

ALASKA LEGISLATURE COMMITTEE FILES 1987-88 8672

4459 HCRA HB 115 - HB 155

31

Rep. Springer asked if the entire Dalton Highway had federal designation and Rep. Frank replied that he believed it had been designated as such.

Chairman Cato invited Mr. Jim Vaden, deputy commissioner of the Department of Public Safety (DPS), to testify.

Mr. Vaden said that DPS opposed HB 115 from a public safety standpoint. He said that if support facilities were already in place along the highway, DPS would feel more comfortable about opening the highway. However, he acknowledged that the facilities probably would not develop until the road were open.

Mr. Vaden said that currently there is a Fish and Wildlife officer stationed in Coldfoot who is primarily in charge of resource protection and he said there is no one else stationed between Fairbanks and Prudoe Bay. He said if HB 115 were to pass, DPS would have to add blue shirt troopers to its work force to deal with traffic control such as traffic violations, accident investigation, and speeding violations. He said it would have to deal with resource protection and pipeline security such as accidental damage, intentional vandalism and potential sabotage. He said DPS would have to deal with environmental concerns resulting from vandalism, sabotage and motorists driving off the highway and damaging the environment and he said DPS would need to deal with the overall position of public safety such as search and rescue, stranded motorist, and medivacs from firearm or motor vehicle accidents. He said there was currently no one in place to deal with these problems.

Chairman Cato observed that the added personnel would result in one trooper per 100 miles of highway and noted that that kind of coverage was not available between Valdez and Glenallen.

Rep. Pearce wondered what type of safety and security measures were available in the summer on that portion of the road that is open and she wondered if the request for another trooper at Coldfoot was for a partial or full year. Mr. Vaden replied that the additional person would be for a full year because DPS was under the impression that the road would be open for the whole year.

Mr. Vaden said that there was a tremendous difference between the road connecting Fairbanks and Prudoe Bay, and the road between Glenallen and Valdez which is why the Fairbanks to Prudoe Bay highway required more personnel. He said that the Glenallen to Valdez highway required less personnel because there were more people living along and using that stretch of highway.

Rep. Pearce stated that she did not foresee any problems with tourist traffic along the Dalton Highway in the

wintertime. She said that Alaskan traffic is used to the risks of winter travel and does not expect special services. She then asked why DPS would provide pipeline security for APSC.

Mr. Vaden replied that he felt the security of the pipeline was everyone's responsibility because of the potential effects to the environment, nation and economy of Alaska. He said DPS currently kept an eye on the pipeline near the Valdez end.

Rep. Pearce said that keeping an eye on the pipeline was a good idea but not a justification for adding personnel. She felt added personnel should be reserved for road safety. She felt that pipeline security was APSC's job.

Mr. Vaden said that pipeline security was only one of the reasons mentioned for needing additional personnel and that regardless of who patrolled it, if something were to happen to the pipeline, the troopers would become involved. Mr. Vaden said that currently DPS does very little to patrol the pipeline. He said that APSC flew the pipeline at least once a day to check for oil spills or damage, walked the pipeline at least once a year to check for vandalism and covered different sections weekly by road patrol. He said there was some cooperative effort being done in that if the APSC air patrol noted something out of the ordinary it would probably notify DPS.

Rep. Boucher requested that DPS inquire into what kind of cooperative venture might be developed between private enterprise and the state regarding patrolling the area.

Rep. Hudson asked what kind of patrol was present on the road between Haines Junction and the Alaskan border. Mr. Vaden replied that the road was 230 miles long and that two Royal Canadian Mounted Police were stationed in Haines Junction and one or two mounted police were stationed in Beaver Creek. He said the mounted police were similar to state troopers in their duties.

Rep. Miller asked if DPS would still oppose HB 115 if the legislature appropriated all the money requested in DPS's fiscal note and Mr. Vaden said DPS would still not support HB 115 based on the public safety factor. He said that if various facilities were frequently in place along the highway for the public to use, DPS would be less concerned, but he repeated that no one would probably build until there was significant traffic to warrant investment. He said DPS was still anticipating the gas pipeline and felt that if the highway was open to the public there would be some contention over the use of the highway once the pipeline was built.

Rep. Miller interpreted DPS's lack of support for opening

the highway to mean that DPS would not be able to support any road development through the wilderness. Mr. Vaden said that generalization was not the case and that each project would be evaluated on its own.

Rep. Hudson said that at a time when the state was looking for alternative ways to generate revenues, HB 115 may have the effect of opening up an area to a broader public purpose. He said the Dalton Highway was a well known area and had the potential to become a major tourist attraction. He urged DPS to give some thought to the broader impact of opening up the highway rather than concentrating on the safety of the pipeline.

Chairman Cato asked why the two positions referred to in the fiscal note were both stationed out of Prudoe Bay. Mr. Vaden responded that this was based on the logistics of the situation.

Rep. Springer observed that in remote areas, a stranded motorist had a better chance of being aided by DOT/PF maintenance crew than by the state troopers. He said that the Dalton Highway had more commercial traffic on it than any other remote road in the Alaskan system which resulted in a 24 hour presence of human beings along the highway. He said that APSC was another presence on the highway so that it was not necessary to rely solely on state troopers. He said he had been involved with BLM in the development of nodal areas along the highway and he said that the conclusion of all agencies involved was that once the road was open there would be enough commercial interest for nodal development to proceed quickly. He said that since in actuality the road was open to Disaster Creek, all that remained to be opened was a 200 mile stretch to Prudoe Bay which was the least hazardous section of the road. He said that the current permitting system allowed for so many people to obtain permits that only tourists and Alaskans were kept out.

Chairman Cato read a statement from Ms. T. J. Thrasher, executive director for the Alaska Trucking Association (ATA). (The statement from Ms. Thrasher is an official part of these minutes and can be found in the official House Transportation Committee minutes binder that will be kept in the Legislative Reference Library after the close of the Fifteenth Legislative Session). The ATA statement said that although ATA supported HB 115, it felt that unless DOT/PF agreed to maintain and upgrade the road there would be a definite safety problem because the road is not in a safe condition. The ATA was also concerned that there were no amenities past Hilltop and there were many stretches where there is no place to pull off the side of the road. The ATA statement said it would like to see these concerns addressed.

Chairman Cato invited Mr. Mark Hickey, commissioner of DOT/PF, to testify on HE 115.

Mr. Hickey said that DOT/PF opposed only that portion of the bill that takes away the DOT/PF's authority to levy a toll.

Rep. Miller asked when the statute was created that allowed DOT/PF to levy a toll and Mr. Hickey replied that he thought it had been created in 1984 in response to the Knik Arm Crossing but that it was not limited to Knik Arm.

Rep. Boucher asked if the statute permitting DOT/PF to levy taxes was in conflict with other state, federal or native lands agreements.

Mr. Hickey replied that although the contract with APSC said that the state could not charge APSC a toll for using the road, it did not preclude the state from levying a toll on those companies that use the highway and are support companies for APSC. He added that section 11.13 in the Alaska lands bill explicitly allowed the state of Alaska to either keep the road closed or charge a toll without requiring it to repay the federal government. Mr. Hickey said he would look for possible conflicting statements in other agreements.

Rep. Miller was concerned that a toll charged on the Dalton Highway would impact mostly the individual motorist. He felt that since the road was maintained with public dollars, the public should be allowed to use it.

Rep. Boucher asked if DOT/PF planned to charge a toll on the Dalton Highway.

Mr. Hickey replied that his first choice would be to try and work something out with the oil companies and if that were not possible, then he would support a toll. He said that those companies that support the producers of oil are a high cost identifiable user group and he said that they could account for over 90% of the toll. He disagreed that the majority of the toll collected would come from the individual motorist.

Mr. Hickey said that the advice he had received from the Dept. of Revenue suggested that the levying of a toll would not affect severance or royalty payments, but it would affect corporate income tax because a toll would be considered an extra cost of doing business. He said a fiscal note from the Dept. of Revenue was forthcoming.

Mr. Hickey said that public use of the Dalton Highway would be a problem at this time from a public safety standpoint. He said that although many of the issues are solvable, the

(2c) HB 115

state should solve the problems before it opens the road. He added that he felt the road was in better condition than some other roads in the state. He said 20% more money used to be spent on the maintenance and operation (m & o) of the road and, therefore, maintenance on the road may be a problem.

Mr. Hickey said the DOT/PF fiscal note was in response to DOT/PF's plan to operate a toll road. He said there may be some additional m & o costs due to increased usage of the road but that additional m & o costs were not reflected in the note.

Rep. Hudson also appealed to DOT/PF to consider the broader picture when making decisions pertaining to the Dalton Highway.

Rep. Miller asked why DOT/PF chose to implement a toll through the regulatory process rather than approaching the legislature and asking for either approval or denial of a toll.

Mr. Hickey replied that according to the latest legal opinion, DOT/PF already had the authority to levy a toll and he added that regulations were a proper environment for dealing with the issue.

Chairman Cato said that the committee was running out of time and asked if all the witnesses could come back.

Rep. Pearce asked that DOT/PF provide the following information: the statutes applying to the opening of the road between the Yukon River and Dietrich; the amount of years the road has been open; the number of summer/winter and commercial/noncommercial accidents that have occurred on the road since it was opened to the public; and the number and kinds of summer/winter environmental impacts that the opening of the road has had on the highway. She added that the concept of charging tolls on state highways was not a new one as the Alaska Marine Highway System already charged a toll.

HOUSE TRANSPORTATION COMMITTEE MEETING - MARCH 11, 1987

HB 115

Chairman Cato introduced HB 115 for discussion. She said that a letter had just been received from the Resource Development Council and she requested that committee members add it to their packets. She then asked Rep. Frank, sponsor of HB 115, if he would like to say anything further regarding his bill.

Rep. Frank said that the more the Department of Transportation and Public Facilities (DOT/PF) demonstrated that it would be able to implement a toll, the greater the need for HB 115. He said the Dalton Highway was a public road and as such it should be made available to the public.

He said that opening the road would encourage economic development in the area and a greater use of public lands. He said that limiting public access to state land was inconsistent with the spirit of the Alaskan constitution.

Rep. Boucher left.

Chairman Cato invited Mr. Ron Sommerville, executive director of the Alaska Outdoor Council (AOC), to testify.

Mr. Sommerville said that AOC was a federation of 45 Alaskan organizations with memberships totaling over 10,000 Alaskans. He said he wanted to emphasize the fact that he represented Alaskans. He said that AOC supports opening the highway but remains neutral on the issue of the toll. He said that in the last 10-12 years, parts of Alaska that were previously enjoyed have become inaccessible. Responding to the Department of Public Safety (DPS)'s position on HB 115 as stated in the last House Transportation Committee public hearing on HB 115, he said it would be nice if all state highways were ideal in terms of coverage and conditions but that this ideal was generally not expected. Mr. Sommerville also mentioned that there was concern among the local residents regarding the problem of increased competition for local game and fish once the road is opened. He said he felt this concern was the responsibility of the appropriate state boards.

Chair Cato asked if the current state statute prohibiting hunting and fishing within five miles of the haul road would settle the issue and Mr. Sommerville said that even though there was a statute on the books, the concern will always be there, so the state boards must be aware of it.

Chairman Cato invited Mr. Mark Hickey, commissioner designate for DOT/PF, to address the committee.

Mr. Hickey said he had brought some information with him that addressed questions raised by the House Transportation Committee at its last public hearing of HB 115.

Chairman Cato asked Mr. Hickey how he interpreted the federal statute regarding the North Slope haul road. Mr. Hickey replied that the statute in question would relieve DOT/PF of any obligation to repay federal money spent on the road if the state were to impose a toll. Chairman Cato asked if the state would be able to determine how long the road would be open each year and Mr. Hickey said there was nothing in the provision to keep the state from opening the road year-round to the public. He said that in order for the road to be opened, state law would have to be changed.

Rep. Miller stressed that implementing a toll road in the state was a major policy decision that could be applied to

other roads and he wondered if DOT/PF had reconsidered asking for the toll in legislative form rather than pursuing it in regulatory form as it currently was doing.

Mr. Hickey said that at this point DOT/PF was not prepared to introduce a bill to that effect but that in discussions with the Governor it was conceptually agreed that the first three months of DOT/PF's FY '88 budget would be funded from the general fund budget regardless of whether or not a toll were implemented, and he said DOT/PF would continue to seek agreement with major users of the road as alternatives to imposing a toll. He said that if the toll were to be treated in legislative form, then there were other administrative issues that might also be considered in legislative form and he said he wanted to make sure he walked that line correctly.

Rep. Hudson stressed that the legislature was trying to provide some intent by prohibiting state tolls in general and Mr. Hickey said that as a general matter the questions of tolls should undergo legislative review. Mr. Hickey said that the department was down \$28 million in road maintenance money. He said that \$5.5 million was slated for use on the Dalton Highway and he said he would rather spend the money in an area that would benefit a larger number of Alaskans.

Rep. Miller pointed out the \$5.5 million slated for the Dalton Highway would serve more people if the road were opened.

Rep. Springer asked if DOT/PF's position was that it did not have a strong stand on the issue of opening up the highway but that it did insist on a toll structure.

Mr. Hickey replied that he needed to address the toll issue because DOT/PF was currently very concerned with money, but he added that he had a philosophical problem with spending general fund money on a road that was not open to the public. He said that outside of DOT/PF there were other impact questions that needed to be addressed such as North Slope Borough concerns, public safety concerns, and fiscal concerns but he felt these were solvable issues.

Chairman Cato invited Mr. Bob Lance, volunteer with the Alaska Environmental Lobby (AEL), to testify.

Mr. Lance said that AEL was concerned with illegal hunting and fishing and off-road vehicular use which may be a problem if the Dalton Highway were to be opened. He said that if the Dalton Highway were opened, the AEL requested that the state make a commitment to enforce current hunting, fishing and off-road vehicular use regulations in the area.

Chairman Cato asked if Mr. Lance had any evidence documenting problems in the area and Mr. Lance replied that he would bring the committee a copy of an article that was in the Daily News Miner that stated that the five mile zone was essentially ignored. He asked that the state enforce existing regulations.

Mr. Hickey said that currently there was no penalty provision available in the case of off-road vehicular use and he said there was no enforcement available for violations of the highway permit system. He said that the executive branch is currently drafting legislation to address this issue.

Chairman Cato invited Mr. Dan Savage, aid to Rep. Kay Wallis, to testify before the committee.

Mr. Savage said that Rep. Wallis represented Stevens Village which is 30 miles up the Yukon River from the Dalton Highway. He said that Rep. Wallis felt that both the pipeline and the highway have negatively impacted the village and that perhaps a toll would reduce the number of people who abuse the area.

Rep. Miller made a motion to move HB 115 out of committee with individual recommendations. Chairman Cato asked if there were any objections. Since there were none she said the motion passed.

LEGISLATIVE REPORTING SERVICE (BILL SUMMARY)

Dalton
Highway
(maintenance)

HOUSE BILL NO. 115, by Reps. Frank, Miller and Boyer. Would require the Department of Transportation to maintain the James Dalton Highway (formerly known as the North Slope Haul Road) and keep it open to the public throughout the year without a toll its use. Repeals AS 19.40.100 (James Dalton Highway. Use of the Highway by Industrial or Commercial Traffic -- requires the Department to maintain the highway year-round for industrial or commercial traffic). Does not provide an effective date (bill becomes law 90 days after being signed by the governor).

Introduced February 11 and referred to Transportation; Finance.

Dalton Highway
(maintenance)

HOUSE BILL NO. 115, (see pages 170;227). Reported back to the House March 13 by Transportation recommending it do pass. Concurring: Cato (Chair), Hudson, Miller, Pearce, Springer. To Finance.

HB 115

3. House Finance Committee Packet

- 3a) HFIN Com. Report, CS HB 115 (FIN)
- 3b) HFIN Com. Report, [CS HB 115 (FIN)] w/Letter of Intent and Incorrect Fiscal Notes 3 & 4.
- 3c) Fiscal Note #3, Corrected, 3/21/88
- 3d) Fiscal Note #4, Corrected, 3/21/88

HB115PKT.FIL

HOUSE COMMITTEE REPORT

LOW

(11)

Date referred: 3/13/87

FURTHER REFERRALS:

(3a) HB 115

DATE:

2-26-88

The Finance Committee has considered

HB 115

"An Act relating to public use of the Dalton Highway."

RECOMMENDS:

- replace with CS HB 115 (FIN) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Finance letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact ^{2-26 House FIN} _{2-26 DOTPF} same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Steve Keger

Donald

SIGNING OTHER RECOMMENDATIONS:

Get Adams - NO Rec

F. J. Fausch - NO Rec

Donald Johnson - NO Rec

Butt, Joe - NO Rec

Estrella - NO Rec

Mark Boyer - NO Rec

Tay Brown - DO NOT PASS

Mike Davis - NO Rec

Ray Wallis - Pls don't HURT MY PEOPLE any more.

Get Adams

Chairman's signature

Original sponsors: Frank, Miller,
Boyer and Menard

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IN THE HOUSE

BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 115 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Dalton Highway."

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

* Section 1. AS 19.40.080(2) is amended to read:

(2) "highway" means the secondary highway from the Yukon River to a terminus near the Arctic Ocean.

* Sec. 2. AS 19.40.110 is repealed and reenacted to read:

Sec. 19.40.110. PUBLIC USE OF THE HIGHWAY. Subject to AS 19.-40.120, the department shall keep the highway open to the public.

* Sec. 3. AS 19.40.100 is repealed.

HOUSE COMMITTEE REPORT

(11)

(3b) HB 115 2/29

Date referred: 3/13/87

FURTHER REFERRALS:

Rules

DATE: 2-26-88

The Finance Committee has considered HB 115

"An Act relating to public use of the Dalton Highway.

RECOMMENDS:

- replace with CS HB 115 (FIN) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: Finance letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact ^{2-26 House FIN} _{2-26 DOTPF} same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] - No Rec

[Signature] No Rec

[Signature] No Rec

[Signature] No Rec

[Signature] No Rec

[Signature] NO REC

[Signature] DO NOT PASS

[Signature] ~~NO REC~~

[Signature] Pls don't HURT MY PEOPLE any more.

[Signature]

Chairman's signature



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CS HB 115 (FINANCE)

P.O. Box V
State Capitol
Juneau, Alaska 99811

It is the intent of the Legislature that the Department of Transportation and Public Facilities work with the operators of the Prudhoe Bay oil fields to allow access beyond the security checkpoints to the Arctic Ocean.


It is the intent of the Legislature that the Department of Public Safety issue citations for violations of fish and game regulations and provide supporting evidence of such violations, and that the Department of Law prosecute those violators.

The Legislature intends that an annual review of the effect of public use of the Dalton Highway be conducted by the Department of Public Safety to determine the success of law enforcement efforts on curtailing fish and game violations and that the Department of Law review the prosecution of such violations.

The Legislature further intends that the Department of Public Safety utilize Fish and Wildlife Protection intern officers where needed along the Dalton Highway corridor to ensure adequate enforcement of fish and game laws during the hunting season.

It is the intent of the Legislature that the Department of Public Safety review the number of search and rescue operations conducted annually, the success ratio, the related cost, and who bore the expense. The Department of Public Safety will also review whether adequate personnel is being maintained on the highway to ensure human safety and deterrence of game violations.

Finally, it is the intent of the Legislature that the Department of Transportation and Public Facilities conduct an annual review to determine whether adequate facilities exist on the highway to meet the public demand and to allow for safe public travel.


Al Adams, Chair
House Finance Committee

FISCAL NOTE

REQUEST: House Finance

CSHR 115(FIN)

Revision Date: 2/26/88

Agency Affected: Pub:

NO 3

Title: "An Act Relating to Public Use
of the Dalton Highway"

BRU: Alaska St

2/29/88

Sponsor: Representative Frank

Components: Det:

Requestor: House Finance Committee

VOID

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	213.0	213.0	213.0	213.0	213.0
TRAVEL	0	3.9	3.9	3.9	3.9	3.9
CONTRACTUAL	0	63.2	63.2	63.2	63.2	63.2
SUPPLIES	0	6.6	6.6	6.6	6.6	6.6
EQUIPMENT	0	66.9				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	353.6	286.7	286.7	286.7	286.7

CAPITAL		250.0				
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND		603.6	286.7	286.7	286.7	286.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	603.6	286.7	286.7	286.7	286.7

POSITIONS :

FULL-TIME	0	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Rep. Adams **ADA** Phone: 465-3709
Division: Chairman, House Finance Date: 2/26/88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 115

VOID

1. Assumptions

In order to open the remainder of the Dalton Highway to the public, we anticipate the need for two wayside facilities with campsites, vault toilets and litter barrels. One such facility would probably be developed in the Atigun/Galbraith area. The other would probably be developed in the Happy Valley area.. Preferably they would be located in existing material sources. Also, we would expect to install four additional sets of litter barrels and two additional vault toilets (additional toilets not included in 1/27/88 fiscal note for the same bill) at locations scattered along the northern portion of the route.

2. Capital Costs

Two Campsite Facilities		\$30,000
Four Vault Toilets		48,000
Information Signs		2,000
Bear Proof Litter Barrels (Six Pair)		4,000
	TOTAL	<u>\$84,000</u>

3. Operating Costs

Personal Services:		<u>\$10,000</u>
Campsite/Litter Barrel Maintenance		
	TOTAL	\$10,000
Contractual Services:		20,000
Vault Toilet Maintenance		
Contractual Services:		<u><20,000></u>
Savings: Closing Existing Checkpoint		
Contractual Services Subtotal		<u><u>-0-</u></u>
TOTAL IMPACT		\$10,000

These figures indicate an annual maintenance cost of \$30,000 for new facilities. Of that, \$20,000 would be offset by closing the existing checkpoint. Closing the Dalton Highway to public use during the winter months would not cause the figures to change.

The northern terminus of the Dalton Highway is approximately 2 miles short of the Deadhorse Airport and approximately 12 miles short of the Arctic Ocean. Beyond the terminus of the Dalton Highway the roads have been built, and are maintained, by the oil companies. Public use of them would require coordination with the oil companies. Public access from the Dalton Highway to the Deadhorse Airport is probably easily attainable.

Public access to the Arctic Ocean, if it is desired, is more involved and could be expected to be more sensitive to the oil companies. While access to the Arctic Ocean may be desirable, it is not critical to opening the Dalton Highway to public use.

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

VOID

Bill Version: CSHB 115
Publish

REQUEST

Revision Date: _____
Title: Cost for Opening the Dalton
Highway to the Public
Sponsor: Frank
Requestor: Frank

Agency Affected: CSHB 115
BRU: _____
Components: _____
704
2/29/88

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL		0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		10.0	10.0	10.0	10.0	10.0
CAPITAL		84.0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		94.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER						
TOTAL		94.0	10.0	10.0	10.0	10.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: See attached

Prepared by: Norm Piispanen/Lynn J. Harnisch Phone: 474-2423/451-2210
Division: DOT&PF Planning/Reg. Director, Northern Region Date: 2/25/88
Approved by Commissioner: Mark S. Hickey Date: 2/26/88
Agency: DOT&PF

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 115

VOID

In order to keep the Dalton Highway open throughout the entire year, a full range of law enforcement services must be maintained. In order to provide accident response, patrol, investigation, and search and rescue services, three additional State Trooper positions will be needed; one at Coldfoot, and two others in Prudhoe Bay. The costs below summarize their Personal Services and related costs. It is anticipated that equipment will be needed in the first year only and that the road would not be open to the public until July 1, 1988. Further, FY89 costs are based upon budgeted costs for FY88 with no inflation included and basic costs for 8 months only.

<u>Operating Budget</u>	<u>Trooper Coldfoot</u>	<u>Trooper Prudhoe Bay</u>	<u>Trooper Prudhoe Bay</u>	<u>Increased Helo Oper. Costs (1)</u>	<u>Total</u>
Personal Services	71.0	71.0	71.0		213.0
Travel	1.3	1.3	1.3		3.9
Contractual	5.7	28.1	28.1	1.3	63.2
Supplies	2.2	2.2	2.2		6.6
Equipment	22.3	22.3	22.3		66.9
Total	102.5	124.9	124.9	1.3	353.6

(1) - Helicopter costs include one additional trip up and down the highway, fueling at Coldfoot and Prudhoe Bay (contract). This is expected to involve seven hours @ \$187 per hour.

Capital Budget

Currently, there is no housing available in Coldfoot as was originally anticipated when this fiscal note was first prepared. Accordingly, it will be necessary to construct a new housing unit located next to the FWP unit in Coldfoot. Cost is estimated to be \$395,000 for a single family unit.

Revised 2/16/88

Position Title State Trooper		No. of Positions 1	Range/Step 6/A	Barg. Unit PSEA
Time Status PFT	Staff Months 8.0	Location Coldfoot		Election District 22
Type of Expenditure		Amount		
1	2	3		
Salary	36,124			
Benefits	31,584			
Premium Pay	3,334			
Other				
Total Personal Services		71.0		
Travel		1.3		
Contractual		5.7		
Commodities		2.2		
Equipment		22.3		
Other				
Total Cost		102.5		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	102.5		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
Revised 2/16/88				

Justification

A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.

Additionally, no housing currently exists in Coldfoot and a unit would need to be constructed.

VOID

REQUEST FOR
NEW POSITION

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments and CIB

FY 89

Page 1 of 3
 Revised Date

Position Title		State Trooper		No. of Positions	1	Range/Step	76/A	Barg. Unit	PSEA
Time Status	PFT	Staff Months	8.0	Location	Prudhoe Bay		Election District	22	
Type of Expenditure				Amount					
1		2		3					
Salary		36,124							
Benefits		31,584							
Premium Pay		3,334							
Other									
Total Personal Services				71.0					
Travel				1.3					
Contractual				28.1					
Commodities				2.2					
Equipment				22.3					
Other									
Total Cost				124.9					
Funding Source for Total Cost									
Federal Receipts		1002							
G.F. Match		1003							
General Fund		1004		124.9					
I-A Receipts		1006							
CIP Receipts		1061							
Other									
Revised 2/16/88									

Justification

A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.

Contractual costs include housing and office space at a cost of \$2,800 per month, which is based upon previous AST experience in Prudhoe Bay and assumes space availability.

VOID

REQUEST FOR
NEW POSITION

Agency Department of Public Safety
BRU Alaska State Troopers
Component Detachments and CIU

Page 2 of 3
Revised Date

FY 89

Position Title State Trooper		No. of Positions 1	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 8.0	Location Prudhoe Bay		Election District 22
Type of Expenditure		Amount		
1	2	3		
Salary	36,124			
Benefits	31,584			
Premium Pay	3,334			
Other				
Total Personal Services		71.0		
Travel		1.3		
Contractual		28.1		
Commodities		2.2		
Equipment		22.3		
Other				
Total Cost		124.9		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	124.9		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
Revised 2/16/88				
<p>Justification</p> <p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.</p> <p>Contractual costs include a leased housing space of approximately \$24,000 per year, assuming that it is available.</p>				

VOID

REQUEST FOR
NEW POSITION

Agency Department of Public Safety
 BRU Alaska State Troopers
 Component Detachments and CIB

FY 89

Page 3 of 3
 Revised Date

Fiscal Note HB 115
Coldfoot Trooper Housing Unit

VOID

1. Direct Construction Cost - House		
\$150 per sq. foot x 1,376 sq ft =	\$206,400	
2. Direct Construction Cost - Garage		
\$75 per sq ft x 288 sq ft =	21,600	
3. Sight preparation (backfill)	40,000	
4. Paving	<u>10,000</u>	
	subtotal	278,000
5. Indirect overhead - Engineering, Architectual, etc. - DOT/PF related - 33%		<u>92,000</u>
	subtotal	370,000
6. Inflation thru actual construction 6-7 %	<u>25,000</u>	
	Total	<u><u>\$395,000</u></u>

3d HB 115

3/21/88

C O R R E C T I O N

Please discard fiscal note for CSHB 115(Fin), 2/29/88/ 703
and replace with this corrected version.

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSHB 115(Fin)
Publish Date: HOUSE 2/29/88

REQUEST
Revision Date: _____
Title: Cost for Opening the Dalton
Highway to the Public
Sponsor: Frank
Requestor: Frank

Agency Affected: DOT&PF
BRU: _____
Components: _____

172

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL		0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		10.0	10.0	10.0	10.0	10.0
CAPITAL		84.0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		94.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER						
TOTAL		94.0	10.0	10.0	10.0	10.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: See attached

Prepared by: Norm Piispanen/Lynn J. Harnisch Phone: 474-2423/451-2210
Division: DOT&PF Planning/Reg. Director, Northern Region Date: 2/25/88
Approved by Commissioner: Mark S. Hickey Date: 2/26/88
Agency: DOT&PF

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSEB 115 (FIN)

1. Assumptions

In order to open the remainder of the Dalton Highway to the public, we anticipate the need for two wayside facilities with campsites, vault toilets and litter barrels. One such facility would probably be developed in the Atignau/Galbraith area. The other would probably be developed in the Happy Valley area.. Preferably they would be located in existing material sources. Also, we would expect to install four additional sets of litter barrels and two additional vault toilets (additional toilets not included in 1/27/88 fiscal note for the same bill) at locations scattered along the northern portion of the route.

2. Capital Costs

Two Campsite Facilities	\$30,000
Four Vault Toilets	48,000
Information Signs	2,000
Bear Proof Litter Barrels (Six Pair)	4,000
TOTAL	<u>\$84,000</u>

3. Operating Costs

Personal Services:	\$10,000
Campsite/Litter Barrel Maintenance	
TOTAL	\$10,000

Contractual Services:	20,000
Vault Toilet Maintenance	

Contractual Services:	<u><20,000></u>
Savings: Closing Existing Checkpoint	

Contractual Services Subtotal	<u>-0-</u>
-------------------------------	------------

TOTAL IMPACT \$10,000

These figures indicate an annual maintenance cost of \$30,000 for new facilities. Of that, \$20,000 would be offset by closing the existing checkpoint. Closing the Dalton Highway to public use during the winter months would not cause the figures to change.

The northern terminus of the Dalton Highway is approximately 2 miles short of the Deadhorse Airport and approximately 12 miles short of the Arctic Ocean. Beyond the terminus of the Dalton Highway the roads have been built, and are maintained, by the oil companies. Public use of them would require coordination with the oil companies. Public access from the Dalton Highway to the Deadhorse Airport is probably easily attainable.

Public access to the Arctic Ocean, if it is desired, is more involved and could be expected to be more sensitive to the oil companies. While access to the Arctic Ocean may be desirable, it is not critical to opening the Dalton Highway to public use.

3/21/88

(3d) HB 115

C O R R E C T I O N

Please discard Fiscal Note for CSHB 115(Fin), 2/29/88, No. 4
and replace with this corrected version.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 115(FIN)
PUBLISH DATE: HOUSE 2/29/88

FISCAL NOTE

REQUEST: House Finance

Revision Date: 2/26/88
Title: "An Act Relating to Public Use
of the Dalton Highway"
Sponsor: Representative Frank
Requestor: House Finance Committee

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

(171)

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	213.0	213.0	213.0	213.0	213.0
TRAVEL	0	3.9	3.9	3.9	3.9	3.9
CONTRACTUAL	0	63.2	63.2	63.2	63.2	63.2
SUPPLIES	0	6.6	6.6	6.6	6.6	6.6
EQUIPMENT	0	66.9				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	353.6	286.7	286.7	286.7	286.7
CAPITAL		250.0				
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		603.6	286.7	286.7	286.7	286.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	603.6	286.7	286.7	286.7	286.7

POSITIONS :

FULL-TIME	0	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Rep. Adams *ADA* Phone: 465-3709
Division: Chairman, House Finance Date: 2/26/88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 115(Fin)

In order to keep the Dalton Highway open throughout the entire year, a full range of law enforcement services must be maintained. In order to provide accident response, patrol, investigation, and search and rescue services, three additional State Trooper positions will be needed; one at Coldfoot, and two others in Prudhoe Bay. The costs below summarize their Personal Services and related costs. It is anticipated that equipment will be needed in the first year only and that the road would not be open to the public until July 1, 1988. Further, FY89 costs are based upon budgeted costs for FY88 with no inflation included and basic costs for 8 months only.

<u>Operating Budget</u>	<u>Trooper Coldfoot</u>	<u>Trooper Prudhoe Bay</u>	<u>Trooper Prudhoe Bay</u>	<u>Increased Helo Oper. Costs (1)</u>	<u>Total</u>
Personal Services	71.0	71.0	71.0		213.0
Travel	1.3	1.3	1.3		3.9
Contractual	5.7	28.1	28.1	1.3	63.2
Supplies	2.2	2.2	2.2		6.6
Equipment	22.3	22.3	22.3		66.9
Total	102.5	124.9	124.9	1.3	353.6

(1) - Helicopter costs include one additional trip up and down the highway, fueling at Coldfoot and Prudhoe Bay (contract). This is expected to involve seven hours @ \$187 per hour.

Capital Budget

Currently, there is no housing available in Coldfoot as was originally anticipated when this fiscal note was first prepared. Accordingly, it will be necessary to construct a new housing unit located next to the FWP unit in Coldfoot. Cost is estimated to be \$395,000 for a single family unit.

Revised 2/16/88

Fiscal Note CSHB 115 (Fin)
Coldfoot Trooper Housing Unit

1. Direct Construction Cost - House	
\$150 per sq. foot x 1,376 sq ft =	\$206,400
2. Direct Construction Cost - Garage	
\$75 per sq ft x 288 sq ft =	21,600
3. Sight preparation (backfill)	40,000
4. Paving	<u>10,000</u>
	subtotal
	278,000
5. Indirect overhead - Engineering, Architectural, etc. - DOT/PF related - 33%	
	<u>92,000</u>
	subtotal
	370,000
6. Inflation thru actual construction 6-7 %	<u>25,000</u>
	Total
	<u><u>\$395,000</u></u>

Position Title State Trooper		No. of Positions 1	Range/Step 76/A	Barg. Unit PSEA
Time Status PFT	Staff Months 8.0	Location Coldfoot		Election District 22
Type of Expenditure		Amount		
1	2	3		
Salary	36,124			
Benefits	31,584			
Premium Pay	3,334			
Other				
Total Personal Services		71.0		
Travel		1.3		
Contractual		5.7		
Commodities		2.2		
Equipment		22.3		
Other				
Total Cost		102.5		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	102.5		
I-A Receipts	1006			
CIP Receipts	1061			
Other				
Revised 2/16/88				
<p>Justification</p> <p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.</p> <p>Additionally, no housing currently exists in Coldfoot and a unit would need to be constructed.</p>				

No. 4
 CSHB 115 (Fin)
 HOUSE 2/29/88

REQUEST FOR
NEW POSITION

Agency Department of Public Safety

BRU Alaska State Troopers

Component Detachments and CIB

FY 89

Page 4 of 6
Revised Date

Position Title		State Trooper		No. of Positions	1	Range/Step	76/A	Barg. Unit	PSEA				
Time Status	PFT	Staff Months	8.0	Location	Prudhoe Bay		Election District	22					
Type of Expenditure			Amount			<p>Justification</p> <p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.</p> <p>Contractual costs include housing and office space at a cost of \$2,800 per month, which is based upon previous AST experience in Prudhoe Bay and assumes space availability.</p>							
1		2		3									
Salary		36,124											
Benefits		31,584											
Premium Pay		3,334											
Other													
Total Personal Services				71.0									
Travel				1.3									
Contractual				28.1									
Commodities				2.2									
Equipment				22.3									
Other													
Total Cost				124.9									
Funding Source for Total Cost													
Federal Receipts		1002											
G.F. Match		1003											
General Fund		1004				124.9							
I-A Receipts		1006											
CIP Receipts		1061											
Other													
Revised 2/16/88													

No. 4
 CSHB 115 (Fin)
 HOUSE 2/29/88

REQUEST FOR
NEW POSITION

Agency Department of Public Safety

BRU Alaska State Troopers

Component Detachments and CIB

FY 89

Page 5 of 6
Revised Date

Position Title		State Trooper		No. of Positions	Range/Step	6/A	Barg. Unit	PSEA			
Time Status	PFT	Staff Months	8.0	Location		Prudhoe Bay	Election District 22				
Type of Expenditure			Amount			<p>Justification</p> <p>A fully trained and experienced law enforcement officer is needed to provide accident response, patrol, investigation, and Search and Rescue along the Dalton Highway. This trooper position must have a 4 x 4 vehicle (152P) in order to be able to travel the rough road during winter conditions. All other costs are average Trooper costs and are based upon experience. Eight months funding is included to coincide with the length of time the road would be open.</p> <p>Contractual costs include a leased housing space of approximately \$24,000 per year, assuming that it is available.</p>					
1		2		3							
Salary		36,124									
Benefits		31,584									
Premium Pay		3,334									
Other											
Total Personal Services				71.0							
Travel				1.3							
Contractual				28.1							
Commodities				2.2							
Equipment				22.3							
Other											
Total Cost				124.9							
Funding Source for Total Cost											
Federal Receipts		1002									
G.F. Hatch		1003									
General Fund		1004				124.9					
I-A Receipts		1006									
CIP Receipts		1061									
Other											
Revised 2/16/88											

REQUEST FOR
NEW POSITION

Agency Department of Public Safety

BRU Alaska State Troopers

Component Detachments and CID

Page 6 of 6
Revised Date

FY 89

No. 4
CSHB 115 (Fin)
HOUSE 2/29/88



4 HB 115

Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

HB 115: Opening the Dalton Highway

HB 115 opens the Dalton Highway to the Arctic Ocean, year-round, without a toll or any other control, and maintained by the state.

Presently the highway is open year-round to the Yukon River, and as far north as Dietrich Camp between June 1 and September 1. Serious problems have been reported, such as illegal hunting, ORV use, waste and refuse violations. Existing problems would worsen and new problems arise under an "open-road" policy, including:

- *Increased disturbance of wildlife, soil, and vegetation along the corridor;
- *Increased competition for game between rural subsistence users and road hunters;
- *Need to provide adequate tourist services and yet maintain the road's undeveloped character;
- *Need to insure safety of travellers on this extremely remote no-shoulder road trafficked by fast-moving 18-wheelers.

In a major policy review in 1980 DOT/PF examined the environmental effects of the unlimited public use option and assigned it a value of two on a 10-point scale, with zero representing the most deleterious effects. In evaluating the effects on fisheries and wildlife, the open-road policy was also rated the most harmful of all the alternatives, even with the assumption that "intelligent and sound management of these resources, along with strict enforcement measures, can ...mitigate the pressures on these resources resulting from an open-road posture" (DOT Policy Analysis, p. 41).

The option chosen in 1980 opened the road to the public only as far as the southern boundary of the North Slope Borough. As DOT's policy analysis assumed, game management regulations intended to protect wildlife were instituted: firearm hunting was prohibited within a corridor five miles wide on either side of the road and no ORV travel was allowed in or through the corridor. These measures proved ineffective. caribou hunting has been virtually unregulated and has now reached the maximum level the Central Arctic herd can sustain. Wolves are being trained to seek handouts. ORV use has been unregulated and destructive of soil and vegetation.

The measures proposed by DOT/PF, DPS, and ADF&G to mitigate the results of opening the northern portion of the Dalton Highway do not begin to address the very serious concerns stated above.

The Alaska Environmental Lobby urges that the problems associated with opening the entire Haul Road--remote, inadequately patrolled, inadequately serviced-- to unlimited public access not continue to be underestimated.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB
 KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY
 DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY
 KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE
 SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL
 KNIK KANOERS AND KAYAKERS

Fairbanks

Tuesday, April 26, 1966

Fairbanks Daily News-Miner, Fairbanks, Alaska

Bill to open Dalton Highway runs into roadblock

By SAM BISHOP
News-Miner Bureau

JUNEAU—The idea of opening the Dalton Highway to public traffic north of Atigun Pass has hit what may be a fatal roadblock, according to a Fairbanks representative who objects to continued closure of the road to Prudhoe Bay.

House Speaker Ben Grussendorf assigned the bill, HB115, to the Community and Regional Affairs Committee for more hearings last week.

Rep. Steve Frank, R-Fairbanks and the bill's sponsor, said today he doesn't think the bill will move

from the committee because of opposition from rural lawmakers.

The bill passed its last committee of referral on Feb. 29 and was awaiting a vote on the House floor when Grussendorf sent it back for more work.

"I got about 22 or 23 votes and there was some concern by some members of the majority about voting on it," Frank said. "Some people didn't want it to come to the floor and they prevailed upon the Speaker to send it to an additional committee for hearings."

Rep. Kay Wallis, D-Fort Yukon, said she asked for the additional

hearings because people from northern villages along the highway route haven't been able to testify. They oppose opening the road because more hunters and fishermen would travel the road and compete for fish and game, she said.

The Dalton Highway, originally built as a service road for the trans-Alaska pipeline, is open to public use to the south side of Atigun Pass in the Brooks Range. The remaining 150 miles to Prudhoe Bay are closed.

Rural communities and officials traditionally have opposed opening

the road. But the idea gained the support of Rep. Al Adams, D-Kotzebue, and the North Slope Borough earlier this year.

Adams, chairman of the House Finance Committee, said making the road public would allow federal funds to be used to build a new road from Prudhoe Bay to the village of Nulqsut. The road would let villagers obtain cheaper fuel, he said.

However, the North Slope Borough withdrew its support after the possibility of building the Nulqsut road became more remote, according to Rep. Henry Springer, D-Nome. Springer, a former De-

partment of Transportation official, is chairman of the House Community and Regional Affairs Committee.

Springer called a hearing on the bill Monday, and another will be held on Wednesday.

Springer said he isn't sure opening the road is appropriate right now because the federal Bureau of Land Management is in the midst of a major planning effort for the pipeline corridor.

He suggested, as a compromise, opening the road to the north side of Atigun Pass. He said tourists could then enjoy the scenery in the pass,

some of the best in Alaska, he said. Springer also said he is concerned about a high sheep kill in the area by hunters last year. The sheep are mostly north and east of 7 1/2 Wignau, he said.

Wallis asked that villagers be contacted for their thoughts on the bill.

Springer said that, given the statements of opposition received in earlier committee hearings, more extensive hearings aren't necessary.

"But why?" Wallis said. "It's not just that we're opposed. There's a reason for it."



CITY REEFS
DAY

Golden Valley Electric
ation meeting, Hering Au-
m. Registration at 6 p.m.

5) HB 115

HB 115

Rep. H. Sprung
Chairman HCRB

Synopsis:

SUMMARY HB 115

WHAT HAS BEEN DONE:

STEVE FRANK.

1. QUESTION
TOLL ROAD?

2. SPUR RD

UNDER FEED FUNDING

NSB - PREVIOUSLY SUPPORTED

a. SUPPORT NO LONGER THERE

FOX HAUL ROAD

Reasoning why:

Public Policy -

a. ROAD BELONGS TO STATE

why treated differently -

b. CONDUSIVE TO DEVELOPMENT.

CONCERNS NOT TO OPEN ROAD

Franklin Bluffs (Penguin Falcon) E

PRESSURE ON
ROSBURG
LARGE CARIBOU
VILLAGE
STAVENS
BUTLER
WISCONSIN

Rag Camp Aircraft

Roy Noland - splist
in sheep

Calhoun - Tech - sheep
close road

Susan Petersen
subsistence - Caribou
Upsik Village

Activities - illegal
Hunting - over Harvesting Low
productivity reproduction

1. ENVIRONMENTAL a. Subsistence

2. Safety - Chandler Valley

3. COSTS

2. Safety, accident, facilitier - winter time

pipeline security - summer

Traffic heavy

low enforcement

3. COSTS: Upgrade facilitier

Housing for Troopers

Other Consideration.

Subsistence

opening would provide some
mining -

TRAVEL SERVICES - records,
guiding sight seeing.

Local govt - opposed

Local impacts etc sanitation

Timing

why do it now?

Further Construction

Gas Pipeline

1940-20 regulate or restrict

Buy control activity - Commerce can
address this issue

Long on going planning process.
state BLM meeting on this
issue.

Tour busses operating
CAN DRIVE

Adequate funding - Environmental Lobbyist
Regulate the number of people
to travel this road - Industrial Traffic
glare for old people - speculate
speculate - economic ~~sketchy~~ situation
to hunting trip

Local residents are going to go hunting.

Public Health & Safety

TANANA Chief Against it opening R.R.

NSB opposed to it. " " " "

WISERMAN FOR IT OPENING THE ROAD

Rep walls
Welfare & Health
Mentioned - Finance costs
Acknowledged that local people
are in opposition

Cross fire into B/W
Galbraith Lake Hills
Sheep & Caribou
SEANIC

ATIGAN PASS
CHECK POINT

Southern side of Chaudhury
extension north to other side
of PASS.

no direct subsistence effort.
no sheep
geared to summer
modified formula. I can go
witho

Planning Committee
20 miles per permit checkpoint

Steve FRANK

Primarily

Public Road - public USE to ALL

Substantial opportunity Tourism

SUPPORT compromise

How much Tourism

Several Thousand Tourists

Legal purpose - Commercial

MAINTENANCE - STATE COSTS

CS -

HB 563 INTERIM

HB 115 INTERIM

2nd HB 1

SS HB 020 NO

~~HB~~ NO ACTION Request of Sponsor
NO ACTION
NO ACTION SB become law.

HB 286 Intimic work

HB 419 DEAD

HB 522 do nothing NO ACTION

~~HB~~ 539 Sponsor requested

(HB 542 Same page)

(Funding in General
Committee pointers)

Gov. Li

HCRA 74th Meeting

CS HB 115

B/M consider - WISE to PERSUE
caught up in politics - genuine concerns
close Committee out

problems to be addressed - even tho
dead end session

committee

draft letter -

ask for consideration in Management
plans -

substitutions

ZKI - ample time to give info
Springer - thoroughly opposed - changed position

ZKI - Road is a state road

HB 1 - Finished - good solid information

HB 115 interim - B/M

HB 286 - Letter to Gov. Have research agency
put out that - Rural Pub. Council -

put out types of information - pull it
all together - Sponsor would it - did
nothing - Gov. formulation to be better than
what

HB 475 top assessment - determine work -
How outside

HB 519 & HB 520 Radon - technical &
legal issues

HB 542 - General pay - Congress

HB 563 - through sub Board - took it away
from the through Assembly. Interim

SPONSORS hold 4 bills

CA. citen - Dist. T. HAIKO | HAIKO 27 - not to move

HB 357 Utilities

Notifs
60 days

Act Relating Borough organized
Heats of Hermon -

1st yr.	\$ 400,000
2nd yr.	400,000
3rd yr.	400,000

~~ACRA Committee~~

Ad, 3:26 PM.

78K 2/27/88
ROAD

(Continued from page 1)

Frank's bill, HB115, requires the Department of Public Safety to station three Fish and Wildlife Troopers on the road. Last year in hearings, department spokesmen criticized the bill and said they couldn't support it even if they received extra Troopers.

On Friday, Public Safety Commissioner Art English offered no opposition to the bill and said he didn't think poaching was a problem along the road.

The Department of Transportation and Public Facilities also hesitated to support the bill last year. At the time, it considered tolls for users.

Commissioner Mark Hickey Friday supported the opening Friday. He said the state has no more liability for drivers on the Dalton than for drivers on other remote gravel highways such as the Taylor and Denali.

Adams and Frank worked on the bill in a subcommittee, along with Reps. Pat Pourchot, D-Anchorage, and Kay Wallis, D-Fort Yukon.

Wallis led the fight Friday to stop the bill from moving with an emotional plea on behalf of villagers who hunt in the areas crossed by the highway.

Barely five minutes into the meeting, Wallis called for a recess and walked out for several minutes to compose herself.

When she returned, Wallis said she hadn't been told the bill was on the schedule that day. She said she was shocked at Rep. Adams' apparent intent to move the bill out of committee without hearing from villagers.

"We heard in subcommittee that this is an experiment. How dare you experiment with my people? How dare you?" Wallis said.

Committee members debated the bill for 90 minutes, with Reps. Kay Brown, D-Anchorage, and Mike Davis, D-Fairbanks, siding with Wallis.

Adams noted that the road already is open to hunters to the north side of the Brooks Range. People who hunt must do so on foot, using bow and arrows, until they're five miles from the pipeline.

78K 2/27/88

House panel votes 8-3 to open Dalton Highway

By SAM BISHOP
News-Miner Bureau

JUNEAU—Shifted sentiments by key legislators and two state agencies have improved chances for a bill that would let Alaskans drive to Prudhoe Bay.

The bill hit a few potholes and bumps Friday afternoon in the House Finance Committee, but members passed it 8-3. Next stop for the bill is the House floor.

Movement on the bill was smoothed by support from House Finance Committee Chairman Al Adams, D-Kotzebue. Adams represents the North Slope region, whose political leaders have opposed opening the road in the past.

Now, residents of the North Slope village of Nuiqsut want to build a road from their community to the oil fields. They want federal money to help with the \$20 million-\$30 million price tag, but the federal gov-

ernment won't provide funds unless the Dalton Highway is open to the public.

The road would let villagers obtain cheaper heating fuel from the Prudhoe Bay complex, Adams said.

The Dalton Highway was closed to public traffic north of the Yukon River bridge nearly a decade ago. The line later was pushed to the south foothills of the Brooks Range.

Concerns about safety on the road, increased competition faced by local hunters, and poaching of wildlife prompted the closure.

Bill sponsor Rep. Steve Frank, R-Fairbanks, said he didn't believe opening the remaining 150 miles of road would increase hunting pressure. Hunting is forbidden within five miles of the pipeline and the use of all-terrain vehicles is prohibited, he noted.

(See ROAD, Page 3)

405 3-5-88

Public use of Dalton said costly

The Dalton Highway costs more per mile to maintain than any other road in Alaska, but Transportation Commissioner Mark Hickey would support public use if such an impact could be handled properly.

Hickey is in Fairbanks attending the two-day state Transportation Forum, ending today at the University of Alaska Fairbanks. Today's session includes the national Transportation 2020 forum, in which each state is to examine transportation issues that will arise in the coming 30 years.

The debate on allowing public travel on the road between Fairbanks and Prudhoe Bay is an old one. Motorists can drive as far as a state checkpoint at Dietrich, nearly 211 miles from the Elliott Highway. A state permit is needed to go beyond Dietrich. Trucks hauling materials, equipment and supplies to oilfields are among the year-round users.

What needs to be in place, Hickey said in an interview, is staffing by Alaska State Troopers and probably Fish and Wildlife Protection officers, plus facilities adequate to serve travelers.

On other matters, Hickey said the \$75 million jobs bill signed by the governor Thursday includes \$2 million for local roads and trails and another \$2 million for small harbor repairs.

The road and trail money is distributed by formula and Fairbanks will get part of that. Only about \$10 million is assigned to the transportation department and some of that amount must be passed through to municipalities, Hickey said.

Local controversy over design plans to expand Illinois Street to six lanes as part of the five-phase Geist Road project has attracted Hickey's attention. He said he's monitoring design plans and local response.

With the heyday of state oil revenue spending in the early 1980s also came harsh criticism that the DOTPF did not have accounting control on hundreds of millions of dollars in legislatively approved projects.

Hickey said that prior to 1985, the old accounting system was incapable of handling the number of projects. The DOT has had to account for 4,100 separate projects in 2,200 different appropriations over the past 10 years.

Progress in cleaning up accounting freed \$86 million that helped allow the state government to have a positive balance this year, Hickey said.

The work isn't finished yet.

Dalton most expensive road to maintain

FAIRBANKS (AP) — The Dalton Highway costs more per mile to maintain than any other road in Alaska, but Transportation Commissioner Mark Hickey would support public use if the impact can be handled properly.

The debate over allowing public travel on the road between Fairbanks and Prudhoe Bay is an old one. Motorists can drive as far as a state

checkpoint at Dietrich, nearly 211 miles from the Elliott Highway. A state permit is needed to go beyond Dietrich. Trucks hauling materials, equipment and supplies to oilfields are among the year-round users.

Hickey said there must be adequate staffing by the Alaska State Troopers and probably Fish and Wildlife Protection officers.

*anch X
3-7-88*

Bill would allow residents to drive to Prudhoe Bay

anch X

FAIRBANKS (AP) — A measure approved in an 8-3 vote by the state House Finance Committee would allow Alaskans to drive to Prudhoe Bay, using the Dalton Highway. The bill now heads to the House floor.

The Fairbanks Daily News-Miner's Juneau bureau reported that support from House Finance Committee Chairman Al Adams, D-Kotzebue, helped move the legislation. Adams represents the North Slope region, where political leaders in the past opposed completely opening the road to the public.

Now, residents of the North Slope village of Nuiqsut want to build a road from their community to the oil fields to obtain cheaper heating fuel from the Prudhoe Bay complex. And they want federal funds to help with the \$20 million to \$30 million project.

But federal officials say they will not provide funds unless the Dalton Highway is open to the public.

The Dalton Highway was closed to public traffic north of the Yukon River bridge nearly a decade ago. The road later was opened to the southern foothills of the Brooks Range. Concerns about safety on the

road, increased competition faced by local hunters and poaching of wildlife prompted the closure.

Bill sponsor, Rep. Steve Frank, R-Fairbanks, said he did not believe opening the remaining 150 miles of road would increase hunting pressure. Hunting is forbidden within five miles of the pipeline and the use of all-terrain vehicles is prohibited, he said.

Frank's bill requires the Department of Public Safety to station three Fish and Wildlife Protection Division officers on the road. During hearings on the bill last year, the department criticized the bill.

On Friday, Public Safety Commissioner Art French offered no opposition and said he did not think poaching was a problem along the road.

The Department of Transportation and Public Facilities also balked at supporting the bill last year. At the time, it considered tolls for users.

DOTPF Commissioner Mark Hickey on Friday supported the opening. He said the state has no more liability for drivers on the Dalton Highway than for drivers on other remote gravel roads such as the Taylor and

See Road, page B-6

B-6 Monday, February 29, 1988, The Anchorage Times

Road: Opposition

Continued from page B-1

Denali highways. Rep. Kay Wallis, D-Fort Yukon, led a fight to block the bill. She made an emotional plea on behalf of villagers who hunt in the areas crossed by the highway.

Barely five minutes into the meeting, Wallis called for a recess and walked out for several minutes to compose herself. When she returned, Wallis said she had not been told the bill was on the schedule that day. She said she was shocked at Rep. Adams' apparent intent to move the bill out of committee without hearing from villagers.

Committee members debated the bill for 90 minutes, with Reps. Kay Brown, D-Anchorage, and Mike Davis, D-Fairbanks, siding with Wallis.

Adams noted that the road already is open to hunters to the north side of the Brooks Range. People who hunt must do so on foot, using bow and arrows.

Davis said that in hearings just two years ago, troopers

testified that stopping illegal hunting along the hundreds of miles of road was virtually impossible.

June Weinstock of the Alaska Environmental Lobby said in a position paper that if the illegal killing of caribou on the highway exceeds last year's levels, the herd's growth and health will be endangered.

Rep. Pat Pourchot, D-Anchorage, said he also worried about such problems when he first started work on the bill, but has been convinced that they can be handled.

Stevens Village residents report that competition for game and fish has grown considerably in the past few years, said Eric Smith, an lawyer for the Rural Alaska Community Action Program.

Stevens Village is on the Yukon River, about 25 miles upriver from the Dalton crossing.

Weinstock said a road to Nuiqsut is weak justification for opening the Dalton Highway. She questioned the wisdom of building a \$26 million road to lower fuel prices for 200 people.

3/7/88

Editorial Opinion and Comment of



Daily News - Miner

"Independent in All Things. Neutral in None"

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

At long last

The bill to open the Dalton Highway to Prudhoe Bay came as a pleasant surprise. For years, the bill has been bottled up by various interests opposed to opening the road. Now the key pin in the jam of opposition has been removed and the bill is beginning to move through the Legislature.

Many interests do not want the road open: The oil companies don't want the public to get too close to their facilities; the environmentalists don't want people driving into the wilderness; various state agencies don't want added costs that public use of the road would bring. However, the main reason the bill to open it has never gone anywhere is because of opposition from the North Slope Borough.

It's ironic that the apparent reason that opposition has now melted is because the borough wants to build a road of its own from Nuiqsut to connect with the Dalton at the oil fields. The federal government won't help with the cost of the road unless the Dalton is open to the public.

The chairman of the House Finance Committee, Rep. Al Adams, D-Kotzebue, let the bill out of his committee Feb. 26. Next stop is the House floor. State agencies, such as the departments of Public Safety and Transportation, which opposed the bill earlier, have fallen in line, and there is every reason to believe that the bill will pass this year.

It's long overdue. The Dalton Highway presently is closed to public use at 210 Mile, a little past Coldfoot. Motorists can't even go up to Atigun Pass a short distance beyond to see the great divide in the Brooks Range between the Interior and the North Slope. The state maintains the road strictly for use by the oil companies.

Now it appears likely that the road soon will be open to Prudhoe Bay. If the North Slope Borough gets its way, motorists someday may be able to drive along the Arctic Ocean all the way to Nuiqsut.

The Dalton Highway remains a rough journey. Only the hardy and well-equipped should attempt it. But for those of us who want to, it is good that we will finally be allowed.

2BK 4/28/88

The Daily News-Miner welcomes letters to the editor, P.O. Box 710, Fairbanks, AK 99707. Each letter must carry the name and address of the writer, which will be published. Letters that are libelous or in poor taste will be rejected. Thank-you letters will be published in the "Applause" column. Because of space limitations, the following rules generally apply: A letter may not be longer than 350 words. Copies of letters from one person to another will not be published. No one may publish more than one letter per month. Political endorsement letters from outside our readership area will not be published. The Daily News-Miner reserves the right to edit or reject any letter submitted.

Open the Dalton

April 25, 1988
P.O. Box 69070
Fairbanks, AK 99706

To the editor:

The Dalton Highway (haul road) belongs to the public, it should be opened. It is a beautiful journey through upper Alaska, a wide gravel highway winding amid wooded country, passing crystal lakes and green tinted rivers, and lying beneath magnificent mountain ranges. A road traveling into the flat, desert-like coastal plains of the Arctic. A road crawling through winter snowdrifts; passing sand dunes in the summer. A pristine wilderness filled with bears and moose, fox and caribou, and other animals, birds and fishes. One sees indigenous Arctic flora. Majestic sights. There is no reason on earth that this beautiful part of Alaska should be opened to only a select few.

The haul road belongs to the public, it should be opened. To assert that tourists and truckers cannot mix safely is absurd. Tourists are our friends, relatives, and loved ones from other parts of the world. A tourist could be a vacationing truck driver from North Dakota, or a nurse, or a retired person who risked his life in Europe, or the South Pacific, defending America during World War II. Tourists, Alaskan or otherwise, are not mindless drivers from the planet Winnebago. I have driven the haul road and I have seen the road blocked by jack-knifed tractor trailers, and Aiyeska vehicles parked in the middle of the road, but I have yet to see a tourist, or a camper, or a free Alaskan pulling a boat, blocking the highway.

The haul road belongs to the public, it should be opened. I worked on the haul road North of the Yukon, from day one during the pipeline construction, and I have driven it since completion. The road is a super highway compared to the original Alcan of the early '50s which I traveled on. Pork barrel politics, oily money, and red neck mentality keep this wonderful road closed. We do not need to be protected from the ruggedness of Alaska, we choose its risks, and its rewards. The road is safe, the scenery is exotic; a spiritual feeling fills one while driving the wide, adequately serviced wilderness highway. Your highway. One wonders what may have happened if pioneers were re-

fused to travel the Cumberland Gap, Oregon Trail, or Chilkoot Pass. The haul road belongs to the public, it should be opened.

John Cruikshank

No great challenge

April 26, 1988
808n Senate Drive
Fairbanks, AK 99712

To the editor:

I have difficulty comprehending the arrogance expressed in the recent (April 22, 1988) letter to the editor from Sherri Bouton. Her limited driving experience really shows through if she thinks that the Dalton Highway is a big driving challenge. I drove it as a tourist myself several years ago and can state with certainty that far greater challenges can be found elsewhere: i.e. the Taconic Parkway in New York (no shoulders) and the "Grapevine" in Los Angeles County (steep hill with trucks). She should try driving up and down the hills of San Francisco or on the narrow streets of Boston if she wants to test her driving skills. Fortunately for all of us, she has that right as

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Dear Customer
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HB

155

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

House C+RA

3-9-87

3:00 p.m.

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

March 9, 1987

MEMORANDUM

TO: Representative Henry Springer, Chairman
Members of House Community & Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director

SUBJECT: HB 155 - Relocation of Utilities

The Alaska Municipal League is opposed to HB 155. The AML has long been opposed to legislative proposals to shift the cost of relocating utilities to municipalities as outlined in the 1987 Policy Statement. Part VI. UTILITIES, A. State Regulation, 3. Utility Relocation Costs on page 17 states "The League opposes any effort to shift to municipalities the cost of all non-municipal, utility relocation within existing rights-of-way associated with municipal street work."

I would respectfully request that the Committee hold HB 155 until I am able to present the AML's position. Due to prior commitments and having just returned from a National League of Cities meeting in Washington, D.C., I am unable to appear before the Committee today, and have had insufficient time to review the current legislation which appears to be similar to past legislation which the AML has opposed for good reasons.

I have attached sample copies of testimony on a similar piece of legislation, SB 67, introduced in the 13th Alaska State Legislature. I respect AML opposition to HB 155 and my request to delay Committee action to give me sufficient time to assess the legislation and its impacts on our members for your information prior to Committee action.

12-2 14B 155

Alaska MUNICIPAL League

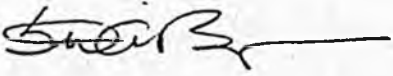


TELEPHONES
(907) 586-1325
(907) 586-6526

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

February 7, 1984

To: House Labor and Commerce Committee

From: Scott A. Burgess, Executive Director 

Re: SB 67 - Utility Relocation Costs

The League opposes SB 67, as introduced, relating to the relocation of utility facilities incident to the construction of road or highway projects by a municipality.

The League opposes any effort to shift to municipalities the cost of all non-municipal utility relocation within existing rights-of-way associated with municipal street work.

Municipalities are already facing decreased revenues from reductions in Municipal Assistance and State Revenue Sharing Programs. The additional burden of paying utility relocation costs could only come from an increase in property taxes, unless the municipality owned the utility and could pass the cost on to the ratepayers directly. The problem is further exacerbated in municipalities with limited road powers. The cost of relocating utilities would reduce the amount of money available to the road service districts for road construction and maintenance. Road service districts rely heavily on state funds and their ability to levy taxes is limited.

123 HB 155

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

March 29, 1983

To: Senate Community and Regional Affairs Committee
From: Ginny Chitwood, Executive Director *GC.*
Re: SB 67 - Utility Relocation Costs

Municipalities oppose SB 67 because the issue is a local one and should be resolved at the local level. This bill would amend Title 29, Chapter 25 - Protection and Use of State Highways and Roads (emphasis added). The changes in SB 67, however, don't relate to state roads; they deal with local roads.

It is easy to understand why there is a provision in law for the state to pay the utility relocation costs since 95% of the funding is paid by the federal government. In municipal road projects, however, there is no way to shift 95% of the costs to a non-resident third party. The costs are paid by the local taxpayer unless the municipality receives a specific state grant for a specific project.

Since cost figures vary widely depending on the circumstances of each road project, I was not able to generate any average municipal cost per mile figures, but I do have general comments from several municipalities.

City of Palmer - Manager David Soulak estimates the provisions of SB 67, without section 5, would cause a 5% to 15% increase on three road projects currently being planned. In many cases, utilities are not where they're supposed to be. He doesn't think that municipalities should have to pay for utility mistakes, but does not oppose the municipality paying to relocate the utility if it is put in according to a permit.

Matanuska-Susitna Borough - Manager Gary Thurlow basically agrees with Soulak.

City and Borough of Sitka - Administrator Rocky Gutierrez believes that municipalities shouldn't be in state statutes except in Title 29. Sitka has worked out an agreement with the non-municipal utilities.

City of Kodiak - Manager Sam Gesko opposes section 3 of the bill, making the relocation costs a municipal responsibility.

City of Fairbanks - Manager Wally Droz says there would be no effect on

the City of Fairbanks because their policy is to pay relocation costs, although the utility pays for any upgrades.

Fairbanks North Star Borough - Public Works Director Don Moore reports that current borough practice is for the utility to pay relocation costs so shifting the cost to municipalities would cut down on the amount of road work that could be done with the available money.

City and Borough of Juneau - Public Works Director George Porter says that cost allocations are decided on a case by case basis, depending on whether the utility is where it was supposed to be, the age of the line, etc.

City of Ketchikan - City Manager Jim Van Altvorst estimates that the bill would cost the city an estimated \$50,000 this year.

Municipality of Anchorage - Public Works Director Paul Diener believes that this is a local issue. Anchorage has a new ordinance in the works that would require the municipality to pay the relocation costs if the utility has a permit and is at the location specified in the permit; in other cases, the utility would be required to pay.

City of Kenai - Paying relocation costs would cut down the amount of road work the city could do. Attorney Tim Rogers points out that common law indicates that "Rights in streets or highways....are at all times held in subordination to the superior rights of the public".

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4545

TONY KNOWLES.
MAYOR

12-4 HB155

OFFICE OF THE MUNICIPAL ATTORNEY

May 4, 1983

Don Clocksin
Alaska State Legislature
Pouch V(MS3100)
Juneau, Alaska 99811

Re: SB67 and HB244

Dear Don:

As you may recall, I testified at a Community and Regional Affairs hearing last Friday via a teleconference from Anchorage. I explained that the Municipality of Anchorage objects to SB67 and HB244. The purpose of this letter is to set forth in a little more detail the Municipality's objections and to ask you to share this information with the other members of the Community and Regional Affairs Committee.

I would like to dispel the notion that the issue involved here is "The cost causer should be the cost payer". This is really an inaccurate statement. The real issue is whether the taxpayers as a whole or whether the rate-payers should bear utility relocation costs. The Municipality's philosophy and practice since 1969 has been that the rate-payer (i.e., the utility company) should pay for utility relocation costs in connection with the road improvement project in a public right-of-way. This rule follows the common law, case law, and the practice followed in the cities which the Municipality's Public Works Department recently surveyed regarding their approach to utility relocation costs. Let me explain these points in a little more detail.

Basically, a utility's use of a public right-of-way is free of charge. The only cost is a nominal permit fee. This permit lets the Municipality know that a utility is in the right-of-way

Don Clocksin
May 4, 1983
Page 3

generally held that the municipality may require a change in the location of pipes or other underground facilities of the grantee of a franchise, where public convenience or security require it, even at the grantee's own expense, and even in the face of a protest by a consumer. It makes no difference whether the surface or subsurface of streets is involved.

The cases are legion which support this proposition. In an early case, New York Tunnel Authority v. Consolidated Edison Company of New York, Inc., 295 N.Y. 467, 474, 68 N.E. 445, 448 (1946) the Court stated:

Although authorized to lay its pipes in the public streets, the company takes the risk of their location and is bound to make such changes as the public convenience and security require, at its own cost and charge. (citations) All these cases are to the point, that these public service corporations maintain their rights in the streets, subject to reasonable regulation and control, and are bound to relocate their structures at their own expense whenever the public health, safety, or convenience require the change to be made.

And in the very recent case of Michigan Bell Tel. Company v. City of Detroit, 308 N.W.2d 608 (1981) the Court stated

The dispute in the present case is a simple one. Defendant contends that its police powers permit it to require plaintiff to move its facilities from one street to another for the purpose of making way for a public improvement. Plaintiff, on the other hand, contends that because its easements are vested, it may not be required to relocate its facilities without reimbursement from defendant as would be the case in any condemnation proceeding. . . .

On the facts before us then, we hold that the common-law rule requiring a utility to remove its facilities at its own expense where necessary to protect the public health or general welfare is applicable. At pages 610-611.

Don Clocksin
May 4, 1983
Page 5

be passed. . . .

It is our position that SB67 and HB244 as presently written would be violative of this Constitutional provision because of our existing franchises.

Finally, it would appear that the Legislature should not be venturing into this field of control over local governments. The Municipality of Anchorage is a Home Rule municipality and believes that it has the authority and power to control this aspect of its business. We do own several utility companies ourselves and are perfectly capable of handling the situation with respect to our own utilities. The other private utilities that do business here in Anchorage really do not have a firm basis to request that this local government pay their tab when, in the first place, they began using public rights-of-way with the full knowledge that this method of doing business would require them to pay relocation costs when the Municipality exercised its police power. As has been emphasized in 12 McQuillan, Municipal Corporations § 34.74 at page 179:

The grant by a municipality to a public service company of the right to use streets does not divest the municipality of its police power over the grantee in relation to its use of such streets. Indeed, a municipality cannot grant away or limit the police powers conferred upon it by the Legislature.

Accordingly, Don, I would request that you share the view of the Municipality, as set forth in this letter, with the other members of the Community and Regional Affairs Committee and with any other Committee which may consider this legislation. As far as the Municipality is concerned, this is an extremely important and far reaching issue and we respectfully request that SB67 and HB244 be defeated. The Director of the Department of Public Works has already provided to your Committee a rather lengthy report of the telephone survey that was conducted last month. I believe that this survey conclusively establishes, along with the points raised in this letter, the validity of the Municipality's position.

CITY OF KENAI

P.O. Box 580
KENAI, ALASKA 99611
PHONE (907) 283-7539

(12-5) HB 155



April 16, 1984

Honorable Mitch Abood
Representative, State of Alaska
Pouch V
Juneau, Alaska 99801

Dear Representative Abood:

I want to take this opportunity to congratulate you and thank you on behalf of the City of Kenai for your vote on SB 67 which is typically referred to as the Utility Relocation Bill.

On the basis of your "no" vote and the "no" votes of 26 other members of the Alaska House of Representatives, you have prevented legislation that would have cost local communities millions of dollars over the next few years, and at the same time, permitted additional construction throughout the municipalities of the State of Alaska that might not have taken place had this bill not been defeated.

The municipalities' main concerns with this legislation was that the utilities are provided easements by the municipalities at no cost and in most cases knowing full well that municipalities (providing money is available) will be upgrading and improving their road systems, and therefore, should be aware of the possible costs of having to relocate. The second major concern is that if the State forces local government to also absorb the costs for moving the "freebie" utility lines which are in municipalities' easements or right-of-way at the sufferance of the cities, this additional cost might persuade many municipalities to forego many road improvement projects which are sorely need in almost every community in the State of Alaska.

To my knowledge, I know of no elected local public officials or appointed local public officials who supported SB 67 in the first place. The only source of support that this bill had was from the utilities themselves and from the paid lobbyists that the utilities hire in order to accomplish their legislative goals.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Municipality
of
Anchorage



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ANCHORAGE, ALASKA 99502-0650
(907) 264-4545

TONY KNOWLES,
MAYOR

12-4 HB155

OFFICE OF THE MUNICIPAL ATTORNEY

May 4, 1983

Don Clocksin
Alaska State Legislature
Pouch V (MS3100)
Juneau, Alaska 99811

Re: SB67 and HB244

Dear Don:

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Basically, a utility's use of a public right-of-way is free of charge. The only cost is a nominal permit fee. This permit lets the Municipality know that a utility is in the right-of-way

Don Clocksin
May 4, 1983
Page 2

and where it is located. No other charges are assessed against the utility company for the use of the public right-of-way. This is in contrast to the situation found in the Municipality's telephone survey. The cities contacted told us that the utilities in their area had franchises and part of the franchise included a percentage payment of the gross revenues of the utility annually to the local government for the use of the right-of-way.

The Municipality, and formally the GAAB, did not want to impose an annual charge upon utility companies for the use of public rights-of-way. Instead, utility companies were expected to pay for any relocations that may be required because of the government's improvement of the right-of-way. In short, the primary purpose of the right-of-way was for road use and utilities were considered secondary users. Please keep in mind that the utilities all along have had the option of purchasing private easements for the placement of their facilities. They did not do this in many cases. Instead, they used the public right-of-way free of charge. Accordingly, if SB67 and HB 244 are passed and signed into law, there will be a significant impact on the Municipality's road construction budget. Because road improvements are a local priority, we may be forced to greatly increase the annual permit fees that are charged utilities for the use of our rights-of-way.

In those situations where a utility company has been able to establish some prior right; that is, a right that existed before the right-of-way was dedicated to public use or before the local government came into existence, then the Municipality has traditionally paid for relocation costs. In every other case, the utility has paid for such costs pursuant to our local ordinance. This pattern and practice, which the Municipality of Anchorage wants to continue without interference by State statute, is the common law rule. As 12 McQuillan, Municipal Corporations, § 34.74a at page 183 states:

The fundamental common-law right applicable to franchises in streets is that the utility company must relocate its facilities in public streets when changes are required by public necessity. Accordingly, it is

Don Clocksin
May 4, 1983
Page 3

generally held that the municipality may require a change in the location of pipes or other underground facilities of the grantee of a franchise, where public convenience or security require it, even at the grantee's own expense, and even in the face of a protest by a consumer. It makes no difference whether the surface or subsurface of streets is involved.

The cases are legion which support this proposition. In an early case, New York Tunnel Authority v. Consolidated Edison Company of New York, Inc., 295 N.Y. 467, 474, 68 N.E. 445, 448 (1946) the Court stated:

Although authorized to lay its pipes in the public streets, the company takes the risk of their location and is bound to make such changes as the public convenience and security require, at its own cost and charge. (citations) All these cases are to the point, that these public service corporations maintain their rights in the streets, subject to reasonable regulation and control, and are bound to relocate their structures at their own expense whenever the public health, safety, or convenience require the change to be made.

And in the very recent case of Michigan Bell Tel. Company v. City of Detroit, 308 N.W.2d 608 (1981) the Court stated

The dispute in the present case is a simple one. Defendant contends that its police powers permit it to require plaintiff to move its facilities from one street to another for the purpose of making way for a public improvement. Plaintiff, on the other hand, contends that because its easements are vested, it may not be required to relocate its facilities without reimbursement from defendant as would be the case in any condemnation proceeding. . . .

On the facts before us then, we hold that the common-law rule requiring a utility to remove its facilities at its own expense where necessary to protect the public health or general welfare is applicable. At pages 610-611.

Don Clocksin
May 4, 1983
Page 4

Another recent case is Mountain States Tel. & Tel. Company v. Boise, etc., 607 P.2d 1084 (1980) where the Court said:

There is no taking of private property for public use in causing relocation of the utilities' facilities in any-wise violative of the eminent domain provisions of Idaho Constitution Article I § 14, the injury sustained, if any, being damnum asque injuria, since "uncompensated obedience to a regulation enacted for the public safety under the police power of the state was not taking property without due compensation." . . . At page 1086.

As you can see, then, it is certainly the rule that when local governments improve their streets, utilities located in those streets must move at their own expense. These cases stand for the proposition that a local government, under its police power, has this authority. The Municipality of Anchorage can see no valid reason why this rule should be changed as the proposed SB67 and HB244 intend to do.

Furthermore, there is a real question with reference to another aspect of what we do here in Anchorage. This involves specific franchise agreements that we have with various utilities. Specifically, we have written agreements (i.e., franchises or permits) with several oil companies and a local cable television company. These specific agreements clearly set forth the obligation of these private companies to pay their own relocation costs. Again, the philosophy behind this is that these companies are using public rights-of-way free of charge. Please note also that in some of our existing franchise agreements, such as our pole attachment agreement with MultiVisions, their promise to pay relocation costs is part of the "basis of the bargain" which, if disturbed, not only poses Constitutional problems, but may require termination and a complete renegotiation.

The adoption of the proposed legislation poses a Constitutional problem with respect to our existing franchises. Article I, Section 15 of the Alaska Constitution provides:

No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges shall

Don Clocksin
May 4, 1983
Page 5

be passed. . . .

It is our position that SB67 and HB244 as presently written would be violative of this Constitutional provision because of our existing franchises.

Finally, it would appear that the Legislature should not be venturing into this field of control over local governments. The Municipality of Anchorage is a Home Rule municipality and believes that it has the authority and power to control this aspect of its business. We do own several utility companies ourselves and are perfectly capable of handling the situation with respect to our own utilities. The other private utilities that do business here in Anchorage really do not have a firm basis to request that this local government pay their tab when, in the first place, they began using public rights-of-way with the full knowledge that this method of doing business would require them to pay relocation costs when the Municipality exercised its police power. As has been emphasized in 12 McQuillan, Municipal Corporations § 34.74 at page 179:

The grant by a municipality to a public service company of the right to use streets does not divest the municipality of its police power over the grantee in relation to its use of such streets. Indeed, a municipality cannot grant away or limit the police powers conferred upon it by the Legislature.

Accordingly, Don, I would request that you share the view of the Municipality, as set forth in this letter, with the other members of the Community and Regional Affairs Committee and with any other Committee which may consider this legislation. As far as the Municipality is concerned, this is an extremely important and far reaching issue and we respectfully request that SB67 and HB244 be defeated. The Director of the Department of Public Works has already provided to your Committee a rather lengthy report of the telephone survey that was conducted last month. I believe that this survey conclusively establishes, along with the points raised in this letter, the validity of the Municipality's position.

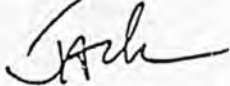
Don Clocksin
May 4, 1983
Page 6

If you have any further questions, or if the members of your Committee have any further questions with regard to the points that I have raised herein, I would be more than happy to address those concerns either over the telephone or in person.

As a personal note, I hope you and Betty are doing well these days.

Yours very truly,

DEPARTMENT OF LAW



John W. Coyne
Assistant Municipal Attorney

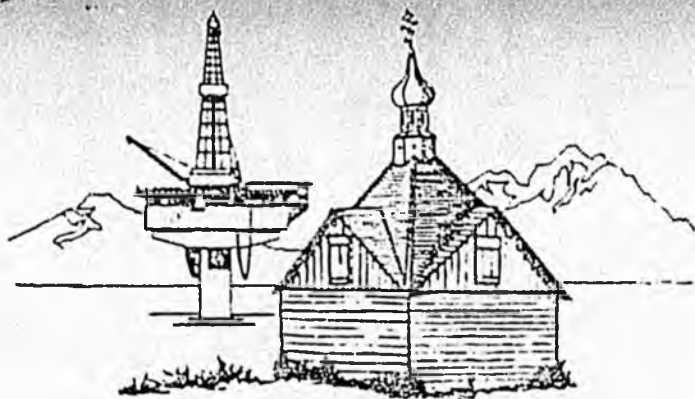
JWC:ld

cc: Mayor Tony Knowles
Jerry Wertzbaugher, Municipal Attorney
Patrick Anderson, Legislative Affairs
Everett P. Diener, Director, Public Works
Lee Browning, Municipal Engineer
Mike Bolinger, Program Manager, Engineering Div.

CITY OF KENAI

P. O. Box 580
KENAI, ALASKA 99611
PHONE (907) 283-7539

(12-5) HB 155



April 16, 1984

Honorable Mitch Abood
Representative, State of Alaska
Pouch V
Juneau, Alaska 99801

Dear Representative Abood:

I want to take this opportunity to congratulate you and thank you on behalf of the City of Kenai for your vote on SB 67 which is typically referred to as the Utility Relocation Bill.

On the basis of your "no" vote and the "no" votes of 26 other members of the Alaska House of Representatives, you have prevented legislation that would have cost local communities millions of dollars over the next few years, and at the same time, permitted additional construction throughout the municipalities of the State of Alaska that might not have taken place had this bill not been defeated.

The municipalities' main concerns with this legislation was that the utilities are provided easements by the municipalities at no cost and in most cases knowing full well that municipalities (providing money is available) will be upgrading and improving their road systems, and therefore, should be aware of the possible costs of having to relocate. The second major concern is that if the State forces local government to also absorb the costs for moving the "freebie" utility lines which are in municipalities' easements or right-of-way at the sufferance of the cities, this additional cost might persuade many municipalities to forego many road improvement projects which are sorely need in almost every community in the State of Alaska.

To my knowledge, I know of no elected local public officials or appointed local public officials who supported SB 67 in the first place. The only source of support that this bill had was from the utilities themselves and from the paid lobbyists that the utilities hire in order to accomplish their legislative goals.

Again, let me say on behalf of the City of Kenai, we appreciate your position on this particular bill, and feel it will be extremely beneficial to the people in municipalities throughout the State of Alaska.

Sincerely,


Wm. J. Brighton
City Manager

WJB/kh



THE HEART OF THE MATANUSKA VALLEY

12-6 HB 155

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT
P.O. BOX 1368 • PHONE (907) 745-3271
PALMER, ALASKA 99645

March 21, 1984

The Honorable Jack Fuller
Chairman, House Rules Committee
Pouch V
Juneau, Alaska 99811

RE: CSSB 67 Utility Relocation

Dear Representative Fuller,

Through the past few legislative sessions this bill SB 67 and now CSSB67 and others have been proposed to shift the burden onto the local government for utility relocation that was not installed with proper easements, installed outside easements, installed contrary to local rules and regulations and adinfinitem.

The City of Palmer in the past two years has undertaken over \$1,750,000 in local street construction which included asphalt paving, curb, gutter and sidewalk in most instances.

It is the City of Palmer's policy that a residential street is twenty eight (28) feet wide back of curb to back of curb which is assessed to the abutting property owners and benefiting property owners. The cost distribution is made using the zone method similar to the City of Anchorage. From our master plan, any street which is designated collector or arterial and is upgraded to a forty-four (44) foot wide street back of curb to back of curb plus a four (4) foot sidewalk on each side, the City bears the additional cost.

During the course of construction, we have run into buried cables which have meandered through the right of way varying up to eighteen (18) feet from the property line. This was on North Alaska Street for which the City was billed \$19,329.06. On North Gulkana Street, the cables were buried up to ten feet from the property line for which we were billed \$22,248.45 or an additional seven (7%) percent and seven and four tenths (7.4%) percent respectively to each project.

To regress for a bit, the City of Palmer had and still has its ordinances that require utility companies to one, provide plans annually of the system layout; two, placement is to be one (1) foot off the property line and three, have a franchise with the City for the use of the right of way. Presently, Matanuska Electric Association has a non-exclusive franchise which was renewed in 1974 when the original franchise expired. Matanuska Telephone Association has chosen to this point not to enter into a non-exclusive franchise with the City of Palmer. (A sample copy is enclosed). Yet have continued to bury cable prior to 1982 without regard to local ordinances or charter provisions.

The Honorable Jack Fuller
March 21, 1984
Page 2

Since 1982, all utilities are required to obtain written city approval for all work done in our right of way. Still, a permit being issued stipulating placement of utilities within a corridor is not adhered to which has caused street construction delays this past summer.

To grandfather all existing utilities irregardless of when and how they were placed is unconscionable to say the least, but valorous on the part of the utility companies.

Utility corridor placement is something every community should be doing so that the street right of ways do not become a jungle, as is the case now. Problems of utility relocation outside is usually borne by the utility company.

I do not deny the utility company's right to enjoy the use of the right of way (according to State Statute) providing they have complied with all local rules and regulations; but this is not what has transpired in our case.

In my discussions with other city managers, some have the same type of problems as I do except with different players. Many communities own the utility company so this legislation has no effect upon them at this moment.

I therefore urge that CSSB 67 is not passed out of committee nor it be passed by the House. The financial ramification of this piece of legislation to all jurisdictions is mega-bucks each year.

Although I may not be in Juneau until April 12th and 13th, I would gladly sit down with the committee as a whole or individually to help reach an amiable solution.

Should you have any questions, please feel free to contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

Enclosures

cc: The Honorable Ramona Barnes
The Honorable John Liska
The Honorable Mae Tischer
The Honorable Randy Phillips
The Honorable Mike M. Miller
The Honorable Joe Hayes
AML

(12-7) #B 155

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF '98"

P. O. BOX 415 SKAGWAY, ALASKA 99840

907-983-2297

March 5, 1984

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

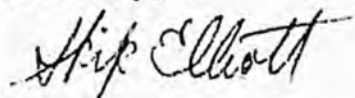
Dear Senator Eliason;

You recently received a letter from Dave Palmer, City Administrator of Craig, regarding House CS for Senate Bill 67 (L&C). In it he discusses some of the serious problems connected with this new version of the utility relocation bill. I have discussed this matter with the Skagway City Council and they are strongly opposed to this bill as it stands.

Skagway's strongest objection is that this bill negates existing mutually-agreeable relocation contracts. Last year for instance, the City of Skagway finally signed a franchise agreement with Alaska Power & Telephone Company regarding right-of-way usage. This concluded a year of heated arguments regarding, among other things, quality of service, possible condemnation, and power pole relocation. The two final points of contention were the term of the agreement and the cost of utility relocation as a consequence of public construction. The final result was a twenty year franchise in return for Alaska Power & Telephone Company's agreement to pay all relocation costs. If the current House version of SB67 passes then the City would be saddled with a 20 year franchise which no longer contains the major provision fought for and won by the City of Skagway.

The City Council has consequently asked me to write you on this matter and request that you vigorously oppose passage of any version of this bill that does not allow municipalities and utilities to mutually agree upon allocation of relocation expenses.

Sincerely,



Skip Elliott
City Manager

CC Representative Peter Goll
Alaska Municipal League
Dave Palmer, City of Craig

12-8 HB155



CITY OF CRAIG

P.O. Box 23
Craig, Alaska 99921
(907) 826-3275

February 27, 1984

Senator Dick Eliason
Pouch V
Juneau, Alaska 99811

Dear Dick:

I am writing with comments on what's left of SB67 - now House CS for CS for SB 67 (L&C).

I have an objection to the bill on public policy issues as well as technical objections. Policy first.

A utility that is a private, for profit enterprise (like AP&T) uses the public Rights of Way in the exercise of their business. The public is entitled to compensation for such private use of public property. The only compensation requested of AP&T has been that their utilities "be located at such places as will not unreasonably interfere with travel or public use of such streets..." SB 67 now places burden on the municipality to move utilities when necessary for public good. In otherwords, the public is required to pay to move private facilities located within public Right of Way when the public Right of Way is needed for public uses. Use of the public Right of Way by a private company is not a right, and such use should not become a burden on the very same entity that grants permission to use the Right of Way.

To the bill:

1. If the intent of the bill is to allow relocation costs to be part of grant funding, it should just say so. There is no definition of "highway construction" but "highway" is defined in AS 19.45.001(8) and it includes everything from trails to culverts. In Craig, any action in the Right of Way, culvert installation, driveways, retaining walls and the like, would be "highway construction". I'd like to see minor projects excluded. Say, define "highway construction" as a grant funded project exceeding a value of \$250,000.00. This would avoid small, day to day relocation expenses for guy wires and individual poles.

Continued 2-27-84 City of Craig to Senator Eliason

2. The exclusions in (1) and (2) of Section 3 of the bill mean that the city will pay to relocate utilities placed in the past, since we had a franchise. Or, since the word franchise is not included, does this exclude all utilities placed from 1962 to 1982 under the Craig-AP&T franchise? Certainly, since the franchise expired in 1982, anything placed now, would be Craig's responsibility. I would sincerely request that the bill apply only to facilities placed after its effective date. That is only fair. Don't let the bill change the rules now that we've allowed utilities in the Right of Way for 22 years.

3. The bill should not preclude a municipality and a utility from mutually agreeing to a different allocation of relocation costs if they want. Leave the local parties some room to work out their own problems. The solution for Kenai may not work in Craig.


I am sending this to you because as chair of Senate Labor and Commerce committee, you are familiar with the bill. You are also familiar with Craig and AP&T. Since the bill is now on the way to House Rules, I don't know what opportunity exists to correct problems before it gets to the House Floor. By copy of this letter to Peter Goll, I am asking him to consider the amendments suggested here and to introduce them on the floor if that seems appropriate. These amendments, again:

1. Define highway construction as a grant-funded project for highways in excess of \$250,000.
2. Provide that this bill applies to all utility facilities installed after the effective date.
3. Provide that nothing in this bill precludes a municipality and utility company from mutually reaching some other agreement with regard to the allocation of relocation expenses.

I am enclosing a copy of my testimony before the House Labor & Commerce committee on this bill for your information.

Thank you for your time on this issue.

Sincerely,


David R. Palmer
City Administrator

DRP/hg
Enclosure

CC: Rep. Peter Goll
Sen. Don Gilman
AML
SKip Elliott - Skagway



8 HB 155

Dept. of Transportation & Public Facilities

Position Paper

BILL NO: HB 155

TITLE: Utility Relocation on Municipal Projects

APPROVED: Mark Hickey *M&H*

DATE: 3/9/87 Commissioner

The Department of Transportation and Public Facilities supports HB 155.

The legislation would require municipalities to treat utility relocation, incident to municipal road and other project construction, in a manner similar to that currently required for utility relocation on State highway, airport and public facility construction. As the bill is written, it would apply only to utilities regulated under AS 42.05.

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

REQUEST: _____
 Revision Date: _____
 Title: Utility Relocation on
Municipal Projects
 Sponsor: Cato
 Requestor: _____

Bill Version : HB 155
 Publish Date : 3/6/87

Agency Affected : DOT/PF
 BRU: _____
 Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Does not impact DOT&PF.

Theron H. Bond 3/6/87

Prepared by : Theron H. Bond
 Division : Engineering & Operations Standards

Phone : 465-2957
 Date : 3/6/87

Approved by Commissioner : Mark S. Nyberg
 Agency : _____

Date : 3/9/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

HOUSE COMMITTEE REPORT

HB 155

Date referred: 3/2/87

FURTHER REFERRALS: Transportation Finance

DATE: 03/09/87

The Community and Regional Affairs Committee has considered HB 155

"An Act relating to the change, relocation, or removal of utility facilities incident to the construction of road or other projects by a municipality."

RECOMMENDS:

- [] replace with [] the same title
[] attached amendment(s) [] a new title
[X] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the Committee

ADOPTS: [] letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact [] same as previous fiscal note published
[X] zero fiscal note [] same as previous zero fiscal note published
[] zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Cato, Collins, Springer, Zawacki (with handwritten signatures)

Herrmann Adelheid Herrmann No Rec

Springer Heinrich Springer Chairman's signature



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301
ANCHORAGE, ALASKA 99503 • (907) 276-3235

March 3, 1987

Representative Bette Cato
Pouch V
Juneau, AK 99811

Dear Representative Cato:

Thank you for introducing HB 155.

In regard to the relocation of utility facilities incident to a municipal construction project, this legislation would clarify the law as to when the utility pays and when the municipality pays. If there is a written agreement on these matters between the parties, that agreement would govern. If there is not a written agreement on allocation of costs, the municipality would pay if the utility facility is properly located under a permit or if the utility facility was installed before the municipality permit system applied to the construction of the facility in question in question.

The effect of all this is to resolve a long-standing dispute by protecting the utility investment in existing facilities. It will require municipalities in some cases to include utility relocation costs in the cost of municipal construction projects which would otherwise be in dispute between the parties.

By making these utility relocation costs a part of the cost of the highway project, the local utility rate payer is relieved of this burden. In most cases a State or federal grant is the funding source for the road project. In those cases, these relocation costs would be transferred to the state or federal government.

In some cases the expense will be assumed by the municipality. When this expense is transferred from the local utility rate payer to the local municipal taxpayer, there is no net change for residents who are in both roles. However, a utility's consumers and the municipality's taxpayers are not always the same people. Fairness requires that if a municipal project causes the cost of relocating

utility facilities, then the municipality should be responsible for that cost. It is also important that all of the costs as well as all of the benefits of a proposed project be considered at the time a municipality decides to relocate or widen a highway. Without HB 155, the municipality considers all of the benefits of a proposed project, but it only considers a part of the cost.

Sincerely,



David Hutchens
Executive Director

or appointed municipal official or employee;
(2) to combine two or more appointive or administrative offices;
(3) to establish and prescribe the functions of a municipal department, office, or agency!

AS29.35.070 DOCUMENT= 7 OF 46 PAGE = 1 OF 3

CHAPTER = 29.35
SECTION = 29.35.070
TITLE = 29
HEADINGS TITLE 29.
Municipal Government.
CHAPTER 35.
Municipal Powers and Duties.
ARTICLE 1.
General Powers.
CITATION Sec. 29.35.070.

CATCH LINE PUBLIC UTILITIES.

TEXT (a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d) - (k).
(b) A municipality may provide for a reasonable deposit for

*Add body of HB115 here
29.35.075 RELOCATION OF UTILITY FACIL*

AS19.25.010 DOCUMENT= 1 OF 22 PAGE = 1 OF 2

CHAPTER = 19.25
SECTION = 19.25.010
TITLE = 19
HEADINGS TITLE 19.
Highways and Ferries.
CHAPTER 25.
Protection and Use of State Highways and Roads.
ARTICLE 1.
Utilities in Highways.

CITATION Sec. 19.25.010.

CATCH LINE USE OF RIGHTS-OF-WAY FOR UTILITIES.

TEXT A utility facility may be constructed, placed, or maintained across, along, over, under or within a state right-of-way only in accordance with regulations prescribed by the department and if authorized by a written permit issued by the department.

HISTORY (Sec. 8 art VII title II ch 152 SLA 1957; am sec. 3 ch 106 SLA 1977)

AMENDMENT NOTES EFFECT OF AMENDMENTS The 1977 amendment rewrote this section.

AS19.25.020 DOCUMENT= 2 OF 22 PAGE = 2 OF 4

removed in accordance with the order, the facility becomes an unauthorized encroachment and may be disposed of in accordance with AS 19.25.240 - 19.25.250. In addition, the owner of the facility shall indemnify the state for any amount for which the state may be liable to a contractor by reason of the encroachment.

(c) The cost of change, relocation, or removal necessitated by highway construction is a cost of highway construction to be

AS29.10.200 DOCUMENT= 11 OF 11 PAGE = 1 OF 6

CHAPTER = 29.10
SECTION = 29.10.200
TITLE = 29
HEADINGS TITLE 29.
Municipal Government.
CHAPTER 10.
Home Rule Municipalities.
ARTICLE 2.
Home Rule Limitations.

CITATION Sec. 29.10.200.

CATCH LINE

LIMITATION OF HOME RULE POWERS.

TEXT Only the following provisions of this title apply to home rule municipalities as prohibitions on acting otherwise than as provided. These provisions supersede existing and prohibit future home rule enactments that provide otherwise:

- (1) AS 29.05.140 (transition)
- (2) AS 29.06.010 (change of municipal name)
- (3) AS 29.06.040 - 29.06.060 (annexation and detachment)

ref. in 10. HB115

AS29.10.200 DOCUMENT= 11 OF 11 PAGE = 4 OF 6

- (38) AS 29.35.500 - 29.35.590 (hazardous materials and wastes)
- (39) AS 29.40.160(a) - (c) (title to vacated areas)
- (40) AS 29.40.200 (subdivisions of state land)
- (41) AS 29.45.010 - 29.45.570 (property taxes)
- (42) AS 29.45.650(c), (d), and (f) (sales and use tax)
- (43) AS 29.45.700(a) (power of levy)
- (44) AS 29.47.200(b) (security for bonds)
- (45) AS 29.47.260 (construction)
- (46) AS 29.60.050(a) (limitation on computation and use of payment)
- (47) AS 29.60.120(a) and (c) (state aid for health facilities and hospitals)
- (48) AS 29.65 (general grant land)

HISTORY (Sec. 6 ch 74 SLA 1985; am secs. 1, 2 ch 38 SLA 1986; am sec. 6 ch 70 SLA 1986; am sec. 12 ch 80 SLA 1986; am sec. 3 ch 108 SLA 1986)

ANNOTATIONS

(49) *New 29.35.075 ref. here.*
Revisor's notes. - Reorganized in 1986 to maintain the referenced provisions in numerical order.

AS29.35.010 DOCUMENT= 1 OF 46 PAGE = 1 OF 6

CHAPTER = 29.35
SECTION = 29.35.010
TITLE = 29
HEADINGS TITLE 29.
Municipal Government.
CHAPTER 35.
Municipal Powers and Duties.
ARTICLE 1.
General Powers.

CITATION Sec. 29.35.010.

CATCH LINE

GENERAL POWERS.

TEXT All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected

by the department as a cost of highway construction, if the utility facility is installed or authorized under a ~~utility permit or a regulation after the effective date of this Act~~ and is installed in the location specified in the permit;

(2) by the department as a cost of highway construction, if the facility was installed before the effective date of this Act under a utility permit issued on or after July 1, 1960, and is in the location specified in the permit;

(3) by the department as a cost of highway

AS19.25.020 DOCUMENT= 2 OF 22 PAGE = 3 OF 4
construction, if the utility facility was installed before July 1, 1960, or before the road became part of the state highway system;

(4) by the department as a cost of highway construction, if the utility permit that requires the utility to pay the relocation cost was issued more than five years before the contract for the highway construction project was first advertised;

(5) 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.

(d) If requested by a municipality, the department shall implement this chapter by requiring to the maximum extent possible location underground of electric power transmission lines within the municipality.

HISTORY (Secs. 2, 3 ch 57 SLA 1961; am sec. 4 ch 106 SLA 1977; am sec. 3 ch 142 SLA 1986)

ANNOTATIONS

REVISOR'S NOTES A reference to AS 19.45.001(4) was substituted for a reference to AS 19.05.130(4) in subsection (c) to conform

AS35.25.020 DOCUMENT= 2 OF 2 PAGE = 1 OF 5
CHAPTER = 35.25
SECTION = 35.25.020
TITLE = 35

HEADINGS TITLE 35.
Public Buildings, Works, and Improvements.
CHAPTER 25.
General Provisions.

CITATION Sec. 35.25.020.

CATCH LINE

DEFINITIONS.

TEXT In this title, unless the context requires otherwise,

(1) "construction" or a derivative of the term "construction" means construction, reconstruction, alteration, improvement, or major repair;

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

AS35.25.020 DOCUMENT= 2 OF 2 PAGE = 2 OF 5
be subtracted from the entire cost any salvage value derived from the old facility;

(3) "department" means the Department of

Transportation and Public Facilities;

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

(5) "maintenance" means the preservation of each type of facility as nearly as possible in its original condition as constructed, or as improved;

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

(7) "public facility" or "public work" means a structure or project constructed or maintained by the department except airports and highways, and includes public buildings, boat harbors, port facilities, dikes, jetties, and breakwaters;

AS35.25.020 DOCUMENT= 2 OF 2 PAGE = 3 OF 5

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

(9) "utility facility" includes poles, plants, lines, trenches, bridges, utilidors, tunnels, pipelines, and any

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other system for furnishing, producing, generating, transmitting, or distributing power, electricity, communications, telecommunications, water, gas, oil, petroleum products, coal or other mineral slurry, steam, heat, light, chemicals, air, sewage, drainage not connected with a public facility drainage system, irrigation, or another substance; "utility facility" also includes a system for furnishing transportation of goods or persons by means of a railway, tramway, cableway, conveyor, flume, canal, tunnel, pipeline, or a similar means.

HISTORY (Sec. 3 art I title I ch 152 SLA 1957; am secs. 1, 2 ch 122 SLA 1960; am sec. 1 ch 96 SLA 1962; am Executive Order No. 39, sec. 11 (1977); am sec. 8 ch 142 SLA 1984)

ANNOTATIONS

CROSS REFERENCES For the responsibility and authority of the supreme court over state court facilities, see AS 22.05.025.

AMENDMENT NOTES

EFFECT OF AMENDMENTS The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in paragraphs (2) and (6).

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 155
Publish Date: _____

Revision Date: _____
Title: An Act..change, relocation etc of utility facilities incident to construction

Agency Affected: Community & Regional Affairs
BRU: Local Government Assistance

Sponsor: Rep. Cato
Requestor: House C&RA

Components: Training & Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Stevenson, LGS
Division: Municipal & Regional Assistance

Phone: 465-4750
Date: 3/4/87

Approved by Commissioner: David G. Hoffman
Agency: Community & Regional Affairs

Date: 3-4-87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

④ HB 155
STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

March 6, 1987

POSITION PAPER

RE: HB 155 -- "An Act relating to the change, relocation, or removal of utility facilities incident to the construction of road or other projects by a municipality."

SPONSOR: Representative Cato

Effects of Bill:

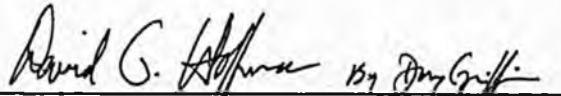
Section 1 of the bill simply adds another home rule limitation appropriate for this bill.

Section 2 of the bill designates to municipalities the power to order a utility within a municipal grants right-of-way to be changed, relocated, or removed and provides for the cost of the order to borne by the municipality if the facility is within the municipalities' jurisdiction.

Comments:

The majority of utility facilities are owned and operated by municipalities in rural areas. This bill will place the burden of all costs relating to movement of utilities on the entity requesting the movement.

Because of the costs associated with utility relocation, the Department believes that the proposed legislation would provide the means for municipalities to thoroughly review proposed changes before requiring the movement of utilities. The Department recognizes that this bill may place additional costs on governments, but since the cost is created by the local government, this is not unreasonable. The Department does not oppose this bill.



David G. Hoffman, Commissioner

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 6, 1987

SUBJECT: Sectional analysis of HB 155
TO: Representative Heinrich Springer, Chair
House Community and Regional Affairs
Committee
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the sectional analysis that you requested of HB 155.

Sec. 1. Adds to the list of home rule limitations a reference to the new section added in this bill, so that home rule, as well as general law, municipalities are bound by that section.

Sec. 2. Permits a municipality to order a utility to change, relocate, or remove a facility if necessary as a result of a construction project. The order must give the utility a reasonable time for compliance. If the facility is not changed, it may be disposed of by the municipality. The cost of the change shall be allocated as provided in the permit, franchise, or agreement with the municipality. If no allocation has been agreed to, the cost is borne by the municipality only if the facility has been placed in a municipal right-of-way under a valid easement or permit that specifies the location of the facility and the facility is within two horizontal feet of that location, or if the facility was installed before the municipality had a system for granting easements or permits for utility facilities. A definition of "cost of change, relocation, or removal" is provided. The section applies to home rule and general law municipalities.

TBC:mkr
m9/110

BILL WORKSHEET

Bill #: HB 155
 Date Sched.: HCRA Committee, Monday, Mar. 9, 1987
 Title: "An Act relating to the change, relocation, or removal of utility facilities incident to the construction of road or other projects by a municipality"
 Sponsors: Rep. Cato

Info Attached: Copy of Bill
 Fiscal Note
 Existing statutes
 Sectional analysis
 Position paper from the Dept. of Comm. & Reg. Affairs

Sponsor's Briefing, Intent/purpose:

I have nothing to add here to what you probably have already heard from Ken Johnson and Sharon Macklin.

Effect of Bill:

- Section 1. Limitation of Home Rule Powers.
 - Adds another limitation to the powers of a home rule municipality. Relocation of utility facilities.
- Section 2. Relocation of Utility Facilities
 - subsection (a) provides for the change, relocation, or removal of utility facilities under the jurisdiction of municipal rights of way.
 - The utility is responsible for effecting the change
 - A "change order" shall provide for a period of compliance.
 - subsection (b) requires that the cost of the change shall be borne by the party specified in the utility permit. If no specific cost allocation has been specified the municipality would bear the cost:
 - if a valid easement for the location of the facility exists, or
 - if the facility was in place before an easement permitting system existed
 - this law applies to both Home Rule and general law municipalities.

Fiscal Impact:
0 (Zero)

Proponents:
Every utility in the state.

Opponents:
None coming out of the bushes

Analysis of Bill's effect, by staff:
This bill enacts for municipalities provisions already governing federal and state liabilities incident to construction. Generally speaking, the bill places the burden of all costs relating to movement of utilities on the entity requesting the movement.