with department regulations;
- (2) by the utility in all other cases.

ON PAGE 3, DELETE: Lines 23 through 26.

ON PAGE 7, DELETE Lines 8 through 15.

ON PAGE 7, INSERT NEW LANGUAGE:

- (1) by the Department as a cost of public facility construction, provided that the utility facility is properly installed in accordance with a permit, or in the absence of a permit, was installed prior to the effective date of this act in the proper location in accordance with department regulations;
- (2) by the utility in all other cases.

ON PAGE 9, DELETE Lines 1 through 5.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 396 (cont'd)

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 this 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.

Alcoholic Bev.
Control Bd.
(extending)

SENATE BILL NO. 397, by the Rules Committee by Request of the Governor. Would extend the Alcoholic Beverage Control Board until June 30, 1988 (currently set to "sunset" June 30, 1984). Provides Act takes effect immediately.

Introduced January 31 and referred to Judiciary.

In his message accompanying the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to extend the life of the Alcoholic Beverage Control Board for four years. The board has gone through several "sunset" reviews in the past few years, and its sunset date was extended from June 30, 1983 to June 30, 1984 during last year's legislative session. I believe that it is time to give the board a four-year extension so that it can continue to fulfill its responsibility for administering our alcoholic beverage control laws.

Utilities &
Encroachments
(airports &
public
facilities)

SENATE BILL NO. 398, by the Rules Committee by Request of the Governor. Relates to utilities and encroachments in state airports, public facilities and highways (see section-by-section analysis accompanying Governor's letter). Provides Act takes effect July 1, 1984.

Introduced January 31 and referred to Labor & Commerce, Transportation, Finance.

In his message accompanying the bill, Governor Sheffield stated:

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. 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 is attached.

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.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 398 (cont'd)

The following sectional analysis was included with the Governor's message:

SECTION-BY-SECTION ANALYSIS OF UTILITIES AND ENCROACHMENTS BILL

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.

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 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 4 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.

159 unless the state provides otherwise

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 398 (cont'd)

Section 5 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. 4 of the bill.

Section 6 of the bill establishes an effective date of July 1, 1984.

Trespassing
& Posting of
Land

SENATE BILL NO. 399, by Senator Faiks by request. Enacts new AS 34.52, "Trespass and Posting of Land." Provides that a legal land owner who wants to prevent trespass or entry onto his land must post notices "in conspicuous places parallel to and along the exterior boundary of the property to be protected, at each roadway or other way of access, and if the property is not fenced, the notices shall be posted every 500 feet along the exterior boundaries of the property."

The notice must prohibit all persons from trespassing or entering upon the property without the owner's permission (or owner's agent or lessee). The notices must (1) be printed legibly in English; (2) be at least 144 square inches in size; (3) contain the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property; (4) be placed at each roadway or apparent way of access on the property in addition to the boundary; and (5) state, where applicable, any specific prohibition that the posting is directed against such as "no trespassing," "no hunting," "no fishing," "no digging," etc.

Makes it a Class B misdemeanor to knowingly post land contrary to state or federal law or regulation. Does not provide for an effective date (becomes law 90 days after the Governor's signature).

Introduced February 1 and referred to Resources and Judiciary.

Pupil Trans-
portation
Contracts

SENATE BILL NO. 400, by the Rules Committee by request of the Governor. Amends AS 37.05.230(4) which exempts pupil transportation contracts awarded by the Dept. of Education from competitive bidding requirements. Deletes language pertaining to the three-year limitation on contracts, as follows: "(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; [AND THESE CONTRACTS MAY BE AWARDED BY BID OR NEGOTIATION AND, AT THE DISCRETION OF THE BOARD OF EDUCATION, MAY BE AWARDED FOR PERIOD OF THREE YEARS OR LESS;]." Effective immediately.

Introduced February 2 and referred to Health, Education & Social Services and Finance.

In his message transmitting the bill to the Senate for consideration, Governor Sheffield stated:

INTRODUCTION OF BILLS (House)(cont'd)

Conflict of Interest
(exempting certain muni's)

HOUSE BILL NO. 158, by the Rules Committee by Request of the Governor. Exempts certain municipalities from conflict of interest requirements imposed by law (see Governor's letter). Provides Act takes effect immediately.

Introduced February 1 and referred to Community & Regional Affairs, Judiciary, then Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill exempting certain municipalities from the reporting requirements of the conflict-of-interests laws of the state (AS 39.50). This bill was requested by the Alaska Public Offices Commission in an effort to simplify the conflict-of-interests reporting requirements for small municipalities. Often the smaller municipalities are unable to attract candidates for municipal office because the reporting requirements are too burdensome for would-be candidates. The exemption provided by this bill would permit a municipality to adopt conflict-of-interests procedures which are tailored to local circumstances.

The population limit set in the bill was chosen so that most of the smaller municipalities could benefit. Perhaps the legislature will determine that a smaller population limit would better serve the public interest. I am not set on a particular size limitation. I am only concerned that the smaller municipalities be given a chance to attract the best qualified citizens to serve in municipal office.

State Airports
(utilities & encroachments)

HOUSE BILL NO. 159, by the Rules Committee by Request of the Governor. Clarifies authority of the Dept. 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 (see letter and section-by-section analysis). Provides Act takes effect July 1, 1985.

Introduced February 1 and referred to Community & Regional Affairs, Transportation, then Finance.

In his message transmitting the bill, Governor Sheffield stated:

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.

INTRODUCTION OF BILLS (House)(cont'd)

HB 159 (cont'd)

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 the authority to allow encroachments in highways without a permit so long as such exceptions are provided 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," "encroach-

not in SB 397

1135397

not in SB 397

INTRODUCTION OF BILLS (House)(cont'd)

HB 159 (cont'd)

ment," "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.

Utilities
Incident to
Highway Proj.
(relocation)

HOUSE BILL NO. 160, by the Rules Committee by Request of the Governor. Relates to relocation of utilities incident to highway projects (see Governor's letter). Provides Act takes effect July 1, 1985.

Introduced February 1 and referred to Community & Regional Affairs, Transportation, then Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies who is responsible for the payment of relocation or removal costs when a utility facility is required to be changed, removed, or relocated as a result of highway construction. The bill addresses an ambiguity in AS 19.25.020(c) which presently leaves open the question of whether the state must pay for these costs even though a utility facility was not installed or authorized under the authority of a utility permit or, if a permit exists, even though the facility is not installed in the location provided for in the permit.

Some utility companies have expressed a concern over that part of paragraph (2) of sec. 1 of the bill which says that, for utility permits issued after July 1, 1960, the question of who is to pay for relocation costs is to be determined by the terms of the permit. These utility companies point out that utility permits issued between July 1, 1960 and July 1, 1977 require the utility to pick up these costs. (All permits issued after July 1, 1977 require the state to pay for relocation costs.) The utilities' concern is a legitimate one and, if this bill passes, DOT/PF is prepared to amend all those permits issued between July 1, 1960 and July 1, 1977 so that it is clear that the state will bear the costs of relocation. There is no need to amend these permits now because AS 19.25.020(c) presently requires the state to pay for these costs notwithstanding the terms of any existing permit. A draft copy of this proposed amendment is attached.

The bill also makes clear that the question of who pays for future relocation costs is to be a matter of negotiation between the state and the utility to be reflected in the language of the permit.

Section 1 amends AS 19.25.020(c) by creating four new paragraphs:

Paragraph (1) requires the state to pay for the costs of the change, removal, or relocation of any utility facility installed before July 1, 1960 regardless of whether the facility is authorized by a utility permit at the time the change, relocation, or removal of the facility is required. This is a matter of equity and fairness since there was no real uniform utility permit system in place before July 1, 1960.

Paragraph (2) requires either the state or the utility to pay for the costs of the change, removal, or relocation of the utility facility depending on the terms of the permit, provided the permit was issued after July 1, 1960. The effect of this paragraph is to make it clear that the question of who is to pay for relocation costs is a matter to be negotiated between the state and the utility. Presently, the state is required to pay for all relocation costs regardless of any agreement with the utility to the contrary.

COMMITTEE REPORTS (House)

HB 133, (cont'd)

--the owner of a motor vehicle is required to renew the certificate of inspection at least once a year (in Senate version renewal must be done twice a year).

--the Commissioner of Commerce & Economic Development may adopt regulations to implement the law (in Senate version the Commissioner may adopt "procedural" regulations).

--the definition of "motor vehicle" means a truck of more than 10,000 pounds unladen gross vehicle weight used upon a public highway (in Senate version the definition also includes trailers over 5,000 pounds unladen gross vehicle weight).

Oil & Gas
Activities
(haul road
right-of-way)

HOUSE BILL NO. 143, (see pages 190;285). Reported back to the House February 18 by Resources recommending it be replaced with a substitute and as follows: Shultz (Co-Chair), M. W. Miller, Thompson, Pearce, Jenkins and Cato recommend it do pass. Herrmann (Co-Chair) had no recommendation. Wallis signed "no rec with 68 degree latitude." To Transportation.

The Resources substitute contains none of the original language. It amends AS 19.40.200 (James Dalton Highway. Prohibition on Disposal of Land within Five Miles of the Highway), stating prohibition does not apply to a disposal necessary for an oil and gas lease under state leasing laws; a state lease or materials sale necessary for exploration, development, production, or transportation of oil and gas or reconstruction or maintenance of the highway. The section also states that before the sale of materials to a private entity or person or to a state agency, the state shall give due consideration to the availability of materials from private sources in the area where the materials are needed.

Amends section prohibiting off-road vehicles within five miles of the James Dalton Highway (AS 19.40.210), stating the prohibition does not apply to off-road vehicles necessary for oil and gas exploration, development, production, or transportation (currently prohibition does not apply to a person who holds a mining claim in the vicinity who must use the right-of-way to gain access to the claim.)

Adds an immediate effective date.

State
Airports
(utilities &
encroachmt's)

HOUSE BILL NO. 159, (see page 204). Reported back to the House February 22 by Community & Regional Affairs recommending it be replaced with a substitute and recommends as follows: Goll (Chair), Gruenberg, Wallis and Koponen recommend it do pass. Furnace and Marrou recommend it do not pass. Phillips has no recommendation. To Transportation.

The C&RA substitute changes section relating to the cost of changing, relocating, or removal of utility facilities incident to airport or public utility projects. States that the cost is to be paid by the department as a cost of airport construction, provided that the utility facility is properly installed in accordance with

COMMITTEE REPORTS (House)

HB 159, (cont'd)

a permit, or in the absence of a permit, was installed before the effective date of this bill in the proper location in accordance with department regulations, and by the utility in all other cases.

C&RA does not include sections of original bill that relate to summary removal ("The department may at any time and without notice remove from a state airport an encroachment or utility facility which obstructs or prevents the use of the airport by the public, or interferes with the safe operation of the airport.")

Does not include definition of "excess lands", as did original, and changes effective date to immediately (was 7/1/85). Other technical changes do not make substantive changes.

Utilities Incident to Highway Proj. (relocation)

HOUSE BILL NO. 160, (see page 206). Reported back to the House February 22 by Community & Regional Affairs recommending it be replaced with a substitute and recommending as follows: Goll (Chair), Gruenberg, Wallis, and Koponen recommend do pass. Phillips, Furnace and Marrou have no recommendation. To Transportation.

The C&RA substitute is completely different. It provides that the cost of change, relocation or removal of utilities incident to highway projects necessitated by highway construction is a cost of highway construction to be paid by the department, provided the facility is properly installed in accordance with the permit, or in the absence of a permit, was installed before the effective date of this law, in the proper location in accordance with department regulations. In all other cases the utility must pay. Provides Act takes effect immediately.

Avalanche & Fire Weather Forecasting

HOUSE BILL NO. 169, (see page 210). Reported back to the House February 18 by State Affairs recommending it do pass. Concurring: Hurley (Chair), Navarre, M. M. Miller, Collins, and Boucher. Not concurring: Jenkins had no recommendation. To Resources.

Air Service (essential)

HOUSE JOINT RESOLUTION NO. 16, (see page 244). Reported back to the House February 20 by Transportation recommending it be replaced with a substitute and that it do pass. Concurring: Cato (Chair), Shultz, Herrmann, Davis and Pignalberi. Not concurring: Marrou recommends do not pass. Furnace has no recommendation. To Rules.

The Transportation substitute states that the elimination of the Essential Air Service is due to the President's proposed fy '86 budget (former version blamed elimination on the Department of Transportation), and adds a clause stating that under the Airline Deregulation Act of 1978 Congress provided that the program would continue until 1988. Requests that Congress "fully fund" the program. Copies of the resolution would also be sent to President Reagan, the Vice President, and Speaker of the House.

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
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 shall 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 re-
25 moved in accordance with the order, any permit authorizing the facil-
26 ity issued by the department under AS 02.15.102 becomes invalid and
27 the facility will be considered an unauthorized encroachment subject
28 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, 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

21 (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, telecommunications,
10 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-appoint-
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 transportat on 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

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 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 orde

25 (b) If the utility facility is not changed, relocated, or re-
26 moved in accordance with the order, 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,

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 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 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, company, individual,
24 or association of individuals, or a lessee, trustee, or court-appointed
25 receiver, that owns, operates, manages, or controls 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

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).
22
23
24
25
26
27
28
29

①

PAGE-LINE

p. 1 line 22

p. 2 line 1

p. 2 line 3-9

p. 2 line 26

p. 3 lines 23-26

HB 159
facility [must] change, relocate or remove...

AS 02.15.260 [(15)], ordered under (a) of this section...

delete: (1) by either the department as a cost of airport construction, or by the utility, depending on the terms of the utility permit;

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

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

[and]

delete: Sec. 02.15.116 SUMMARY REMOVAL. The dept. may at any time and w/o notice remove from a state airport an encroachment or utility facility which obstructs or prevents the use of the airport by the public, or interferes w/ the safe operation of the airport.

HB 159 Analysis or Comment

This goes in between 159 & CS 159
Tp 2. line 3-9 analysis - don't type just so you know where it goes
p. 2 line 3-9

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.

Gives the state the authority to summarily remove any encroachment that obstructs the use of a state airport by the public, or interferes w/ safe operation of the airport.

CS HB 159 (CARR)

CS HB 159 (CARR)

shall change, relocate or remove...

AS 02.15.260, ordered under (a)...

insert: (1) by the dept. as a cost of airport construction, provided that the utility facility is properly installed in accordance w/ a permit, or in the absence of a permit was installed before the effective date of this Act in the proper location in accordance w/ dept. regulations;

(2) by the utility in all other cases

removed SUMMARY REMOVAL - no intent

Analysis or Comments

~~CARR ed changes section~~
states that the cost is to be paid by the dept as a cost of airport construction, provided that the utility facility is properly installed & in accordance w/ a permit or in absence of permit, installed before the eff date of act in the proper accordance w/ dept. regs. by utility in all other cases

According to CARR minutes of 2/18/85, it appears the committee was concerned about the language of "without notice." When ~~and~~ DOT was questioned Dave Hutchins of AC Rural Electric Assoc. was also concerned w/ this section and suggested language "The dept may at any time & w/o notice remove from the state airport ~~any~~ ^{an} unauthorized encroachment or utility facilities. DOT was asked to clarify the portion of the discussion re: summary removal, what are the rights under an existing permit for facility, DOT essentially explains when there's a utility facility under permit it would be classified as an obstruction."

HB 159
Analysis/Comments

CSHB 159 (CYP1)

PAGE - LINE	HB 159	CSHB 159 (CYP1)
p. 4 line 8	[which]	p. 4 line 3 <u>that</u>
p. 4 line 12	[any]	
p. 4 line 21	[any]	p. 4 line 7 <u>a.</u>
p. 4 line 24	[any]	p. 4 line 16 <u>a.</u>
p. 5 line 4	[any]	p. 4 line 17 <u>a.</u>
p. 5 line 10	[No]	p. 4 line 28 <u>a.</u>
p. 5 line 17	[any]	p. 5 line 5 <u>AN</u>
		p. 5 line 6 <u>not</u>
p. 5 line 24	[which]	p. 5 line 13 <u>a</u> ←
p. 5 line 28	[any]	p. 5 line 20 <u>that</u>
p. 6 line 10	[any]	p. 5 line 23 <u>a</u>
p. 6 line 26	[must]	p. 4 line 4 <u>a</u>
p. 7 line 1	[any]	p. 6 line 22 <u>shall</u>
p. 7 line 6	AS 35.25.020 (2)	p. 6 line 26 <u>a</u>
		p. 7 line 2 AS 35.25.020

③ Page-Line	HB 159	Analysis or Comment	CSHB 159 (CORA)	Analysis or Comment
p. 7 lines 8-15	<p>delete (1) by either the dept. as a cost of public facility construction or by utility, depending on the terms of the utility permit;</p> <p>(2) by the utility if there is no utility permit issued for the utility facility;</p> <p>(3) by the utility if the utility facility is not installed in the location provided for in the utility permit, regardless of whether the utility permit requires payment by the dept.</p>	<p>See explanation p. 1</p>	<p>insert: by the dept. as a cost of public facility construction, provided that the utility facility is properly installed in accordance w/ a permit, even the absence of a permit, was installed before the effective date of this Act in the proper location in accordance w/ dept regs</p> <p>(2) by the utility in all other cases</p>	<p>See explanation page 1</p>
p. 9 lines 1-5	<p>delete: Sec. 35.10.280 Summary REMOVAL. The dept may at any time act w/o notice remove from a state public facility, an encroachment of a utility, which obstructs or prevents the use of the public facility by the public, or interferes w/ the safe operation of the public facility.</p>	<p>see p. 1</p>	<p>No insert</p>	
p. 9 line 23	<p>[which]</p>		<p>p. 9 line 23 <u>that</u></p>	

(4)

HB 159

p. 9 lines 25-29

delete: (5) "excess lands" means lands acquired for the state in excess of lands required for a public facility, whose remaining portion of a parcel of lands acquired is left in a shape or condition as to be of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage

Analysis

definition retained from existing definition under Sec. 35.25.020 definition omitted simply because it is not used in the law and this definition is not necessary. You will see it added in 35.20.030 "A equivalent of excess lands" but it is not used in the law, but it is not used in the law

CSHB 159 (C&RA)

No insert

Analysis

~~The goal of~~
~~I know~~
~~memorandum~~
~~and~~
~~to sign~~

p. 9 line 23

[w/whch]

p. 10 line 6

[any]

p. 10 line 12

[any]

p. 11 line 7

delete July 1, 1985

p. 9 line 12 that

p. 9 line 19 a

p. 9 line 25 a

p. 10 line 20 insert; immediately in accordance with AS 01-10.070(c).

3/21/85 O&RA
Another Furnace -
made
proton;
170 objections

CSHB 160 (CARA)	Analysis/Comment	CSHB 160 (TEEP)	Notes/Comments
<p>Title change: p. 1 lines 6-8 Delete: after "utilities" [INCIDENT TO HIGHWAY PROJECTS]</p>		<p>Title becomes more general to read "An Act relating relating to relocation of utilities - and providing for an effective date."</p>	<p>Program fits very well to current state projects (legal, etc.) [Signature] Suggestion ASIC Better</p>

HB 118

magistrates; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 118 (Judiciary):

"An Act relating to small claims, and the duties of magistrates; and providing for an effective date."

and reports it back as follows: M.M. Miller (Chairman), Phillips, Pettyjohn, Taylor, Sund and Gruenberg recommend do pass. Clocksin has no recommendation. A fiscal note was attached and appears in House Journal Supplement No. 21.

HB 118 was referred to the Finance Committee.

HB 159

The Community & Regional Affairs Committee has considered HOUSE BILL NO. 159 (utilities and encroachments in state airports, public facilities, and highways; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 159 (CARA) (same title) and reports it back as follows: Goll (Chairman), Gruenberg, Wallis and Koponen recommend do pass. Furnace and Marrou recommend do not pass and Phillips has no recommendation.

HB 159 was referred to the Transportation Committee.

HB 160

The Community & Regional Affairs Committee has considered HOUSE BILL NO. 160 (relocation of utilities incident to highway projects; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 160 (CERA) (same title) and reports it back as follows: Goll (Chairman), Gruenberg, Wallis and Koponen recommend do pass. Phillips, Furnace and Marrou have no recommendation.

HB 160 was referred to the Transportation Committee.

HB 196

The Finance Committee has considered HOUSE BILL NO. 196 (making emergency appropriations to increase fiscal year 1985 appropriations for essential health and social services programs; effective date), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 196 (Finance):

"An Act making emergency appropriations to increase fiscal year 1985 appropriations for essential health and social services programs and reducing

REPORTS OF STANDING COMMITTEESCSSB 1 (Jud)

The Finance Committee has considered COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2 (Judiciary) (extending the termination date of the Board of Governors of the Alaska Bar Association; effective date) and reports it back as follows: Adams (Chairman), Ringstad, Szymanski, Duncan, Larson, Pourchet, Uehling, Frank, Binkley and Cotten recommend do pass.

CSSB 1 (Jud) was referred to the Rules Committee for placement on the calendar.

HCR 1

The Finance Committee has considered HOUSE CONCURRENT RESOLUTION NO. 1 (requesting a speed zone on Seward Highway) and reports it back as follows: Adams (Chairman), Szymanski, Duncan, Larson, Pourchet, Binkley and Cotten recommend do pass. Ringstad, Uehling and Frank have no recommendation. A new zero fiscal note was attached.

HCR 1 was referred to the Rules Committee for placement on the calendar.

HB 58

The Resources Committee has considered HOUSE BILL NO. 58 (fisheries business tax), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 58 (Fish) (page 292) and reports it back as follows: Herrmann (Chairman), Wallis, Thompson, Cato and Pearce recommend do pass. Sund has no recommendation and Shultz recommends "amend."

HB 58 was referred to the Finance Committee.

HB 81

The Health, Education and Social Services Committee has considered HOUSE BILL NO. 81 (motor vehicle emission inspection; effective date) and reports it back as follows: Koponen (Co-Chairman), Gruenberg (Co-Chairman), Hanley, Taylor and Hurley recommend do pass.

HB 81 was referred to the Finance Committee.

HB 118

The Judiciary Committee has considered HOUSE BILL NO. 118 (small claims jurisdictional limitation and the duties of

Offered: 4/11/85
Referred: Rinance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 CS FOR HOUSE BILL NO. 160 (Transportation)
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; and
7 providing for an effective date."

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

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

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

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

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

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

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

(Pink)

DOT/PF Revisions Proposed
2/27/86

Original sponsor: Rules/Governor

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 160 (Transportation)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

(c) The cost of change, relocation, or removal necessitated by the 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 utility facility is installed or authorized under a utility permit after the effective date of this Act, and the utility facility is installed in the location as provided for in the utility permit;

(2) by the department as a cost of highway construction if the facility is installed before the effective date of this Act, and is installed under a utility permit and in the location as specified in the utility permit;

(3) by the utility in all other cases unless the commissioner finds it is in the public interest for the cost to be paid by the department (, NOTWITHSTANDING THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR STATUTE TO THE CONTRARY).

* Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

10/31/89
Date

HB

160

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

HT 3-14-85 7AM

HCR&RA 2-20-85 3pm

HT 3-19-85 7AM

Offered: 4/11/85
Referred: Rinance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 CS FOR HOUSE BILL NO. 160 (Transportation)
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; and
7 providing for an effective date."

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

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

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

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

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

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

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

CSHB 355(Fish)am

Representative Clocksin moved and asked unanimous consent that the House adopt the House Special Committee on Fisheries Amended Letter of Intent (page 2554). There being no objection, it was so ordered.

CSHB 355(Fish)am was referred to the Chief Clerk for engrossment.

UNFINISHED BUSINESS

Representative Clocksin moved and asked unanimous consent that the following member be excused from a call of the House as noted:

Representative Hurley - from 4:30 p.m.,
April 18 through plane time, April 21,
1986

There being no objection, it was so ordered.

CSHB 28(Fin)(2d-title-am)

Representative Pignalberi moved and asked unanimous consent that the House take up the Senate message on COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 28 (Finance) (2d title amended) (making a special appropriation from the undistributed income account in the Alaska permanent fund to the principal of the permanent fund; effective date) (page 2217) at this time.

Representative Clocksin objected.

Representative Pettyjohn placed a call of the House and lifted the call.

The question being: "Shall the House take up the Senate message on CSHB 28(Fin)(2d title am) at this time?" The roll was taken with the following result:

CSHB 28(FIN)(2D TITLE AM) MOTION

Yeas: 12 Collins, Furnace, Hanley, Jenkins,
Marrou, Martin, Pearce, Pettyjohn,
Phillips, Pignalberi, Rieger,
Uehling

CSHB 28(Fin)(2d-title-am)

Nays: 25 Adams, Boucher, Cato, Clocksin,
Cotten, Davis, Duncan, Frank,
Fuller, Gruenberg, Grussendorf,
Herrmann, Hurley, Koponen, Larson,
Miller, M.M., Miller, M.W., Navarre,
Fourchot, Ringstad, Shultz,
Szymanski, Taylor, Thompson,
Wallis

Excused: 0

Absent: 3 Binkley, Goll, Sund

And so, the motion failed.

HCR 36 FILE

Representative Binkley added his name as co-sponsor to HOUSE CONCURRENT RESOLUTION NO. 36 (relating to intrastate airline travel).

2d SSHB 181 FILE

Representative Cato added her name as co-sponsor to 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 181 (relating to the maintenance of vessels of the Alaska marine highway system).

HB 689 FILE

Representative Szymanski added his name as co-sponsor to HOUSE BILL NO. 689 (relating to required equipment on and the transportation of certain loads by, motor vehicles).

ENGROSSMENTCSHCR 36(Fin) FILE

CSHCR 36(Fin) was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

CSHB 15(C&RA)

CSHB 15(C&RA) was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

CSHB 160(Fin) FILE

CSHB 160(Fin) was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

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).

SB 57 cont'd

The Secretary was requested to notify the House.

HOUSE CS FOR CS FOR SENATE BILL NO. 57 (FIN) was referred to the Secretary for enrollment.

Message of April 7 was read, stating the House passed and transmitted for consideration:

FIRST READING AND REFERENCE OF HOUSE RESOLUTIONS

HCR 36

CS FOR HOUSE CONCURRENT RESOLUTION NO. 36 (FIN) by the Finance Committee,

Relating to intrastate airline travel,
was read the first time and referred to the Transportation Committee and the Labor and Commerce Committee.

FIRST READING AND REFERENCE OF HOUSE BILLS

HB 15

CS FOR HOUSE BILL NO. 15 (C&RA) by the Community and Regional Affairs Committee, entitled:

"An Act relating to advisory elections on certain annexation proposals."

was read the first time and referred to the State Affairs Committee, the Community and Regional Affairs Committee and the Finance Committee.

HB 160

CS FOR HOUSE BILL NO. 160 (FIN) by the Finance Committee, entitled:

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

was read the first time and referred to the Transportation Committee.

HB 706

1987, this section of the bill clarifies that the attorney general and the personnel board do not have jurisdiction over any alleged violation of the code of ethics occurring before January 1, 1987, unless the violation continues after that date.

Section 7: Under this section of the bill, an agency with an existing policy related to conflicts of interests or the ethical performance of official duties is required to submit that policy to the attorney general for necessary review and approval by January 1, 1987.

Section 8: The sections of the ethics law regarding policy, the issuance of advisory opinions, declarations of potential violations, and the definition section, take effect July 1, 1986.

Section 9: The code of ethics itself, the complaint and hearing procedures, and the law's enforcement and remedy provisions (AS 39.52.110 -- 39.52.190 and AS 39.52.310 -- 39.52.460) will take effect January 1, 1987.

I have provided different effective dates so that public officers, immediately upon passage of the bill, may seek guidance from the attorney general concerning their standing under the new code of ethics, in order that any reassignments, transfers, or divestitures that need to occur can be accomplished before the code of ethics, as well as the complaint process, is in force.

CONCLUSION

Several attempts have been made in past years to enact legislation providing ethical standards for the executive branch. Most recently at my request, SB 501 was introduced in 1984, but it did not pass during the Thirteenth Alaska Legislature. I strongly endorse this bill and urge its serious consideration and passage this session.

Sincerely,

/s/

Bill Sheffield
Governor"

CONSIDERATION OF THE DAILY CALENDARSECOND READING OF HOUSE BILLS

file
HB 160
HOUSE BILL NO. 160 (relating to relocation of utilities incident to highway projects; effective date) was read the second time with the Community & Regional Affairs Committee report (page 410), the Transportation Committee report (page 885) and the Finance Committee report (page 2437).

HB 160

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 160 (Finance) (relating to utilities and encroachments in state airports, public facilities, and highways; relocation of utilities; effective date) be adopted in lieu of the original bill. There being no objection, it was so ordered.

CSHB 160(Fin)

Representative Clocksin moved and asked unanimous consent that CSHB 160(Fin) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 160(Fin) was read the third time.

The question being: "Shall CSHB 160(Fin) pass the House?"
The roll was taken with the following result:

CSHB 160(FIN)

Yeas:	34	Adams, Boucher, Cato, Clocksin, Collins, Cotten, Davis, Duncan, Frank, Fuller, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Phillips, Pignalberi, Pourchot, Rieger, Kingstad, Szymanski, Taylor, Thompson, Uehling, Wallis
Navs:	1	Marrou
Excused:	4	Furnace, Pettyjohn, Shultz, Sund
Absent:	1	Binkley

And so, CSHB 160(Fin) passed the House.

Representative Clocksin moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative Clocksin gave notice of reconsideration of his vote on CSHB 160(Fin).

COMMITTEE REPORT

HOUSE

4/10

(7)

FURTHER: FINANCE

2/22/85

Date: 09 April 1985

Mr. Speaker:

The Committee on TRANSPORTATION has had HB 160

"An Act relating to relocation of utilities incident to highway projects; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HA 160 (TRSP) same title
- new title
- and recommends It do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: October 17, 1984

Page 1 of 3
REQUEST
 Bill/Resolution No.: HB 160 No 1
 Title: Relocation Assistance
Amendment Act - AS Title 34
 Sponsor: DOT&PF
 Requestor: _____
 Date of Request: October 10, 1984

FISCAL DETAIL Department of Transportation and
 Agency Affected: Public Facilities
 Program Category Affected: Right of Way and
Land Acquisition
 BRU, Program or Subprogram(s) Affected:
Relocation Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 CRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						

SEE ATTACHED

CAPITAL	-0-	83.5	83.5	83.5	83.5	83.5
----------------	-----	------	------	------	------	------

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	83.5	83.5	83.5	83.5	83.5
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	83.5	83.5	83.5	83.5	83.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

NO NEW POSITIONS REQUIRED

ANALYSIS: Attach a separate page if necessary

Prepared By: Milton H. Lentz, Chief, Relocation
 Division: Standards & Technical Svs. Assistance
 Headquarters

Phone: 465-2985
 Date: October 17, 1984

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

ANALYSIS HB 160 Page 2 of 3

	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
100 - Personal Services	12.5	12.5	12.5	12.5	12.5
200 - Travel	5.0	5.0	5.0	5.0	5.0
300 - Contractual	2.0	2.0	2.0	2.0	2.0
400-500 - Commodities and Equipm.	1.0	1.0	1.0	1.0	1.0
600 - Land and Structures (Relocation Assistance)	60.0	60.0	60.0	60.0	60.0
TOTAL	83.5	83.5	83.5	83.5	83.5

- 100 - Based on 450 person-hours x \$28.00/hr.
- 200 - Project-oriented travel for reconnaissance, studies, project development and performance.
- 300 - Contract service for various estimates, such as moving cost, inventories, etc.
- 400-500 - Material and equipment required to perform job, such as booklets, signs, etc.
- 600 - Estimated cost of relocation assistance (15 parcels/yr. @ \$4,000/parcel average).

Note: Based on past experience with state-funded projects, there have been about 10-20 parcels per year that would be affected by this program. There would be no appreciable difference in years except that a change in philosophy may increase or decrease state-funded projects.

TITLE OF INCREMENT/DECREMENT:
Relocation Assistance Amendment
Act - A.S. Title 34

AGENCY CONTACT/PHONE NUMBER:
Milton H. Lentz 465-2985

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

Alaska Statute Title 34, Chapter 60, allows and requires this Department to administer a program which gives relocation assistance and makes payments to people and businesses that must move as a result of construction of capital improvements. The payments are in addition to the fair market value of property taken. They are confined to federally assisted activities in the existing law.

This proposed legislation would expand the statute to include state-funded programs. All state activities would then be subject to the same relocation assistance whether they were funded with or without federal-aid, thus providing uniformity and equality throughout the state program. The need for this consistency is readily apparent when a state project and federal-aid project are located in the same area at the same time.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	12.5	
200	Travel	5.0	
300	Contractual Services	2.0	
400	Supplies	0.5	
500	Equipment	0.5	
600	Lands, Buildings, Etc.	60.0	
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		83.5	
I-A Transfer (NORI-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund		
1005	I-A Receipts		
1028	Program Receipts		
1061	Other CIP Receipts	83.5	
POSITION INFORMATION	PFT		
	PPT		
	Non Permanent		
	Eff Months		

<input type="checkbox"/> Enhance Existing Service Compared to FY 85	<input type="checkbox"/> Formula Program
<input checked="" type="checkbox"/> New Service Compared to FY 85	
<input type="checkbox"/> Continuation of FY 85 Service Level	

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

C5 INCREMENT/DECREMENT REQUEST

Agency Priority _____ of _____

AGENCY Department of Transportation & Public Facilities

PROGRAM _____

BRU _____

COMPONENT _____

PROJECT _____

HB 160

FY 86

PAGE 3 OF 3

REVISED DATE _____

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST
 Bill/Resolution No.: HB 150, No 2
 Title: Utility Relocation/
 Highway Encroachments
 Sponsor: _____
 Requestor: DOT&PF
 Date of Request: October 22, 1984

FISCAL DETAIL
 Agency Affected: DOT&PF
 Program Category Affected: Utilities
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	(250.0)*	(250.0)*			
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

SEE ATTACHMENTS

* STATE FUNDS ONLY
 Federal funding agencies will not participate in relocation costs when a utility is not under permit or properly installed.

Prepared By: Bruce R. Freitag/Roger Allington
 Division: Standards & Technical Services

Phone: 465-2957
 Date: 10-22-84

Approved by Commissioner: [Signature]
 Agency: Transportation & Public Facilities

Date: 11-15-84

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

Relocation of Utilities Incident To Highway Projects

The need for this legislation is to revise statute authority such that Department reimbursement for utility relocation work incident to highway construction would only be allowed if the utility facility was properly permitted by the Department within State highway rights-of-way. The Department's permit also provides assurance that the utility facility is properly located and installed in accordance with established codes (ie electrical, safety, etc). Presently the law allows for utility relocation reimbursement even if the utility facility is not under permit or within code requirements.

DAVE HUTCHENS

House Bill 159:

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 on 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.

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

Cato: In other words you like both bills.

Frietag: Both bills.

340
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.

375...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 attache to there pole of mailboxes.

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

ADJ. 816

TITLE CHANGE

α 159

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;

(4) ~~by~~ by the utility in all other cases.

(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.

Moen
3/13/85

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
 2 CS FOR HOUSE BILL NO. 160 (Transportation)
 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; and
 7 providing for an effective date."

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

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

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

13 (1) by the department as a cost of highway construction if
 14 the facility was installed before July 1, 1960, regardless of whether
 15 the facility is authorized by a permit at the time a change,
 16 relocation, or removal of the facility is required;

17 (2) by the department as a cost of highway construction,
 18 provided that the utility facility is properly installed in accordance
 19 with a permit, or in the absence of a permit, was installed before the
 20 effective date of this paragraph in the proper location in accordance
 21 with department regulations;

22 (3) by the utility in all other cases [, NOTWITHSTANDING THE
 23 TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION OR
 24 STATUTE TO THE CONTRARY].

25 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
 26 10.070(c).
 27
 28
 29

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;

(4) ~~by~~ by the utility in all other cases.

(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*

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.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 394 (cont'd)

inconvenience." Second degree terroristic threatening is a class C felony.

Provides Act takes effect immediately.

Introduced January 31 and referred to Judiciary.

Div. of EEO
(creating)

SENATE BILL NO. 395, by the State Affairs Committee.

Seeks to create a Division of Equal Employment Opportunity in the Dept. of Administration. The Division would be required to study, formulate, recommend, review, and administer equal employment opportunity and affirmative action programs, policies and practices. It would be required to act to assure the recruitment for employment of women, minorities, handicapped persons, Viet Nam veterans, disabled vets, or men applying for a position in which men have not been traditionally employed. In addition to recruitment, the Division would be responsible for ensuring that all employees and applicants are treated fairly and not subject to discrimination. Lists various other responsibilities including formulation of policies and programs, review of affirmative action plans, and providing information and technical advice to departments, agencies and employees.

The EEO Division would also be the primary liaison between the executive branch and other federal or state compliance agencies for all EEO or affirmative action matters. Executive branch agencies or departments involved in an official inquiry, complaint investigation, or hearing would be required to seek advice from the Division of EEO before participating in the inquiry, investigation, etc. An internal discrimination complaint procedure for complaints within the executive branch of state government would be established, and complaints would be accepted from employees or applicants who believe they have been discriminated against. The Division is required to investigate complaints. Findings could be appealed to the Commissioner of Administration. Rights and prohibitions of complainants are outlined. Does not provide for an effective date (becomes law 90 days after Governor signs bill).

Introduced January 31 and referred to State Affairs, Finance.

Utilities
Near Highway
Projects
(relocation)

SENATE BILL NO. 396, by the Rules Committee by Request of the Governor. Relates to relocation of utilities incident to highway projects, and amends that section of the law (AS 19.-25.020(c)) to read: "(c) The cost of change, relocation, or removal necessitated by highway construction is to be paid in accordance with AS 19.45.001(4) [defines 'cost of change, relocation, or removal'] as follows: (1) by the department as a cost of highway 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; (2) by either the department as a cost of highway construction or by the utility, depending on the terms of the utility permit if the facility was installed or authorized under the authority of a utility permit issued after July 1, 1960;

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 396 (cont'd)

(3) by the utility if the facility was installed after July 1, 1960, and there is no utility permit for the facility; (4) by the utility if the facility is not installed in the location provided for in the utility permit, regardless of whether the utility permit requires payment by the department."

Note: that section of the law currently reads: "(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), notwithstanding the terms or provisions of any existing permit, agreement, regulation or statute to the contrary."

Provides Act takes effect July 1, 1984.

Introduced January 31 and referred to Labor & Commerce, Transportation, Finance.

In his message accompanying the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies who is responsible for the payment of relocation or removal costs when a utility facility is required to be changed, removed, or relocated as a result of highway construction. The bill addresses an ambiguity in AS 19.25.020(c) which presently leaves open the question of whether the state must pay for these costs even though a utility facility was not installed or authorized under the authority of a utility permit or, if a permit exists, even though the facility is not installed in the location provided for in the permit. The bill also makes clear that the question of who pays for future relocation costs is to be a matter of negotiation between the state and the utility to be reflected in the language of the permit.

Section 1 amends AS 19.25.020(c) by creating four new paragraphs:

Paragraph (1) requires the state to pay for the costs of the change, removal, or relocation of any utility facility installed before July 1, 1960 regardless of whether the facility is authorized by a utility permit at the time the change, relocation, or removal of the facility is required. There is a matter of equity and fairness, since there was no real uniform utility permit system in place before July 1, 1960.

Paragraph (2) requires either the state or the utility to pay for the costs of the change, removal, or relocation of the utility facility depending on the terms of the permit, provided the permit was issued after July 1, 1960. The effect of this paragraph is to make it clear that the question of who is to pay for relocation costs is a matter to be negotiated between the state and the utility. Presently, the state is required to pay for all relocation costs regardless of any agreement with the utility to the contrary.

Paragraph (3) requires the utility to pay for relocation costs if their facility was installed after July 1, 1960 and is not under permit. Under existing law, it is ambiguous whether a utility has to pay relocation costs if it does not have a utility permit.

Paragraph (4) requires the utility to pay for relocation costs if their facility is not installed in the location provided for in a permit. Currently, it is unclear whether a utility must pay relocation costs even if its facility is not installed in the location set out in the utility permit.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 396 (cont'd)

Section 2 of the bill sets an effective date of July 1, 1984 for this bill.

I urge your favorable action on this measure so that the question of who pays for utility relocation costs under the various circumstances described in the bill is answered in clear statutory language.

The following analysis prepared by the Dept. of Transportation & Public Facilities accompanied the \$200,000 FY 84 fiscal note:

Analysis

SUMMARY/EXPLANATION OF INTENT:

To change existing statute AS 19.25.020(c) such that reimbursement for utility change, relocation, or removal costs necessitated by highway construction may only be paid by the State if the utility facility was properly permitted (strike out "...notwithstanding the terms...contrary." and add in its place "...if the facility was previously permitted in accordance with Department regulations.")

ESTIMATED FISCAL IMPACT:

Capital: Up to \$1 million savings to the Department annually dependent upon amount of Highway construction contracts involving utility relocation work.

Operating: \$0

Of major concern:

- A) Utilities may oppose item 2 because some existing permits (those issued between 1960 and 1977) contain clause that requires utility to pay for relocation. The 1977 law effectively wiped that clause out by the "notwithstanding" phrase which allows for relocation participation regardless what the existing permit states, or even if no permit exists. We propose to take care of that problem by issuing a standard letter from this office to all utility companies that states we will reimburse relocation costs for any facility under permit after 1960 unless special provision was identified in the permit that purposely required relocation to be borne by the utility. (This may have occurred because the utility needed our right-of-way even though we knew a major reconstruction was already scheduled.)
- B) Regional Utility Engineers were worried about not showing the 1977 date. As explained above, Jack McGhee thought it best if only the 1960 date was shown. They were concerned that many permits were issued between 1960 and 1977, and they didn't want to have to change the relocation payment clause to assure the utility they would receive facility relocation reimbursement. Our letter mentioned in "A)" above will allieviate RUE concern.

Positive Aspects:

- 1) All utilities would desire to have their facilities under permit to assure relocation reimbursement.
- 2) All utilities under permit assures they meet all codes and regulations, and that they are placed in accordance with Department direction.
- 3) Provides assurance that Department will obtain as-built of utility construction.
- 4) Assures that all utility facilities within our R/W "mesh" together so one does not conflict with another.

Payment of utility relocation costs by the utility would not result in a direct cost to the consumers, regardless of whether the reason for payment was due to the terms of a permit, location other than that described in the permit, or location in R/W without a permit.

Any construction costs (new and relocation) can only be passed on to the consumers through the rate-making process, according to Mark Figura, Asst. Attorney General with the Alaska Public Utility Commission (APUC). Glacier Highway Electric Assn. (GHEA) (an unregulated utility) would treat utility relocation due to highway construction as any other plant addition, according to Charles Y. Walls, General Manager.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 396 (cont'd)

With the regulated REA's, all rates must be approved by APUC in a rate hearing. With unregulated REA's, the cooperative's board of directors establish the rates and the rates must be approved by the members (consumers). With GHEA, when 5% or more of the members object, a rate hearing similar to an APUC hearing is held.

Fact Sheet:

"Relocation of Utilities Incident To Highway Projects - AS 19.25.020(c)"

The need for this change is to revise statute authority such that reimbursement for utility relocation incident to highway construction would only be allowed if the utility facility was properly permitted by the Department within highway rights-of-way. With the utility facility being properly permitted, it also provides assurance that the facility is located properly and is installed in accordance with established coding (i.e. electrical, safety, etc.). Presently, utility relocations are generally reimbursed even if the facilities are not under permit or within code requirements.

In summary, then, this revision would:

- (1) Provide that the State participate in all utility relocation costs for those utilities placed in highway rights-of-way without a permit prior to July 1, 1960 and for the utilities that were installed by permit between July 1, 1960 and July 1, 1977 regardless of whether or not the permit provided for State relocation costs.
- (2) Provide that the State or utility participate in the relocation costs under permits issued after July 1, 1977, depending on the prescribed terms written in the permit. This allows the State to write a permit on new utility facilities that either requires the utility to pay or the State to pay on existing facilities not covered by a permit that are located properly and can be covered by a permit.
- (3) Provide that the utility participate in the utility relocation cost if the facility was not located in accordance with the permit regardless of when the permit was issued.

The 1960 date is significant due to Statehood and 1977 is significant as that is the effective date of the present law we are proposing to revise.

The estimated fiscal impact will vary from year to year and from \$0 to a considerable amount dependent upon the number of projects, primarily bush/village, where utility facility conflicts occur due to highway construction. Recently, an approximate \$200,000 conflict occurred on the Palmer-Wasilla project with Matanuska Telephone Association facilities.

Other proposed projects with possible similar conflicts beside bush/village projects are Boniface, DeArmour Road, Raspberry Road, and the Old Seward Highway - all in the Anchorage Area. Further, under the present law, the Department is unable to write a permit to a utility to allow that company to pay for its own relocation should future conflicts occur.

We believe that the utility industry would be in favor of this amendment because it (1) clarifies that their facilities installed without a permit prior to July 1, 1960 are to be relocated at State cost and (2) it allows them to install a facility on future highway projects and pay for the relocation costs instead of being denied a permit.

As explained above, this proposed change would provide Department protection by assuring that:

- 1) All utility facilities within highway rights-of-way are properly permitted;
- 2) All facilities installed within highway rights-of-way meet proper State and national codes; and
- 3) Both the state project and the utility participate fairly in any necessary relocation costs.

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.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 396 (cont'd)

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 this 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.

Alcoholic Bev.
Control Bd.
(extending)

SENATE BILL NO. 397, by the Rules Committee by Request of the Governor. Would extend the Alcoholic Beverage Control Board until June 30, 1988 (currently set to "sunset" June 30, 1984). Provides Act takes effect immediately.

Introduced January 31 and referred to Judiciary.

In his message accompanying the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to extend the life of the Alcoholic Beverage Control Board for four years. The board has gone through several "sunset" reviews in the past few years, and its sunset date was extended from June 30, 1983 to June 30, 1984 during last year's legislative session. I believe that it is time to give the board a four-year extension so that it can continue to fulfill its responsibility for administering our alcoholic beverage control laws.

Utilities &
Encroachments
(airports &
public
facilities)

SENATE BILL NO. 398, by the Rules Committee by Request of the Governor. Relates to utilities and encroachments in state airports, public facilities and highways (see section-by-section analysis accompanying Governor's letter). Provides Act takes effect July 1, 1984.

Introduced January 31 and referred to Labor & Commerce, Transportation, Finance.

In his message accompanying the bill, Governor Sheffield stated:

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. 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 is attached.

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.

**CHAPTER 10.
ENGINEERING: ENROACHMENTS,
DRIVEWAYS, AND ROAD APPROACHES**

Section

- 10. Encroachments
- 20. Driveways and road approaches
- 30. Driveway and road approach permits and utilities
- 40. Facility service roads and trails
- 50. Definitions

17 AAC 10.010. ENCROACHMENTS. Encroachments may be installed or permitted within highway lands, or rights-of-way, under certain conditions, when they have been the subject of a previously secured written authorization issued by the department and, in respect to all highways acquired or constructed in whole, or in part, with federal-aid funds, in accordance with the federal regulations governing the future use and occupation of such highways. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020

17 AAC 10.020. DRIVEWAYS AND ROAD APPROACHES. (a) All driveways or road approaches constructed under permit within any highway lands or rights-of-way shall be the property of the state, but all cost and liability in their connection or in connection with their maintenance shall be at the sole expense of those lands served.

(b) Such facilities shall be constructed and maintained in such a manner that the highway, and all its appurtenances or facilities including, but not limited to, all drainage facilities, pipes, culverts, and ditches, and their safety shall not be impaired or endangered in any way by the construction or maintenance; the permits shall contain express conditions which provide for the enforcement of (a) and (b) of this section.

(c) The permit forms, except the utility permits described in 17 AAC 15, shall contain a clause which provides that the permittee shall adjust or relocate such encroachments without cost or liability to the state if, at any time, or from time to time, the use or safety of the highway within which such encroachment exists requires that the encroachment be adjusted or relocated, and that the permittee shall save and keep harmless the

state, its officers, agents, employees, and contractors in any matters pertaining to the encroachment, and that the permittee shall assume all liability or cost in connection with the encroachment.

(d) Permits may be issued for driveways on any highway not converted to, or originally established as, a controlled access facility, if, in the opinion of the department, the driveways are proposed to be located in a manner which is compatible with the public safety and which will not interfere with the use of the highway; provided, however, that if the highway was financed in whole, or in part, with federal-aid funds, a stipulation in the permit shall provide that the driveway is a portion of the public facility; and further provide, that the permittee or his successors and assigns shall assume all cost and liability occasioned by either the construction or maintenance of the driveway.

(e) If a driveway constitutes the replacement of an existing means of access to privately owned lands, the department, at the time of the construction or reconstruction of the highway, shall cause such driveways to be constructed in a manner and location consistent with the engineering standards proper to the highway, in preference to replacing the existing means of access in kind, and any major improvement in the property thus effected shall be considered to be a special benefit to be offset against any severance damages to the land. Upon the completion of the construction of the highway, the owner of said lands shall be issued a standard encroachment permit containing the provisions described in (d) of this section.

(f) If no means of access, as described in (e) of this section, exist to serve any such private parcel of land, and provided that the owner is resident thereon, or has made improvements to the land, the department shall designate and construct such a driveway at a location which best serves the land, or at a location selected and designated by the owner of the land, to the extent that such driveway locations are consistent with good engineering practice and economy, the standards pertaining to such highway, and the full use and safety of such highway. Upon the completion of the construction of the highway, the owner of the

land shall be issued a standard encroachment permit which contains the provisions described in 17 AAC 10.010. The entire amount by which the driveway enhances the value of the land is a special benefit to be offset against any severance damages to the land.

(g) The burden and cost of maintaining a driveway within a highway right-of-way shall be upon the lands served by said driveway, and shall be maintained to conform to standards set forth by the department.

(h) In the event that a critical situation arises in connection with a driveway within a highway right-of-way, the state may correct said situation with state personnel or equipment, or both, in which the event the cost thereof shall become a charge against the lands served by said driveway. (Eff. 6/25/69, Reg. 30)

Authority: AS 19.05.020

Historical Note: 1. Source of (a)-(f) is former 14 AAC 2.361-.366.2. Source of (g) and (h) is former 14 AAC 2.390(g) and (k).

17 AAC 10.030. DRIVEWAY AND ROAD APPROACH PERMITS AND UTILITIES. The finished grade of a proposed driveway or road approach may not be less than the minimum vertical clearance requirements of 17 AAC 15.201 or the minimum depth-of-bury requirements of 17 AAC 15.211. The department will, in its discretion, grant a permit to an applicant who arranges with the owners of the affected utility facilities to adjust the facilities, at no cost to the department, to conform to the requirements of 17 AAC 15. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.121
AS 19.05.040 AS 19.40.065
AS 19.30.051

7 AAC 10.040. FACILITY SERVICE ROADS AND TRAILS. Ingress or egress to highway rights-of-way for a service road or trail is subject to the provisions of 17 AAC 10.020 and the 1975 edition of the department's publication entitled "Driveway Regulations." (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.121
AS 19.05.040 AS 19.40.065
AS 19.30.051

17 AAC 10.050. DEFINITIONS. In this chapter

(1) "driveway" and "road approach" mean that area of the right-of-way between the edge of the pavement or the edge of the traveled way and that part of the adjacent property line which is not encumbered by the right-of-way and which is used for the movement of traffic between the highway and the adjacent property;

(2) "service road or trail" means a road or trail that parallels a communication facility, electrical facility, pipeline, railroad, or other utility facility and is used to patrol and maintain the facility. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.121
AS 19.05.040 AS 19.40.065
AS 19.30.051

**CHAPTER 15.
UTILITY AND RAILROAD PERMITS**

Article

1. Utility Permits
(17 AAC 15.010 – 17 AAC 15.111)
2. Utility Standards and Requirements
(17 AAC 15.120 – 17 AAC 15.301)
3. Utility Relocation and Installation
(17 AAC 15.310 – 17 AAC 15.461)
4. Railroads
(17 AAC 15.471–17 AAC 15.551)
5. General Provisions (17 AAC 15. 901)

**ARTICLE 1.
UTILITY PERMITS**

Section

10. (Repealed)
11. Utility permits
20. (Repealed)
21. Application for utility permit
30. (Repealed)
31. Application for utility permit on section-line rights-of-way
40. (Repealed)
41. Permit fees, charges and rentals
50. (Repealed)
51. Bond
60. (Repealed)
61. Indemnification
70. (Repealed)
71. Assignment and transfer of utility permit
80. (Repealed)
81. Joint-use facilities
90. (Repealed)
91. Revocation of utility permit
100. (Repealed)
101. Permits for utility service connections
110. (Repealed)
111. Utility facilities installed without permit

17 AAC 15.010. APPLICATION FOR UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.011. UTILITY PERMITS. (a) Upon written application, the department will, in its discretion, issue a permit authorizing the applicant to construct or install utility facilities within a department right-of-way. Permits for railroad facilities will be issued under 17 AAC 15.471 – 17 AAC 15.551.

(b) A utility permit will authorize the activities reasonably required for the construction, maintenance, or operation of the utility facility described in an approved permit application.

(c) The department will, in its discretion, attach to the utility permit special provisions it considers necessary to protect the public interest.

(d) Utility permits expire if construction or installation of the facility has not started within one year after the date of approval, unless the applicant obtains an extension of time in writing from the department.

(e) This chapter applies only to those utility facilities that require utility permits. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	AS 44.42.030

17 AAC 15.020. UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.021. APPLICATION FOR UTILITY PERMIT. (a) Application for issuance of a utility permit must be made on a form prescribed by the department.

(b) The application must describe in detail the type of facility and its proposed location within the department right-of-way or other location. The application must include plans, specifications, and other pertinent data. A diagram or drawing showing the location of all known overhead, surface, and underground facilities existing in the vicinity of the proposed facility must also be included with the application.

(c) If a utility facility covered by an existing permit is to be reconstructed or modified substantially, the permittee shall apply for a new permit. If the proposed modifications are not substantial, the permittee need only apply for an amended permit. In either case the application must comply with (b) of this section.

(d) The applicant shall notify all known utilities in the immediate vicinity of the proposed installation.

(e) Permit applications for pipeline installations must describe the nature of the substance to be transmitted; the maximum working, test, and design pressures; and the design standards for the pipe. When it is anticipated that there will be a change in the nature of the substance that is transmitted, or an increase in maximum design pressure from that specified in the permit, the permittee shall obtain, in advance, written department approval for the change.

(f) If a utility proposes to locate a facility within a department highway right-of-way within a national forest, national park, military reservation, or other land of the federal government, the utility shall obtain written approval from the appropriate controlling federal agency.

(g) If a utility proposes to locate a facility within a department right-of-way that crosses navigable water, the utility shall obtain written approval from the U.S. Army Corps of Engineers or the U.S. Coast Guard.

(h) If a utility proposes to locate a facility within a department right-of-way which passes through restricted Native allotment land, the utility shall obtain written approval from the Bureau of Indian Affairs.

(i) If a utility proposes to locate a facility within a department right-of-way which passes through Bureau of Land Management land, the utility shall obtain written approval from the Bureau of Land Management.

(j) If a utility proposes to locate a facility within a department right-of-way that crosses a river, lake, or stream specified in the List of Waters Important to Anadromous Fish in 5 AAC 95, the utility shall obtain written approval from the Alaska Department of Fish and Game.

(k) If a utility proposes to locate an overhead facility within a department right-of-way located within two statute miles of any airport, airstrip, or private air facility, the utility shall obtain written approval from the Federal Aviation Administration or, if the airport or airstrip is under military control, from the appropriate military command.

(l) Applications not approved by the department will be returned to the applicant accom-

panied by a letter of explanation. (Eff. 5/23/82, Reg. 82)

Authority: AS 02.15.020	AS 19.25.200
AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.20.090	AS 19.40.065
AS 19.25.010	AS 44.42.030

Editor's Note: Utility permit application forms may be obtained from the regional offices of the Department of Transportation and Public Facilities located in Juneau, Anchorage and Fairbanks, Alaska and from district offices located in Nome and Valdez, Alaska.

Copies of the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fish (List of Waters Important to Anadromous Fish) may be obtained from the Department of Fish and Game, Habitat Division, P.O. Box 3-2000, Juneau, Alaska 99802, or from the regional offices of the Department of Fish and Game located in Juneau, Anchorage, Fairbanks, and Kodiak, Alaska.

17 AAC 15.030 BOND. Repealed 5/23/82.

17 AAC 15.031. APPLICATION FOR UTILITY PERMIT ON SECTION-LINE RIGHT-OF-WAY. (a) Utility permits are required only for section-line rights-of-way presently used or proposed for use by the department. A person seeking to install a utility facility within a section-line right-of-way shall check with the department to determine whether the department presently uses or proposes to use the affected portion of the section-line right-of-way.

(b) Before issuing a permit for the installation of a utility facility within a section-line right-of-way, the department must be satisfied that a section-line right-of-way exists at the location where the facility is proposed to be installed by the permit applicant. The permit applicant shall furnish proof of the existence of the section-line right-of-way.

(c) An applicant that is granted a permit for the installation of a utility facility within a department section-line right-of-way shall coordinate the installation of the facility with any proposed department project using the section-line right-of-way.

(d) The permittee shall provide one copy of each permit for the installation of any utility facility within a department-controlled section-line right-of-way to the Department of Natural Resources.

(e) The department will immediately submit written notice to the Department of Natural Resources if a section-line permit application is denied. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.040. INSPECTION OF WORK AUTHORIZED BY UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.041. PERMIT FEES, CHARGES AND RENTALS. (a) The department will, in its discretion, establish a nonrefundable filing fee for each permit application.

(b) The department will, in its discretion, require a permittee to reimburse the department for the actual cost of inspection if the special provisions of the utility permit require an inspection.

(c) The department will, in its discretion, establish a schedule of annual rental fees for attachment of utility facilities to department-owned or -controlled structures. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.200 AS 19.40.065

17 AAC 15.050. FACILITY MAINTENANCE. Repealed 5/23/82.

17 AAC 15.051. BOND. The department will, in its discretion, require a bond or assurance to pay for damage to or repair of a highway or other state property which may result from a permittee's construction along, in, over, or under a department right-of-way. The department will determine the amount and duration of the bond or assurance. The bond form must comply with requirements of the department. The department will, in its discretion, require the permittee's contractor to furnish an indemnification bond secured by cash or other security when it is determined to be in the public interest. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065

17 AAC 15.060. SAFETY AND PROTECTION. Repealed 5/23/82.

17 AAC 15.061. INDEMNIFICATION. The permittee shall indemnify and hold harmless the state from all liability for damage to property and injury or death of persons arising wholly or in part from any action taken by a permittee in relation to the permittee's facilities on department rights-of-way or other permitted locations. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065

17 AAC 15.070. HIGHWAY POLICY FOR ACCOMMODATION OF UTILITIES. Repealed 5/23/82.

17 AAC 15.071. ASSIGNMENT AND TRANSFER OF UTILITY PERMIT. (a) A permittee may not assign or transfer any rights granted by the utility permit to another individual or other entity without prior written approval from the department.

(b) When a permittee sells out to another utility, or combines or merges with another utility, or otherwise changes identity, the new utility shall inform the department in writing within 30 days after the date of the transaction, and shall furnish the department with the names and addresses of the new officials responsible for the permittee's facilities. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.080. BRIDGES. Repealed 5/23/82.

17 AAC 15.081. JOINT-USE FACILITIES. (a) The department will, in its discretion, require two or more utilities desiring to locate facilities on a department right-of-way to jointly use a single facility.

(b) Utilities jointly using utility facilities must enter into a formal agreement concerning the joint use. A copy of this agreement must be

furnished to the department. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200 AS 42.05.311

17 AAC 15.090. JOINT USE. Repealed
5/23/82.

17 AAC 15.091. REVOCATION OF UTILITY PERMIT. (a) A utility permit may be revoked if

(1) the facilities were not constructed or installed in accordance with the terms of the utility permit;

(2) the facilities do not conform to the applicable federal, state, and local standards and requirements;

(3) the permittee fails to adequately maintain the facility after having been notified to do so in writing by the department;

(4) the permittee fails to provide safe and adequate detours, barricades, signs, flagmen, or other controls to protect the public as provided in 17 AAC 15.241;

(5) the permittee fails, after written notice from the department, to take corrective measures to comply with the department's instructions or requests;

(6) it is in the mutual interest of the department and the utility as provided in 17 AAC 15.451.

(b) The construction operations of a permittee or his contractor will, in the department's discretion, be suspended by the department for any of the conditions listed in (a) of this section until the conditions are corrected. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.220
AS 19.05.040 AS 19.30.051
AS 19.10.240 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.100. MULTIPLE FACILITIES.
Repealed 5/23/82.

17 AAC 15.101. PERMITS FOR UTILITY SERVICE CONNECTIONS. (a) The department will, in its discretion, require an amendment to an existing utility permit or new permit for all utility service connections.

(b) The department will, in its discretion, allow a permittee to install additional service connections across or within a department right-of-way where a longitudinal underground,

surface, or overhead distribution or feeder line has been installed under a utility permit. The utility permit will be amended by the department to include the additional service connections.

(c) New permits are required for underground utility service connections which cross a department right-of-way and which originate from distribution lines located outside the right-of-way. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.200

17 AAC 15.110. DRIVEWAYS AND ROAD APPROACHES UTILITY CONFLICTS.
Repealed 5/23/82.

17 AAC 15.111. UTILITY FACILITIES INSTALLED WITHOUT PERMIT. (a) Except for facilities installed before July 1, 1960, or installed under 17 AAC 15.031, any utility facility installation located within a department right-of-way without a utility permit is an unauthorized encroachment.

(b) The owner of a utility facility within a department right-of-way and which is an unauthorized encroachment shall submit an application for a utility permit to the department.

(c) The department will issue a utility permit for encroaching utility facilities meeting the requirements of this chapter.

(d) The owner of an encroaching utility facility shall relocate the facility in order to comply with the minimum requirements of this chapter. Any relocation will be at the owner's expense. If the owner does not take appropriate action within a reasonable time, the unauthorized encroachment is subject to removal under AS 19.25.220 - 19.25.250. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.210

**ARTICLE 2.
UTILITY STANDARDS AND
REQUIREMENTS**

Section

- 120. (Repealed)
- 130. (Repealed)
- 131. Utility accommodation on controlled-access highways
- 140. (Repealed)
- 141. Utility accommodation on existing highways to be converted to controlled access
- 150. (Repealed)
- 151. Overhead crossings on controlled-access highways
- 160. (Repealed)
- 161. Underground crossings on controlled-access highways
- 170. (Repealed)
- 171. Utility accommodation on urban highways and streets
- 180. (Repealed)
- 181. Utility accommodation on rural highways and roads
- 190. (Repealed)
- 191. Utility accommodation in scenic areas
- 200. (Repealed)
- 201. Overhead clearances
- 210. (Repealed)
- 211. Underground facilities
- 220. (Repealed)
- 221. Irrigation and drainage facilities
- 230. (Repealed)
- 231. Highway structures
- 240. (Repealed)
- 241. Safety precautions to be taken by permittee
- 250. (Repealed)
- 251. Installation and inspection
- 260. (Repealed)
- 261. Errors in facility placement
- 270. (Repealed)
- 271. Right-of-way clearing and restoration
- 280. (Repealed)
- 281. Routine maintenance
- 290. (Repealed)
- 291. Emergency maintenance
- 300. (Repealed)
- 301. Utility codes and standards

17 AAC 15.120. UNDERGROUND FACILITIES. Repealed 5/23/82.

17 AAC 15.130. UTILITY STANDARDS OF THE DEPARTMENT OF HIGHWAYS. Repealed 5/23/82.

17 AAC 15.131. UTILITY ACCOMMODATION ON CONTROLLED-ACCESS HIGHWAYS. (a) No utility facility may be installed longitudinally within the controlled-access limits of a highway unless the utility demonstrates to the satisfaction of the department that there is no feasible alternative, and that the proposed utility facility will not adversely affect the design, construction, maintenance, safety, or operation of the highway.

(b) Access for maintenance of a utility facility located within controlled-access limits of a highway or from the entrance or exit ramp of a highway is prohibited.

(c) A facility located within the controlled-access limits of a highway as of the effective date of this section must be relocated or other provisions made so that it can be maintained without using access from the highway or from entrance or exit ramps of the highway. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.25.200
AS 19.05.040	AS 19.30.051
AS 19.20.030	AS 19.30.121
AS 19.20.070	AS 19.40.065
AS 19.25.010	

17 AAC 15.140. CODES OF GOVERNMENTAL AND STATE AGENCIES. Repealed 5/23/82.

17 AAC 15.141. UTILITY ACCOMMODATION ON EXISTING HIGHWAYS TO BE CONVERTED TO CONTROLLED ACCESS. (a) A facility located within the right-of-way limits of an existing highway which will be or has been converted to a controlled-access highway will, in the department's discretion, be permitted to remain in its existing location if the facility can be maintained without using access from the highway or its entrance or exit ramps.

(b) The department will relocate any existing facility that can be maintained only from the proposed controlled access of a highway or its entrance or exit ramps or make other provisions to maintain the facility without requiring access from the highway or its entrance or exit ramps.

The department will pay the cost of the relocation or other provisions.

(c) No utility facility installation is permitted within the controlled-access limits, except as provided in 17 AAC 15.131 (a) and (b). (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
AS 19.05.040 AS 19.30.051
AS 19.20.030 AS 19.30.121
AS 19.20.070 AS 19.40.065
AS 19.25.010

17 AAC 15.150. CLEARING FOR UTILITIES IN HIGHWAY RIGHT-OF-WAY. Repealed 5/23/82.

17 AAC 15.151. OVERHEAD CROSSINGS ON CONTROLLED-ACCESS HIGHWAYS.

(a) An existing overhead facility may not cross a controlled-access highway if it interferes with the design requirements of the highway, or if it can be maintained or serviced only from within the controlled-access limits.

(b) New or relocated overhead utility facilities or overhead utility facilities located within the right-of-way of an intersecting roadway which crosses a controlled-access highway may not be maintained or serviced from within the controlled-access limits.

(c) New or relocated overhead facility crossings of controlled-access highways must be designed and constructed as double dead-end structures where the transmission voltage is 33,000 volts or more. Where the transmission voltage is less than 33,000 volts, design and construction standards must equal or exceed standards of the 1981 edition of the National Electrical Safety Code. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
AS 19.05.040 AS 19.30.051
AS 19.20.030 AS 19.30.121
AS 19.20.070 AS 19.40.065
AS 19.25.010

17 AAC 15.160. AERIAL CLEARANCE, MINIMUM. Repealed 5/23/82.

17 AAC 15.161. UNDERGROUND CROSSINGS ON CONTROLLED-ACCESS HIGHWAYS. (a) Underground facility crossings of a controlled-access highway, existing as of

May 23, 1982 or proposed for construction after that date, may not be maintained from within the controlled-access limits.

(b) New underground crossings must be as nearly perpendicular to the highway centerline as practicable. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
AS 19.05.040 AS 19.30.051
AS 19.20.030 AS 19.30.121
AS 19.20.070 AS 19.40.065
AS 19.25.010

17 AAC 15.170. PRIOR RIGHTS. Repealed 5/23/82.

17 AAC 15.171. UTILITY ACCOMMODATION ON URBAN HIGHWAYS AND STREETS.

(a) The department will, in its discretion, allow utility facilities to be located within the rights-of-way of urban highways and streets.

(b) Manholes for underground facilities must be located so that their maintenance may be accomplished with minimum interference to the roadway.

(c) Utility facilities that are proposed to be installed in the department rights-of-way of existing or proposed urban highways or other permitted locations, must be installed so that future expansion of the utility facility will avoid interference with the operation and maintenance of the existing or proposed highway and its related structures.

(d) The minimum distance between the nearest part of an above-ground utility facility and the edge of the traveled way of an urban highway or street without curbs must comply with the following table:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(e) On urban highways with curbs, the minimum distance between the face of the curb and the nearest part of the facility may not be less than two feet.

(f) Facilities existing as of May 23, 1982 may remain in their existing location, unless the facilities are determined to

be roadside hazards. Facilities that have been determined to be roadside hazards must be relocated to conform with this chapter. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.200

17 AAC 15.180. FREQUENCY OF REQUESTED RELOCATION AND/OR ADJUSTMENTS. Repealed 5/23/82.

17 AAC 15.181. UTILITY ACCOMMODATION ON RURAL HIGHWAYS AND ROADS.

(a) Longitudinal utility facilities located within the rights-of-way of rural highways and roads must meet the following minimum offset requirements:

Minimum distance in feet	Posted Roadway Speed in Miles Per Hour			
	above 50	40 to 50	30 to 39	below 30
	30	20	10	5

(b) Existing longitudinal overhead facilities located within newly used highway rights-of-way may remain if the facilities meet the offset requirements of (a) of this section and are located at least three feet from the toe of fill or five feet from the top of cut. Facilities located within the rights-of-way of existing rural highways and roads may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(c) Longitudinal overhead facilities to be constructed in highway rights-of-way must be located on a line not more than five feet from the highway right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(d) Existing overhead facilities crossing an existing or newly used highway right-of-way may remain if they are at least three feet from the toe of fill or five feet from the top of cut and are not roadside hazards.

(e) New overhead facilities crossing a highway right-of-way must be installed so that that part

of the facility nearest to the edge of the traveled way is located in accordance with the offset requirements of (a) of this section and is at least 10 feet from the toe of fill or the top of cut. These facilities must be as nearly perpendicular to the highway centerline as is practicable.

(f) New longitudinal surface-mounted facilities must be located not more than five feet from the right-of-way line or, when directed by the department, in accordance with the offset requirements of (a) of this section and at least 10 feet from the toe of fill or the top of cut.

(g) If the utility can demonstrate that adherence to the requirements of this section is impractical because of difficult topography, mountainous terrain, or other special conditions, the department will, in its discretion, modify the requirements.

(h) A facility determined by the department to be a roadside hazard must be relocated to conform to the requirements of this chapter.

(i) "Offset," as used in (a) of this section, is measured from the edge of the traveled way to the nearest surface of a surface-mounted facility. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.25.200
 AS 19.05.040 AS 19.30.051
 AS 19.20.010 AS 19.30.121
 AS 19.25.010 AS 19.40.065

17 AAC 15.190. ERRORS IN FACILITY PLACEMENT BY PERMITTEE. Repealed 5/23/82.

17 AAC 15.191. UTILITY ACCOMMODATION IN SCENIC AREAS. (a) The department will, in its discretion, require utility facilities that are inconsistent with the values of scenic areas to be relocated.

(b) The installation, within scenic areas, of new utility facilities, including those required for department purposes, must be made in accordance with the directions of the department.

(c) "Scenic area," as used in (a) of this section, includes scenic strips, view points, rest areas, adjacent highway rights-of-way, and the portions of highway rights-of-way which pass through

public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.200. SPECIAL PROVISIONS AND/OR STIPULATIONS. Repealed 5/23/82.

17 AAC 15.201. OVERHEAD CLEARANCES. The minimum vertical clearance between an overhead facility and a department right-of-way must comply with the requirements of the 1981 edition of the National Electrical Safety Code. New or relocated facilities should be installed with a minimum clearance of 20 feet. In no case may the minimum vertical clearance be less than 18 feet. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.210. SPECIAL USE PERMITS FOR HIGHWAYS. Repealed 5/23/82.

17 AAC 15.211. UNDERGROUND FACILITIES. (a) Longitudinal underground facilities on a uniform alignment may not be located closer than five feet from a department right-of-way, unless otherwise directed by the department. Longitudinal underground facilities may not be closer than 10 feet from the toe of fill or the top of cut, unless the utility can demonstrate to the department's satisfaction that the 10-foot requirement is not feasible and that a closer location will not adversely affect the design, construction, maintenance, safety, or operation of the highway or other department structure. Surface facilities must comply with the minimum distances requirements of 17 AAC 15.171 (d).

(b) Underground facility crossings must be installed by boring, coring, or jacking through the roadway prism. Wet-boring is not permitted. The department will, in its discretion, allow trenched or open-cut construction where untrenched construction is not practical. Underground facility crossings must be as nearly perpendicular to the highway centerline as practicable. Underground facility crossings in

other department rights-of-way must conform to the specifications set out in the special provisions of the utility permit.

(c) Encasement of underground facilities is required for crossings under controlled-access highways or other department rights-of-way unless an alternate proposal by the utility is approved by the department. Underground pipelines carrying flammable, corrosive, or other hazardous materials must be encased if required by the department. The department will, in its discretion, permit a utility bridge, tunnel, utilidor, or other mechanical protection in place of encasement.

(d) The depth of burial for underground facilities construction or installed under pavement, roadway, or runway surfaces must be at least four feet measured from the surface of the pavement, roadway, or runway to the top of the cable, conduit, pipeline, or encasement. Underground facilities constructed or installed under other surfaces, including unlined ditches, must be buried at least three feet, measured from the surface to the top of the cable, conduit, pipeline, or encasement.

(e) In areas of seasonally frozen soil or permafrost, the depth of burial must be such that any liquid transmitted will not freeze and so that any underground structure will withstand the increased impact loads transmitted through the frozen soil. The department will, in its discretion, allow the depth of burial to be reduced by the use of adequate insulation and protective materials or methods.

(f) The department will, in its discretion, require underground facilities to be rerouted or protected with casing or other mechanical protection when it is impractical to achieve the minimum depth of burial.

(g) When a utility locate service is not available, reference markers must be installed and maintained at both ends of underground facility highway crossings, at angle points in the alignment of the underground facilities, and at designated points along longitudinal alignments as specified in the special provisions of the utility permit. (Eff 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.200	

17 AAC 15.220. PERMITTEE'S NOTICE OF INTENTION OF COMMENCEMENT OF WORK. Repealed 5/23/82.

17 AAC 15.221. IRRIGATION AND DRAINAGE FACILITIES. (a) A longitudinal irrigation or drainage canal or ditch is not permitted within a department right-of-way unless the applicant can demonstrate to the department's satisfaction that an alternate location is not feasible and that the construction of the facility will not adversely affect the design, construction, maintenance, safety, and operation of the highway or other department structures.

(b) Flume, pipe, or siphon crossings must be installed in accordance with 17 AAC 15.211. Crossings of canals and ditches may be made with bridges or culverts. (Eff. 5/23/82, Reg. 82)
 Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.200 AS 19.40.065

17 AAC 15.230. INDEMNIFICATION CLAUSE. Repealed 5/23/82.

17 AAC 15.231. HIGHWAY STRUCTURES. (a) The department will, in its discretion, permit the attachment of utility facilities to a highway structure. The chief bridge engineer is responsible for exercising this discretion to grant permission.

(b) Attachments to a bridge must be located beneath the bridge structure's floor, between outer beams or within a cell of a box beam, and must be located above the lowest steel or masonry members. If the utility can demonstrate to the department's satisfaction that a location requirement is not feasible and that attachment at an alternate location will not adversely affect the design, construction, maintenance, safety, or operation of the structure, the department will, in its discretion, permit the attachment at an alternate location.

(c) Communication and electric power cables or conductors must be encased in an approved conduit supported by suitable hangers or brackets and must have appropriate expansion devices. Acceptable alternate methods of installation for communication cable will, in the department's discretion, be permitted.

(d) Where required by special provisions in the utility permit, pipelines carrying flammable, corrosive, or other hazardous materials must be encased and have sufficient venting. The facility must be provided with automatic shut-off valves or other safety devices at or near each end of the structure as specified in the special provisions of the permit. The department will, in its discretion, require cathodic protection.

(e) A utility shall restore or repair any portion of a bridge or highway that is damaged by the installation or the operation of a facility attached to a highway bridge structure or its appurtenances.

(f) The department will, in its discretion, require a utility to reimburse the department for any or all costs incurred by the department for engineering, design changes, or modifications of the highway bridge structure that are necessary to accommodate attachment of the utility facility. (Eff. 5/23/82, Reg. 82)
 Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.200

17 AAC 15.240. WAIVER. Repealed 5/23/82.

17 AAC 15.241. SAFETY PRECAUTIONS TO BE TAKEN BY PERMITTEE. Each permittee shall protect the public and provide for the continued safe use of a highway or other state property during construction, modification, or maintenance of utility facilities. Closing off a highway or highway segment or creating a detour must be specifically authorized in the permit and must be done in a manner approved by the department. All traffic-control devices must comply with the 1978 edition of the Alaska Traffic Manual. (Eff. 5/23/82, Reg. 82)
 Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.200 AS 19.40.065

Editor's Note: Copies of the Alaska Traffic Manual are available for inspection at regional offices of Department of Transportation and Public Facilities located at Juneau, Anchorage and Fairbanks, Alaska and at district offices located at Nome and Valdez, Alaska.

17 AAC 15.250. DEPARTMENT'S INTEREST IN PUBLIC HIGHWAY RIGHTS-OF-WAY. Repealed 5/23/82.

17 AAC 15.251. INSTALLATION AND INSPECTION. (a) Each permittee shall give the department written notice not less than 10 days before the start of construction on any utility facility.

(b) A copy of the permit must be at the work site during construction and installation operations and must be shown, upon request, to any department representative, Alaska State Trooper, or other enforcement officer of the state.

(c) The department will, in its discretion, require inspection of the facility during construction and installation operations. The inspection must be sufficient to ensure full compliance with the provisions of the permit. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.200	AS 19.40.065

17 AAC 15.260. REVOCATION OF UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.261. ERRORS IN FACILITY PLACEMENT. Errors by a permittee in construction or location of a facility must be corrected by the permittee at his expense as soon as he has knowledge of the error. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065

17 AAC 15.270. DISTRICT ADMINISTRATION OF UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.271. RIGHT-OF-WAY CLEARING AND RESTORATION. (a) Clearing for utility facility installations within department rights-of-way must be kept to the minimum that is necessary to accommodate the installation, construction, operation, and maintenance of the facility. Indiscriminate cutting of trees or the disfiguration of any feature of scenic value will not be permitted.

(b) A utility may use chemical sprays only in compliance with applicable federal and state statutes and regulations.

(c) Each utility shall dispose of trees, brush,

debris, refuse or waste as specified in the utility permit.

(d) The department will, in its discretion, require the permittee to restore or replace, at his expense, trees or shrubbery damaged or disturbed during the construction. Any damage to private property must be remedied as directed by the department.

(e) All excavated material in excess of the quantity required for backfill in a department right-of-way must be hauled by the permittee, at his cost and expense, and stockpiled as specified by the department. All unusable material must be disposed of at the permittee's expense and may not be placed within the limits of a department right-of-way unless approved by the department.

(f) Each utility shall maintain temporary pavement patches to provide a smooth all-weather surface at all times. Permanent replacement of the temporary patches must be made as soon as practicable after all other work under the permit is completed.

(g) The department will, in its discretion, require seeding or sodding of the construction area to prevent soil erosion or to replace the natural vegetative cover. Seeding and sodding operations must comply with the 1981 edition of the Alaska Standard Specifications for Highway Construction and the special provisions of the utility permit. Any area of right-of-way that is adjacent to private property and which has a protective vegetative cover must be fully restored.

(h) The department will notify the permittee of cleanup and restoration work that has not been satisfactorily performed in accordance with the provisions of the utility permit and will specify a date for completion of the corrective work. The department will, in its discretion, perform the cleanup and restoration work that has not been completed to the satisfaction of the department by the specified date. The permittee shall reimburse the department for all

work done by the department. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.200

Editor's Note: Copies of Alaska Standard Specification for Highway Construction - 1981 may be obtained from Department of Transportation and Public Facilities, Standards and Technical Services Division, P.O. Box 3-1000, Juneau, Alaska 99802.

17 AAC 15.280. AUTHORITY OF COMMISSIONER, DEPARTMENT OF HIGHWAYS. Repealed 5/23/82.

17 AAC 15.281. ROUTINE MAINTENANCE. (a) Each permittee shall perform routine maintenance on the utility facility on a continuing basis. Maintenance work may not endanger any highway, airstrip, or other department property or create a hazard to the public.

(b) Each permittee shall secure authorization from the department before performing any maintenance which requires excavation, plowing, jacking, or boring within, or in areas immediately adjacent to, a department right-of-way. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.200

17 AAC 15.290. CLEAR ROADSIDE POLICY. Repealed 5/23/82.

17 AAC 15.291. EMERGENCY MAINTENANCE. If an accident, disaster, or other occurrence which damages a utility facility located within a department right-of-way, damages a highway structure or other state property, or places a utility facility in danger of damage, the permittee shall immediately act to safeguard the public and its facilities and shall immediately notify the department and the Alaska State Troopers of its action. Temporary repairs must be made permanent as soon as practicable. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.121
 AS 19.05.040 AS 19.40.065
 AS 19.30.051

17 AAC 15.300. UTILITY SERVICE CONNECTIONS. Repealed 5/23/82.

17 AAC 15.301. UTILITY CODES AND STANDARDS. (a) Electric power and communication facilities installed within department rights-of-way must comply with the following codes and standards:

(1) the National Electrical Code (1981);

(2) the National Electrical Safety Code (American National Standards Institute, C2, 1981);

(3) the provisions of 3 AAC 52.110 - 3 AAC 52.340 (Electrical and Telephone Utilities); and

(4) the provisions of 8 AAC 61.010, Alaska Occupational Safety and Health Standards, subchapter 03, Electrical Code.

(b) Water line and sanitary sewer facilities installed within department rights-of-way must comply with the following codes and standards:

(1) the American Water Works Standards, as revised through 1981;

(2) the provisions of 18 AAC 72 (Wastewater Disposal); and

(3) the provisions of 18 AAC 80 (Drinking Water).

(c) Pressure pipelines for natural gas, petroleum steam, or other hazardous materials installed within department rights-of-way must comply with the following codes and standards:

(1) the American National Standards Institute

(A) Power Piping (American National Standards Institute, B31.1, 1980);

(B) Fuel Gas Piping (American National Standards Institute, B31.2, 1968);

(C) Chemical Plant and Petroleum Refinery Piping (American National Standards Institute, B31.3, 1980);

(D) Liquid Petroleum Transportation Piping Systems (American National Standards Institute, B31.4, 1979);

(E) Refrigeration Piping (American National Standards Institute, B31.5, 1974);

(F) Gas Transmission and Distribution Piping Systems (American National Standards Institute, B31.8, 1975);

(2) the Code of Federal Regulations, Title 49, Transportation

(A) Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Standards;

(B) Part 195, Transportation of Liquids by Pipeline;

(3) the provisions of 3 AAC 52.010 – 3 AAC 52.080 (Gas utilities).

(d) Unless otherwise noted in the special provisions of the utility permit, all utility construction within department rights-of-way must comply with the following construction standards:

(1) Alaska Department of Transportation and Public Facilities Construction Manual, 1972 as revised through December 4, 1981;

(2) Alaska Standards Specifications for Highway Construction, 1981;

(3) Federal-Aid Highway Program Manual, Volume 6, Chapter 6, Section 3, Subsection 2, Accommodation of Utilities (PPM 30-4.1), as revised through 1981;

(4) American Association of State Highway And Transportation Officials

(A) Construction Manual for Highway Construction, 1980;

(B) Construction Manual for Highway Bridges and Incidental Structures, 1973.

(e) Unless otherwise noted in the special provisions of the utility permit, all utility designs for facilities to be installed within

department rights-of-way must comply with the following design standards:

(1) Alaska Department of Transportation and Public Facilities, Standard Drawings, as revised through 1981;

(2) Federal-Aid Highway Program Manual, Volume 6, Chapter 6, Section 3, Subsection 2, Accommodation of Utilities (PPM 30-4.1);

(3) American Association of State Highway and Transportation Officials

(A) A Policy for Accommodation of Utilities on Freeway Rights-of-way, 1969;

(B) A Guide for Accommodating Utilities on Highway Rights-of-way, 1970;

(4) Utilities Manual of Alaska Department of Transportation and Public Facilities, 1981.

(f) Construction safety procedures must comply with the provisions of 8 AAC 61.010, Alaska Occupational Safety and Health Standards

(1) subchapter 01, General Safety Code;

(2) subchapter 05, Construction Code.

(g) Unless otherwise noted in the special provisions of the utility permit, traffic-control devices and procedures must comply with the provisions of the following codes and standards:

(1) Alaska Traffic Manual, 1978;

(2) Alaska Sign Design Specifications, 1981. (Eff. 5/23/82, Reg. 82)

Authority: AS 10.25.440	AS 19.25.200
AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.10.040	AS 19.40.065
AS 19.25.010	

Editor's Note: Copies of the National Electrical Code (NFPA-70-1981) may be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02110.

Copies of National Electrical Safety Code (C2-1981), Power Piping (B31.1-1980), Fuel Gas Piping (B31.2-1968), Chemical Plant and Petroleum Refinery Piping (B31.3-1980), Liquid

Petroleum Transportation Piping Systems (B31.4-1979), Refrigeration Piping (B31.5-1974), and Gas Transmission and Distribution Piping Systems (B31.8-1975) may be obtained from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

Copies of the Code of Federal Regulations, Title 49 Transportation, Part 100 to Part 199 may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Copies of the Code of Federal Regulations are available for inspection the Alaska State Library located in Juneau, Alaska

Copies of the American Water Works Standards (AWWA-1981) may be obtained from the American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado 80235.

Copies of the Alaska Standard Specifications for Highway Construction - 1981 may be obtained from the Department of Transportation and Public Facilities, Standards and Technical Services Division, P.O. Box 3-1000, Juneau, Alaska 99802.

Copies of the Alaska Construction Manual, Alaska Utilities Manual, Alaska Traffic Manual, Alaska Sign Design Specifications, and the Federal Highway Program Manual are available for inspection at the regional offices of the Department of Transportation and Public Facilities located in Juneau, Anchorage, and Fairbanks, Alaska, and at the district offices located in Nome and Valdez, Alaska.

Copies of the Construction Manual for Highway Construction - 1980, Construction Manual for Highway Bridges and Incidental Structures - 1973, A Policy for Accommodation of Utilities on Freeway Rights-of-way - 1969, and A Guide for Accommodating Utilities on Highway Rights-of-way - 1970 may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, Suite 225, Washington, DC 20001.

Copies of the General Safety Code, Construction Code, and Electrical Code may be obtained from the Department of Labor, P.O. Box 1149, Juneau, Alaska 99811. Copies of these safety codes are available for inspection at the regional offices of the Department of Labor located in Juneau, Anchorage, and Fairbanks, Alaska.

**ARTICLE 3.
UTILITY RELOCATION
AND INSTALLATION**

Section

- 310. (Repealed)
- 320. (Repealed)
- 321. Eligibility
- 330. (Repealed)
- 331. Utility notification and cooperation
- 341. Relocation agreements
- 351. Estimates and costs
- 361. Plans
- 371. Scope-of-work statement
- 381. Utility change orders

- 391. Engineering consultants
- 401. Contract advertising and award
- 411. Utility relocation by state contract
- 421. Construction and inspection
- 431. Billing and audit
- 441. Utility installation agreements
- 451. Termination agreements
- 461. Emergency relocation

17 AAC 15.310. ASSIGNMENT AND TRANSFER OF UTILITY PERMIT. Repealed 5/23/82.

17 AAC 15.320. HORIZONTAL CLEARANCE BETWEEN HIGHWAY AND UTILITY FACILITIES. Repealed 5/23/82.

17 AAC 15.321. ELIGIBILITY. If utility facilities are ordered by the department, under AS 19.25.020, to be relocated in order to accommodate proposed highway or other construction, utilities that have facilities occupying department rights-of-way that were installed before July 1, 1960 or that were installed under the terms of a permit issued under this chapter are eligible for reimbursement for the cost of the relocation. (Eff. 5/23/82, Reg.82)

Authority: AS 19.05.020	AS 19.25.210
AS 19.05.040	AS 19.30.051
AS 19.25.010	AS 19.30.121
AS 19.25.020	AS 19.40.065
AS 19.25.200	

17 AAC 15.330. UTILITY DEFINITION. Repealed 5/23/82.

17 AAC 15.331. UTILITY NOTIFICATION AND COOPERATION. (a) The department will notify each utility whose facilities are known by the department to be affected by a proposed department project as soon as possible after the location and scope of the project are known.

(b) The department will furnish preliminary project plans and related right-of-way maps to each utility within the proposed project limits. After receipt of these plans and maps, each utility with facilities located within the project limits shall notify the department in writing of the location of all these facilities.

(c) If there is a conflict between a proposed project and existing utility facilities, the department will, in its discretion, require the utility to relocate its facilities. The department will

authorize the utility in writing to proceed with preliminary engineering for the required relocation of the facilities and will advise the utility of its eligibility to be reimbursed for the cost of relocation. The utility shall furnish the department with its proposal for accomplishing the relocation work. This proposal must include the estimated cost of the relocation work and the working schedule the utility intends to follow regarding the relocation work. The work described in the proposal must be the most economical method of accomplishing the relocation.

(d) The department will furnish the utility with all necessary construction plans and relocation schedule forms so that the utility can coordinate its relocation plans, estimates, and agreements in accordance with 17 AAC 15.421.

(e) The department will furnish the utility with field information necessary for the utility to establish the location and grade for the relocation of its facilities. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.25.210
AS 19.05.040	AS 19.30.051
AS 19.05.080	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.020	

17 AAC 15.341. RELOCATION AGREEMENTS. (a) When it is necessary to relocate utility facilities because of a proposed project by the department, the utility shall enter into an agreement with the department setting out the terms of the relocation work along with the terms of the reimbursement for the costs of the relocation work. The department will establish the general format of this agreement.

(b) If a utility facility located within a department right-of-way is required to be relocated due to highway or other construction, the department will modify the existing utility permit or will issue a new utility permit.

(c) The department will, in its discretion, elect to use a lump-sum reimbursement agreement.

(d) The department will, in its discretion, require that any utility relocation agreement between the department and a municipality

include a certificate of authority or a resolution authorizing execution of the agreement by the appropriate governing body of the municipality.

(e) The department will return an executed copy of the relocation agreement to the utility along with a written authorization to proceed with the relocation work. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020	AS 19.30.051
AS 19.05.040	AS 19.30.121
AS 19.25.010	AS 19.40.065
AS 19.25.020	

17 AAC 15.351. ESTIMATES AND COSTS.

(a) The cost estimate referred to in 17 AAC 15.331(c) must reflect all the work shown on the plans and the scope-of-work statement referred to in 17 AAC 15.361 and 17 AAC 15.371, respectively. The estimate must set out the items of work to be performed in sufficient detail to provide a reasonable basis for analysis by the department. All factors included in the utility's general overhead account must be listed in the cost estimate.

(b) Preliminary engineering costs incurred after the date of the department's letter authorizing the utility to proceed with preliminary engineering will be reimbursable or chargeable to the utility's relocation-project work order or account. Preliminary engineering costs will continue to be chargeable to the utility's relocation-project work order or account until the date that the utility relocation agreement has been approved and signed by the department. Construction engineering costs, including engineering and inspection costs associated with the relocation of the utility facility, that are incurred after the date that the utility agreement is signed and approved by the department are reimbursable.

(c) Charges for engineering, inspection, equipment, transportation, materials handling, and labor included in the utility's general overhead account, need not be listed separately in the cost estimate.

(d) Charges incurred by the utility before the department's letter of authorization to proceed with preliminary engineering is sent will, in the discretion of the department, be ineligible for reimbursement.

(e) When the department determines that an existing facility must be removed by a utility, the actual cost of removal will, in the discretion of the department, be eligible for reimbursement. Where appropriate, the salvage value of the facility to be removed will be credited against the cost of removal.

(f) The department will have a credit against reimbursable costs set out in the relocation agreement equal to the value of any materials removed by the utility, unless the utility relocation work is being performed under a state contract or under a utility-let contract and the utility relocation agreement specifies that all removed materials become the property of the contractor. The value of the department's credit is to be measured by whatever rate the utility uses in its normal operations and is to be equal to the salvage value of all materials removed less the cost of removal. All materials must be removed by the most economical method possible. Recovered materials which are not usable in the normal operations of the utility but which have a sale value as scrap must be included in the calculation of the credit granted to the department. The value of the recovered scrap materials is to be determined by their estimated scrap value. Temporary-use materials which are reusable must be credited to the utility relocation project at stock prices, less the utility's prescribed stock-handling charge.

(g) Where betterments are not required by the department's construction project, but are installed solely for the benefit of the utility company, all costs attributable to these betterments are not eligible for reimbursement.

(h) The utility shall show on its work order account all relocation costs specified by the relocation agreement, including reimbursable and non-reimbursable items. Separate work order accounts will, in the discretion of the department, be used where the reimbursable and non-reimbursable portions of work can be distinguished by location or type of facility. All work order accounts to be used by the utility must be shown in the relocation agreement.

(i) An eligibility ratio for reimbursement must be determined and set out in the relocation agreement when the relocation work includes

both reimbursable and non-reimbursable items.

(j) The department has an expired service life credit against reimbursement costs when the length of the replacement facilities consists of a longitudinal segment of one mile or more in length or includes betterments not required by the department's construction project. If the utility can show that the service life of the replaced facility has not been extended, the department does not have an expired service life credit. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.020

17 AAC 15.361. PLANS. (a) The plans, sketches, or drawings showing both existing and proposed facilities must be attached to each relocation agreement. If there is a combination of reimbursable and non-reimbursable work, the plans must clearly indicate which portion of the relocation work is reimbursable and which portion is non-reimbursable.

(b) The plans, sketches, or drawings must be sufficiently detailed to show all necessary work. In addition, the plans, sketches, or drawings must indicate that the planned relocation meets all construction design requirements of the department. Construction prepared by the utility must be approved by the department. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
AS 19.05.040 AS 19.30.121
AS 19.25.010 AS 19.40.065
AS 19.25.020

17 AAC 15.371. SCOPE-OF-WORK STATEMENT. (a) A scope-of-work statement describing the items of work set out in the plans in sufficient detail so that they may be correlated with the proper items of cost in the cost estimate must be attached to the relocation agreement. The scope-of-work statement must describe any special methods of construction that are required.

(b) The department will, in its discretion, require the utility to include staking sheets in

the scope-of-work statement. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.020

17 AAC 15.381. UTILITY CHANGE ORDERS.

(a) Changes in the plans, specifications, or quantities of work for relocating facilities must be authorized by a utility change order issued by the department.

(b) Modified cost estimates, plans, and a scope-of-work statement must be included in each utility change order. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.010 AS 19.40.065
 AS 19.25.020

17 AAC 15.391. ENGINEERING CONSULTANTS.

(a) If a utility is not adequately staffed to perform the engineering for the relocation of its utility facilities, the department will, in its discretion, authorize the utility to retain an engineering consultant to perform the required engineering. The engineering proposal made by a consultant is subject to review and approval by the department.

(b) If a utility has a continuing contract with a consultant for engineering services, and if the consultant regularly performs the utility's engineering work at a reasonable cost, the utility may request approval for the use of the consultant by submitting a copy of the continuing contract to the department for review and approval. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.020 AS 19.40.065

17 AAC 15.401. CONTRACT ADVERTISING AND AWARD.

(a) A utility may let a contract for the relocation of its facilities when it can show that the contract is necessary because it is not adequately staffed or equipped to perform the work itself. Bids must be requested through advertisement or solicited from qualified bidders, and the contract must be awarded to the lowest responsible bidder. The contract documents must be approved by the department before a contract is awarded.

(b) If a utility proposes to perform the work of relocation under an existing contract, the utility must furnish the department with a copy of the contract for review and approval. (Eff. 5/23/82, Reg. 82)

Authority: AS 19.05.020 AS 19.30.051
 AS 19.05.040 AS 19.30.121
 AS 19.25.020 AS 19.40.065

Editor's Note: Copies of the Alaska Traffic Manual are available for inspection at regional offices of Department of Transportation and Public Facilities located at Juneau, Anchorage and Fairbanks, Alaska and at district offices located at Nome and Valdez, Alaska.

17 AAC 15.411. UTILITY RELOCATION BY STATE CONTRACT.

(a) Utility relocation work may be performed under a construction contract or a utility relocation contract let by the department if the utility can demonstrate to the department that it is in the public interest to do so.

(b) When the utility relocation work that is to be included in a construction contract let by the department or in a utility relocation contract let

INTRODUCTION OF BILLS (House)(cont'd)

HB 159 (cont'd)

ment," "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.

Utilities
Incident to
Highway Proj.
(relocation)

HOUSE BILL NO. 160, by the Rules Committee by Request of the Governor. Relates to relocation of utilities incident to highway projects (see Governor's letter). Provides Act takes effect July 1, 1985.

Introduced February 1 and referred to Community & Regional Affairs, Transportation, then Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies who is responsible for the payment of relocation or removal costs when a utility facility is required to be changed, removed, or relocated as a result of highway construction. The bill addresses an ambiguity in AS 19.25.020(c) which presently leaves open the question of whether the state must pay for these costs even though a utility facility was not installed or authorized under the authority of a utility permit or, if a permit exists, even though the facility is not installed in the location provided for in the permit.

Some utility companies have expressed a concern over that part of paragraph (2) of sec. 1 of the bill which says that, for utility permits issued after July 1, 1960, the question of who is to pay for relocation costs is to be determined by the terms of the permit. These utility companies point out that utility permits issued between July 1, 1960 and July 1, 1977 require the utility to pick up these costs. (All permits issued after July 1, 1977 require the state to pay for relocation costs.) The utilities' concern is a legitimate one and, if this bill passes, DCT/PF is prepared to amend all those permits issued between July 1, 1960 and July 1, 1977 so that it is clear that the state will bear the costs of relocation. There is no need to amend these permits now because AS 19.25.020(c) presently requires the state to pay for these costs notwithstanding the terms of any existing permit. A draft copy of this proposed amendment is attached.

The bill also makes clear that the question of who pays for future relocation costs is to be a matter of negotiation between the state and the utility to be reflected in the language of the permit.

Section 1 amends AS 19.25.020(c) by creating four new paragraphs:

Paragraph (1) requires the state to pay for the costs of the change, removal, or relocation of any utility facility installed before July 1, 1960 regardless of whether the facility is authorized by a utility permit at the time the change, relocation, or removal of the facility is required. This is a matter of equity and fairness since there was no real uniform utility permit system in place before July 1, 1960.

Paragraph (2) requires either the state or the utility to pay for the costs of the change, removal, or relocation of the utility facility depending on the terms of the permit, provided the permit was issued after July 1, 1960. The effect of this paragraph is to make it clear that the question of who is to pay for relocation costs is a matter to be negotiated between the state and the utility. Presently, the state is required to pay for all relocation costs regardless of any agreement with the utility to the contrary.

INTRODUCTION OF BILLS (House)(cont'd)

HB 160 (cont'd)

Paragraph (3) requires the utility to pay for relocation costs if their facility was installed after July 1, 1960 and is not under permit. Under existing law, it is ambiguous whether a utility has to pay relocation costs if it does not have a utility permit.

Paragraph (4) requires the utility to pay for relocation costs if their facility is not installed in the location provided for in a permit. Currently, it is unclear whether a utility must pay relocation costs even if its facility is not installed in the location set out in the utility permit.

Section 2 of the bill sets an effective date of July 1, 1985 for this bill.

I urge your favorable action on this measure so that the question of who pays for utility relocation costs under the various circumstances described in the bill is answered in clear statutory language.

Student Loans
(changes to
program)

HOUSE BILL NO. 161, by Rep. Binkley. Makes the following changes to the student loan program:

--would raise the interest rate on loans to eight percent a year (currently five percent);

--in order to be eligible for a loan the applicant must have graduated within one year preceding the date of application or be scheduled to graduate within six months, or applicant must establish financial need (current law states applicant must be enrolled in college or be a high school grad or scheduled for graduation within six months);

--loan recipient may continue to apply and receive loans during each year he remains enrolled, but if study is interrupted for more than two years, a new loan could be obtained only if financial need is shown;

--sets interest rate on teacher scholarship loans at 5 percent a year unless the loan is in default, at which time interest is 10 percent.

--adds language to section of teacher scholarship loan program providing the borrower must be employed in a elementary or secondary school in the state before a portion of the loan will be repaid by the state;

Repeals subsections (j), (o) and (p) of AS 14.43.120 (Scholarship Loan Program. Condition of Loans). Subsection (j) states that a portion of a loan will be repaid by the state if the borrower remains a resident of the state for at least two years. Percentages are on a sliding scale, depending on how many years the student remains in the state after graduation. Subsection (o) states repayment provisions do not apply to a loan in default. Subsection (p) outlines residential requirements loan applicant must meet.

Adds language stating that a student who received a loan before the new provisions go in effect may receive a new loan only if the

COMMITTEE REPORTS (House)

HB 159. (cont'd)

a permit, or in the absence of a permit, was installed before the effective date of this bill in the proper location in accordance with department regulations, and by the utility in all other cases.

C&RA does not include sections of original bill that relate to summary removal ("The department may at any time and without notice remove from a state airport an encroachment or utility facility which obstructs or prevents the use of the airport by the public, or interferes with the safe operation of the airport.")

Does not include definition of "excess lands", as did original, and changes effective date to immediately (was 7/1/85). Other technical changes do not make substantive changes.

Utilities
Incident to
Highway Proj.
(relocation)

HOUSE BILL NO. 160, (see page 206). Reported back to the House February 22 by Community & Regional Affairs recommending it be replaced with a substitute and recommending as follows: Goll (Chair), Gruenberg, Wallis, and Koponen recommend do pass. Phillips, Furnace and Marrou have no recommendation. To Transportation.

The C&RA substitute is completely different. It provides that the cost of change, relocation or removal of utilities incident to highway projects necessitated by highway construction is a cost of highway construction to be paid by the department, provided the facility is properly installed in accordance with the permit, or in the absence of a permit, was installed before the effective date of this law, in the proper location in accordance with department regulations. In all other cases the utility must pay. Provides Act takes effect immediately.

Avalanche &
Fire Weather
Forecasting

HOUSE BILL NO. 169, (see page 210). Reported back to the House February 18 by State Affairs recommending it do pass. Concurring: Hurley (Chair), Wavarre, M. M. Miller, Collins, and Boucher. Not concurring: Jenkins had no recommendation. To Resources.

Air Service
(essential)

HOUSE JOINT RESOLUTION NO. 16, (see page 244). Reported back to the House February 20 by Transportation recommending it be replaced with a substitute and that it do pass. Concurring: Cato (Chair), Shultz, Herrmann, Davis and Pignalberi. Not concurring: Marrou recommends do not pass. Furnace has no recommendation. To Rules.

The Transportation substitute states that the elimination of the Essential Air Service is due to the President's proposed fy '86 budget (former version blamed elimination on the Department of Transportation), and adds a clause stating that under the Airline Deregulation Act of 1978 Congress provided that the program would continue until 1988. Requests that Congress "fully fund" the program. Copies of the resolution would also be sent to President Reagan, the Vice President, and Speaker of the House.

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

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 160

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
13 [BY 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 facility was installed before July 1, 1960, regardless of whether
16 the facility is authorized by a permit at the time the change, relo-
17 cation, or removal of the facility is required;

18 (2) by either the department as a cost of highway con-
19 struction or by the utility, depending on the terms of the utility
20 permit if the facility was installed or authorized under the authority
21 of a utility permit issued after July 1, 1960;

22 (3) by the utility if the facility was installed after July
23 1, 1960, and there is no utility permit for the facility;

24 (4) by the utility if the facility is not installed in the
25 location provided for in the utility permit, regardless of whether the
26 utility permit requires payment by the department [, NOTWITHSTANDING
27 THE TERMS OR PROVISIONS OF ANY EXISTING PERMIT, AGREEMENT, REGULATION
28 OR STATUTE TO THE CONTRARY].

29 * Sec. 2. This Act takes effect July 1, 1985.