

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5584 STRA SB 155 - SB 208

11/16

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 30, 1987

SUBJECT: Relocation of utility facilities (CSSB
155(C&RA))

TO: Senator Lloyd Jones

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Here is the sectional analysis that you requested of CSSB 155(C&RA)).

Sec. 1. A reference to the new section contained in this bill is added to the list of home rule limitations, so that section applies to home rule municipalities.

Sec. 2. Permits a municipality to order a utility certificated under AS 42.05 to change, relocate, or remove a facility located across, along, over, under or within a right-of-way under the municipality's jurisdiction if, incident to a construction project this must be done. The order must provide a reasonable period of compliance. If the utility facility is not changed, relocated, or removed the facility may be disposed of or relocated by the municipality. The cost of change, relocation, or removal is allocated as provided in the permit, franchise, or other agreement with the municipality. If no allocation has been agreed to, the cost is borne by the municipality if the facility is placed in the municipal right-of-way (1) in accordance with a valid easement or permit that specifies the location of the facility or, (2) after June 30, 1987, in an area for which there is no system for granting easements or permits for utility facilities so long as the facility has been located in compliance with codes, regulations, and statutes applicable at the time of its installation. A definition of "cost of change, relocation, or removal" is provided.

TBC:mi
wkmi1/058

- Sectional Analysis -

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

April 2, 1987

APR 2 1987

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chair
Members of the Senate Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director *(Signature)*

SUBJECT: SB 155 - Relocation of Utility Facilities

The Alaska Municipal League is opposed to SB 155 and shifting the cost of relocating utility facilities in connection with municipal construction in rights-of-way from the utility company to the municipality. The AML has opposed this effort every year similar legislation has been introduced into the Legislature; most recently, SB 67 in the 13th Legislature. The legislation, if passed, would deviate from common and case law.

The AML's 1987 Policy Statement was most recently revised and adopted by the membership, representing 124 municipalities, at their annual meeting in Juneau last November. On page 17 of the Policy Statement, it states the following:

Utility Relocation Costs: 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.

As 12 McQuillan, Municipal Corporations, Section 34.74 on 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 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 common law rule referenced above can be modified by legislative action or contract agreement between the municipality and the utility company. The League urges the Legislature not to change common law and practice, and, instead, leave the matters addressed in this bill to local officials to work out with local utilities in the best interest of the local public.

Letter From Alaska

MEMBER OF

Municipal League

OF COUNTIES

Municipal rights-of-way are first and foremost for transportation and roads. As a secondary use, utility companies have a right to use the rights-of-way as utility corridors. Such use is in lieu of the utility having to purchase their own rights-of-way, and is usually free or with a minimum permit fee in the larger municipalities. However, the use of the right-of-way for little or no cost is with the understanding that the utility will relocate their facilities, if necessary, to accommodate road improvements, unless provided for differently in individual ordinances or franchise agreements between municipal and utility companies.

The proposed legislation does not distinguish between private, for-profit, investor-owned utilities and non-profit and REA utilities, nor between the regulated, essential utilities such as gas and electrical on one hand and the unregulated, unessential utilities such as cable television on the other. The potential cost of relocating utilities for the utility companies is just the cost of doing business, counter-balanced by the savings of not having to buy the rights-of-way from a land owner. Utility companies have always known upfront that they could potentially incur relocation costs in the event that road improvements are necessary. Any change in this by the Legislature is an intrusion into the local authority of the municipalities and their road powers.

Shifting the cost of utility relocation, as proposed in this bill, would shift the cost from the rate payer to the taxpayer. The additional cost may mean that necessary road improvements, necessary for public safety, may be delayed or simply not done given limited road construction dollars. This is especially true for local improvement districts and for boroughs with limited road powers and road service areas with limited dollars available.

The situation is also different than it is with state road construction. The State owns its rights-of-way in fee simple. They have complete control over their roads and can prohibit their use by utility companies. Municipalities cannot. The State Department of Transportation also operates with a large professional staff which is capable of supervising the permitting, planning, and installation of utilities in their roadways, including requiring "as-builts" of the facilities installed. Many municipalities do not require permits or fees or have tight controls over the utility companies and where and how they placed their utilities in the rights-of-way. And why should they build such expensive bureaucracies when it is common understanding that the utility will be responsible for relocating their facilities if necessary? Finally, the State of Alaska gets much of its highway improvement funds from the federal government. Therefore, it can build the cost of relocating utilities into the cost of the project and shift the costs to largely, third party, non-resident taxpayers.

In addition to the general argument that the legislation would inappropriately shift the cost of relocating utility facilities to the municipalities, the change from common law and past practice is made even more onerous in that such a change and the impact would be retroactive. Under Section 2 of the bill with the proposed added language of AS 29.35.075 (b) (2), the municipalities would be penalized for following the laws in place; i.e., many municipalities have allowed utilities to place

Senator Arliss Sturgulewski, Chair
Members of the Senate Community and Regional Affairs Committee
April 2, 1987
Page 3

their facilities in the rights-of-way without charge or without permits because the understanding and law required the utility company to bear the responsibility and cost to move them if necessary. Under the language of this section, if there is no permit system, the municipality would pay the cost of relocation.

One final point is relevant, again, only if you accept the basic concept of the bill, and we do not. While the cost to the municipality for relocating the utility facilities is discounted for upgrades and salvage value in subsection (d) of the bill, "useful remain life" is not. If the municipality is required to pay for the cost of relocating the facility, it should have to pay for brand new equipment if it has limited remaining life left; e.g., the telephone pole is old and rotting and would have had to be replaced in a year even if the municipality were not making road improvements which require their removal.

Again, the AML is opposed to SB 155 and shifting the cost of utility relocation from the utility company to the municipality and the general taxpayers.

SAB:phl

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

M E M O R A N D U M

TO: Dick Jackson, Administrator Director

THROUGH: Neil Kersten, Public Works Director

FROM: Clark Milne, Manager, Civil Engineering Division *Clark Milne*

DATE: March 30, 1987

SUBJECT: NEED FOR MODIFICATIONS TO SB155, "RELOCATION OF UTILITIES
IN RIGHT-OF-WAYS"

To validate my letter which suggested changes to SB155 concerning municipalities (such as the FNSB) being responsible for paying utilities to remove or relocate existing utility facilities within right-of-ways, I would like to submit to you the comments below.

My first and foremost concern is that our FNSB utility permit system is quite young, having only been instituted on July 1, 1985. Thus, the majority of all utilities installed in road rights-of-way in the FNSB have been put in before our utility permit system was in effect, and the language of Section 29.35.075.(b)2 will probably be in effect the majority of the time. Thus, we will consistently be responsible for the costs of moving utility facilities in our rights-of-way. I believe this is inappropriate and not in the public's best interests, at least so far as the unrestricted wording of (b)2 imposes these costs on us.

Our experience in the Civil Engineering Division has been that the majority of the time when we require the removal or relocation of a utility facility from our right-of-way, it is due to a past failure of the utility to install the service line or facility properly in the first place. This includes both aerial crossings that are too low, buried lines that are too shallow, and utility poles that intrude too closely to the existing road shoulders so that necessary road widening (within the right-of-way) requires the relocation of an existing pole. To require us to pay for these oversights, under-designs, and inappropriate installations by the utility firms seems unconscionable. Thus, my suggested revision in the SB155 language (as noted in my letters to Linda Anderson and McKie Campbell, see attached), item no. 4, which would require that the utility firm have installed the affected facility properly, i.e. to the standards of the applicable code or regulation, in the first place.

The most common and expensive instances of this type of facility that must be moved are aerial crossings above the roadway which are currently at less than the minimum 18 foot required by national electrical code. It is our practice, and is supported by the common law, that the utility firm is wholly responsible for the costs of raising these substandard lines crossing our right-of-way to an appropriate, code/standard elevation above the road surface.

*Letter From Fairbanks
North Star Borough*

Memo to Dick Jackson
March 30, 1987
Page 2

Similarly, we have had significant problems and expenses due to the relocation of telephone or power lines below the road surface. We have found that all too often a utility placed a line too shallowly in the right-of-way and a new road project thus uncovers and interferes with it. Again, national electric code requires that any power or telephone line must be buried at least 30" under the ground surface. If only this were the common condition of buried utility lines in the FNSB our troubles would be nearly over! Unfortunately, there are many instances in our road projects where buried utility lines are very often found to be at anywhere from 4" to 24" below the ground surface--thus, the road interference with minor improvements to the roadway.

In both of the cases noted above, SB155 would automatically give the utility firm a "reprieve" from having to pay for their illegal and substandard utility placement. Without actually calculating the exact expenses generated by utility relocation for FNSB projects in the last few years, I believe that as a rough estimate approximately 10% of our capital improvement monies for road improvement projects would go to utility relocation were SB155 to be passed in the form submitted by Senator Josephson.

Other concerns I have tried to deal with in my revised language for SB155 are evidenced in the other items noted in my letters of March 30. The first item deals with my concern that utility firms should work with the municipalities before beginning work on utility removal or relocation to assure that their field activities are cost-effective and solely done in an effort to replace or relocate the facility which is interfering with the legitimate uses of the road right-of-way. I fear circumstances where the utility could indiscriminately overcharge the municipality for unnecessary expenses, as well as situations where the replacement facility is a superior and improved product to that which is being replaced. Neither of these two concerns is addressed in SB155 as originally submitted.

Item no. 2 would tend to assure that the costs as discussed and approved by the utility and municipality before beginning work are indeed those reached during construction. I foresee reasonable incidences where the initial cost estimate is exceeded, but believe that the municipalities can negotiate with the utilities in a timely manner to increase those agreed upon estimates for valid, discernable reasons.

Item no. 3 was requested because I do not know what a "municipal right-of-way" is. In the Borough we only have public rights-of-way, some of which are included within service areas and thus subject to municipal maintenance efforts.

Memo to Dick Jackson
March 30, 1987
Page 3

Item no. 4 addresses my concern that an often crucial dimension in the location of utility facilities is the exact depth or elevation of the line or pipe. I understand that many utility firms have extremely poor as-built records of the location of their facilities, but I believe this should be the utility's concern, problem and expense, not ours.

Item no. 5 deals with my concern that the existing FNSB utility permit system applies only to those rights-of-way within recognized road service areas. The revised language would read "before the municipality had a system for granting easements or permits in that right-of-way for utility facilities," which would eliminate the problem of us having to pay for facility relocations in rights-of-way not covered by a utility permit system such as ours because the permit system was restricted to rights-of-way within service areas. Thus, if a service area annexed new roads after the utility firm installed a facility (after July 1, 1985), and we later interfered with that facility with our transportation use of that road right-of-way, we would not be held responsible for the lack of our utility permit system, but rather the utility firm would be responsible for having to follow good practice and the "applicable codes, regulations and statutes" affecting that utility facility.

Finishing up with item no. 6 from my letter, I understand that it may be troublesome to do the research necessary to confirm what "codes, regulations and statutes" apply to the various situations we find in needing utility relocations in our rights-of-way, but it seemed to me to be the most just and fair dividing line when faced with paying for a utility relocation or not. I agree with the concept that if a utility firm acted within the applicable codes and standards of their industry and all applicable regulations and statutes within the State of Alaska, our dramatic modification of the use of a road right-of-way should include and require our payment for the relocation or removal of the affected utility facilities. It is interesting to note that I believe that I understand the utility's point of view of some of these costs and concerns. But I do not believe that they should be able to "end run" the existing common law and the common sense of justice inherent in having to pay for their own mistakes of the past.

For additional specifics or other questions, please feel free to contact me at ext. 351.

cm8-143

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SB 155

Publish Date: _____

Revision Date: _____

Title: "An Act change, relocation, or
removal of utility facilities..construction

Agency Affected: Community & Regional Affairs

BRU: Local Government Assistance

Sponsor: Josephson

Components: Training & Development

Requestor: Senate C&RA

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						
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REVENUE						
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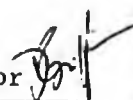
FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

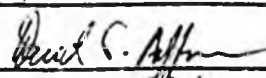
ANALYSIS : (Attach a separate page if necessary)

Prepared by: Doug Griffin, Deputy Director 

Phone: 465-4750

Division: Municipal & Regional Assistance

Date: 4/1/87

Approved by Commissioner: 

Date: 4-1-87

Agency: Community & Regional Affairs

Distribution (by preparer):

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

page _____ of _____

Fiscal note



CITY OF PALMER



231 W EVERGREEN AVE
PALMER, ALASKA 99645



Phone (907) 745-3271

A HOME RULE CITY

March 24, 1987

*RECEIVED After Packet
was compiled. MCH*

The Honorable Mike Szymanski
Senator
State of Alaska
Box V
Juneau, Alaska 99811

RE: HB 155 Utility Relocation

Dear Senator Szymanski,

Like so many things, if you don't succeed at first, try, try again, and HB 155 Utility Relocation is a good example of this.

For the past two Legislative Sessions, the question of utility relocation responsibility has been presented to the legislators for consideration which if enacted would place an undue burden on the local political entities.

The problems which confront the City of Palmer are not unique to our city alone but other cities and boroughs within the State where the utilities are not municipally-owned.

Even though the City of Palmer has had a permitting system in effect since 1981, we find during reconstruction of streets and underground utilities, the permit allocation of right-of-way use has not been followed as specified. Naturally, the utility has to bear the relocation cost as a part of the agreement signed. However, our biggest problems are the utilities installed prior to our permitting system. Those utilities meander all over the right-of-way at varying depths. By grand-fathering ALL previously installed utilities gives the utilities a free ride for their errors at taxpayers expense. The utilities are not accountable for their mistakes which is wrong. Even worse is to allow a two (2) foot horizontal error in the utility placement. This is impossible to live with. Our utility permit requires the utility to be placed within a 0-5 foot area from the property line, no more, no less. If a utility cannot be placed in a five (5) foot area, then something is wrong.

Using our adopted design for a collector street, the width is 44 feet back-of-curb to back-of-curb without sidewalks. Using a 60 foot right-of-way, this utility corridor becomes very important if each utility uses their share properly and is considerate of their fellow utilities.

*Letter From City Magn.
City of Palmer.*

The Honorable Mike Szymanski
March 24, 1987
Page 2

In my 26 years in the municipal field, ranging from a Sewer and Water Plant Operator to Director of Public Works to City Manager, I have found that the utilities are reluctant to spend the money or have on staff a qualified surveyor to lay out the exact location of the right-of-way. The employees assigned to the task are instructed to install the utility according to the work order which in many cases is vague or impossible to relate to actual field conditions. For example, if undergrowth has occurred in the right-of-way, rather than clear through this obstacle, the construction crews would install the utility further out in the right-of-way to avoid the undergrowth, further compounding the inevitable problem.

I have no problem with my sharing the burden of relocation if in fact the City of Palmer erred when the permit was issued or was issued in good faith with the population change requiring an entirely different or wider right-of-way to accommodate a higher volume street which was not forecasted in the Comprehensive Plan. An interesting point, not one mention is made of the Comprehensive Plan in this bill as a basis for relocation cost allocation.

We have a tendency to absolve the past errors here in Alaska which continues to haunt us no matter how good our intentions are, and this is another example. The City of Palmer urges you to vote against House Bill 155.

Should you have any questions, please contact me.

Yours truly,

David L. Soulak
City Manager
City of Palmer

DLS/cac

cc: Scott Burgess
Mayor Carte'
House Transportation & Finance Committee Members

*utilities
want*

1 IN THE SENATE

BY JOSEPHSON

2

SENATE BILL NO. 155

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the change, relocation, or re-

7

moval of utility facilities incident to the construc-

8

tion of road or other projects by a municipality."

9

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

10

* Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

11

(49) AS 29.35.075 (relocation of utility facilities).

12

* Sec. 2. AS 29.35 is amended by adding a new section to read:

13

Sec. 29.35.075. RELOCATION OF UTILITY FACILITIES. (a) If,

14

incident to the construction of a road or other project, a municipali-

15

ty determines and orders that a facility of a utility subject to

16

regulation under AS 42.05 that is located across, along, over, under,

17

or within a right-of-way under its jurisdiction must be changed,

18

relocated, or removed, the utility owning or maintaining the facility

19

shall change, relocate, or remove it in accordance with the order.

20

The order shall provide a reasonable time period for compliance. If

21

the utility facility is not changed, relocated, or removed under the

22

order, the facility becomes an unauthorized encroachment and may be

23

disposed of by the municipality.

24

(b) The cost of change, relocation, or removal of a facility of

25

a utility subject to regulation under AS 42.05 necessitated by municipi-

26

pal road or other project construction shall be allocated as provided

27

in the permit, franchise, or other agreement with the municipality.

28

If no specific allocation has been agreed to, the cost shall be borne

29

by the municipality only if the facility has been placed in the

1 municipal right-of-way

2 (1) under a valid easement or permit that specifies the
3 location of the facility and the facility is within two horizontal
4 feet of that location; or

5 (2) before the municipality had a system for granting
6 easements or permits for utility facilities.

7 (c) In (b) of this section, "cost of change, relocation, or
8 removal" means the entire cost incurred by a utility properly attri-
9 buted to the change, relocation, or removal of a facility, less costs
10 for improvements or upgrading not required by the change, relocation,
11 or removal; if a facility is to be relocated and replaced with new
12 equipment, there shall also be subtracted from the entire cost any
13 salvage value derived from the old facility.

14 (d) This section applies to home rule and general law munici-
15 palities.

Original sponsor: Josephson

1 IN THE SENATE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2

CS FOR SENATE BILL NO. 155 (C&RA)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the change, relocation, or re-
7 moval of utility facilities incident to the construc-
8 tion of road or other projects by a municipality."

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

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12 * Sec. 2. AS 29.35 is amended by adding a new section to read:

13 Sec. 29.35.075. RELOCATION OF UTILITY FACILITIES. (a) If,
14 incident to the construction of a road or other project, a municipali-
15 ty determines and orders that a facility of a utility certificated
16 under AS 42.05 that is located across, along, over, under, or within a
17 right-of-way under its jurisdiction must be changed, relocated, or
18 removed, the utility owning or maintaining the facility shall change,
19 relocate, or remove it in accordance with the order. The order shall
20 provide a reasonable time period for compliance. If the utility
21 facility is not changed, relocated, or removed under the order, the
22 facility becomes an unauthorized encroachment and may be disposed of
23 or relocated by the municipality.

24 (b) The cost of change, relocation, or removal of a facility of
25 a utility certificated under AS 42.05 necessitated by municipal road
26 or other project construction shall be allocated as provided in the
27 permit, franchise, or other agreement with the municipality. If no
28 specific allocation has been agreed to, the cost shall be borne by the
29 municipality only if the facility has been placed in the municipal

1 right-of-way

2 (1) in accordance with a valid easement or permit that
3 specifies the location of the facility; or

4 (2) after June 30, 1987, in an area for which the munic-
5 ipality does not have a system for granting easements or permits for
6 utility facilities and if the facility has been located in compliance
7 with codes, regulations, and statutes applicable at the time of its
8 installation.

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15 salvage value derived from the old facility.

16 (d) This section applies to home rule and general law munici-
17 palities.



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 means that if a municipal project causes the cost of relocating

HB 155
State no. SB155

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

Relocation of utilities on Municipal roads: Fact sheet

This legislation resolves the issue of who pays for relocation costs of utilities on municipal roads. This has been an unresolved issue for both municipalities and utilities for many years.

The legislation would track the states policy, which passed with considerable support and was non-controversial last session. The state pays for all relocation costs of utilities if they are placed in the correct right-of-way.

The issue is whether the cost causer is the cost payer. Both the state of Alaska and the federal government pays for the cost of relocation of utilities on state and federal roads if the utilities are located in the designated right-of-way. This legislation would go further and include municipalities.

Additionally this would clear up the defacto repeal of right-of-way on municipal roads which is an issue. The municipalities now give permits for right-of-way for utilities, however, without this legislation they can and do require utilities to be moved at the utilities expense. This denies the original intent of a right-of-way system.

This problem has been a burden to many utilities and has hindered their financial planning abilities. An unplanned expense of \$100,000 to a small utility for relocating utilities is a financial burden. This possibly could lead to the utilities request for higher rates.

SEC. 1 OF HB 155 ADDS TO THE LIST OF HOME RULE LIMITATIONS A REFERENCE TO THE NEW SECTION ADDED IN THIS BILL.

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. 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 MUNICIPLAITY ONLY IF THE FACITLY HAS BEEN PLACED IN A MUNICIPAL RIGHT-OF-WAY UNDER A VALID EASEMENT OF 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 DEFINAITION OF "COST OF CHANGE, RELOCATION, OR REMOVAL" IS PROVIDED. THE SECTION APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.

Clark Milne



U.S. Department
of Transportation
Federal Highway
Administration

Real Estate Acquisition Guide for Local Public Agencies

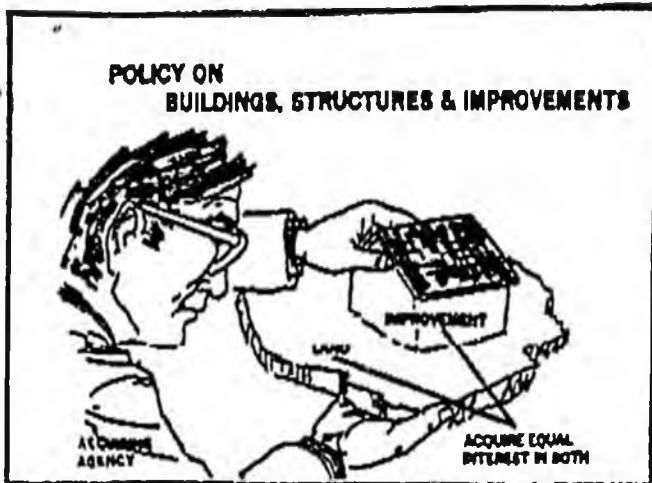
A Resource Manual for Use by:
Local Public Agency and State
Personnel Involved in the Acquisition
of Real Property for Federally-Assisted
Public Improvement Projects

Prepared by:
Real Estate Division
Office of Right-of-Way

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3/3/87

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other improvements. The Uniform Act requires that such tenant receive just compensation for any such buildings, structures, or improvements. The tenant is due this compensation even if the lease requires the tenant to remove any buildings, structures, or improvements at the end of the lease term.

Any building, structure, or other improvement which would be considered to be real property if owned by the owner of the real property on which it is located shall be considered to be real property for acquisition purposes. Acquisition from the tenant-owner shall follow the same procedures as for a fee owner.

Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its removal value, whichever is greater. Removal value is considered to be salvage value.

- a. The term "salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.
- b. The contributory value consists of:
 - 1. The value in place of a building, structure, or other improvement, the present use of which is the

highest and best use of the land to be acquired, for its remaining economic life or

- 2. The interim use value of a building, structure, or other improvement, the present use of which is not the projected highest and best use of the land to be acquired, for a specified interim time period longer than the remaining term of the lease (interim use value includes the present worth of the salvage value of the buildings, structures, or other improvements at the end of the interim time period); or
- 3. The value in place of a building, structure, or other improvement, the present use of which is not the highest and best use of the land to be acquired, for the remaining term of the lease plus the worth of its salvage value at the end of the lease term.

No payment shall be made to a tenant-owner for any improvements unless:

- a. The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the acquiring agency all of the tenant-owner's right, title, and interest in the improvement;
- b. The owner of the real property on which the improvement is located disclaims all interest in the improvement; and
- c. The payment does not result in the duplication of any compensation otherwise authorized by law.

This provision shall not be construed to deprive the tenant-owner of any rights to reject payment under this provision and to obtain payment for such property interests in accordance with other applicable law.

14.5 Utility Relocation and Accommodation

contact State for explanation

Historically, it has been in the public interest for public utility facilities to use and occupy the right-of-way of public roads and streets. This is especially the case on

local roads and streets that primarily provide a land service function to abutting residents, as well as on conventional highways that serve a combination of local, State, and regional traffic needs. This practice has generally been followed nationwide since the early formation of utility and highway transportation networks. Over many years, it has proven to offer the most feasible, economic, and reliable solution for transporting people, goods, and public service commodities (water, electricity, communications, gas, oil, etc.), all of which are vital to the general welfare, safety, health, and well being of our citizens. To have done otherwise would have required a tremendous increase in the acquisition of additional right-of-way for utility purposes alone. This could have also resulted in significant added costs to be borne by the utility consumers through increased rates for utility services so provided.

Under the practice of jointly using a common right-of-way, there are two broad areas of concern to highway and utility officials alike. First is the cost of relocating, replacing, or adjusting utility facilities that fall in the path of proposed highway improvement projects, commonly referred to as utility relocations and adjustments. Second, is the installation of utility facilities along or across highway right-of-way and the manner in which they occupy and jointly use such right-of-way, commonly referred to as the Accommodation of Utilities.

Federal-aid funds may participate in relocating utilities displaced by a proposed highway project when certain conditions have been met.

First of all, you should check with the State highway department to be sure you are in compliance with the appropriate State procedures.

If the facilities are only serving the owner of the land and are not serving some aspect of the "public" then they would be treated under normal acquisition procedures for private property.

When it is determined that the utility is in fact serving the "public," the next step is to determine which of the utility adjustments are potentially eligible for Federal-aid funding. In general, Federal-aid funds may participate in the course of adjusting utilities where:

- * the utility has a legal compensable interest in its

present location by reason of holding a fee or agreement to the real property; or

- * the State is authorized by statute to pay for the utility adjustment; or
- * the utility is owned by a governmental unit, is within public right-of-way, and the governmental unit is not required by law or agreement to relocate its facilities.

If, after the above is satisfied, it is determined that the new rights-of-way are required for the utility, there are two options available for obtaining the right-of-way. First, the utility may obtain the replacement right-of-way and be reimbursed for its costs. The second is for the highway agency to be the responsible party for obtaining the right-of-way. This needs to be covered as part of the utility relocation agreement between the highway agency and the public utility approved by the FHWA Division Office. Where the highway agency is obtaining the replacement rights-of-way, the provisions of the Uniform Act will apply. If the agreement calls for the utility to provide the right-of-way, the Uniform Act does not apply.

14.6 Joint Development/Multiple Use

Highway joint development/multiple use projects have been carried out for many purposes, but the basic objectives have been to achieve better compatibility between the highway and its environment and to obtain maximum benefits from the use of increasingly scarce right-of-way.

Joint development/multiple use projects can have a major influence on highway location and design. Non-highway activities such as housing, business activities, parking, and recreation can be located in the airspace above or below the highway or on land adjacent to the highway. The designs for both the highway and the non-highway elements must be developed in close coordination and with a view toward achieving esthetic harmony, safety, overall economy, and compatibility with the adjoining neighborhood.

Joint development/multiple use applies not only to cooperative planning by the highway and the non-highway agencies, but also involves concern for land use beyond the immediate highway right-of-way. The intent is to



ALASKA RURAL ELECTRIC COOPERATIVE
ASSOCIATION, INC.

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

March 30, 1984

TO: All House Members
FROM: David Hutchens *Dave*
SUBJECT: CS for CS for SB 67 (Rules) - *Very similar to SB155. M/E*

Eventually the House will get to its Daily Calendar for 3-29. When that time comes, please support SB67.

This bill provides for reimbursement by municipalities of the net cost of relocating utility facilities when municipal road projects force their relocation. Most municipalities have in fact paid these costs in the past just as the State Department of Transportation has done since 1973. Some municipalities are now refusing to participate in these relocation expenses, and we see a growing trend in that direction.

These relocation expenses should properly be paid for by the municipalities as a part of the road project. In some cases, the cost of utility relocations can be more than the cost of the road itself. This situation leads to distortions in decision making. The municipality considers all the benefits of the road project, but only part of its costs.

The problem to the utilities' consumers is very real. A distribution line will typically be financed for 35 years. If the utility is forced to replace that line without reimbursement after 5 years, the consumers then have to pay 65 years' worth of debt on that facility in 35 years.

In many cases, the utility lines were there first. Chugach Electric, for example, has between 100 and 200 miles of line which were installed before there were adjacent roads, before there was any formal permit or easement process, and in some cases before those areas were within municipal boundaries. It would be extremely unfair for them now to be required to move those facilities at their own expense to accommodate a new road project.

In total economic terms it would not really make much difference whether relocation costs are paid by utility ratepayers or municipal tax payers, but in many cases they are not the same

people. For example, the City of Kenai is one of those municipalities which refuses to pay. They are one of several communities within the service area of Homer Electric Association. When the city of Kenai refuses to pay, the result is to transfer part of the cost of City of Kenai road projects to residents of the other communities throughout the HEA service area.

In the interest of simple fairness, please vote for SB 67. The cost causer should be the cost payer.



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. - Same as SB 155 - MGI

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.


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

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

March 30, 1987

Linda Anderson
FNSB Liaison
130 Seward St., Rm 304
Juneau, AK 99801

Dear Ms. Anderson:

SUBJECT: SUGGESTED MODIFICATIONS TO LANGUAGE OF SB 155

Along the lines of our brief conversations in Juneau on Friday, March 27, I recommend the following language be considered as a substitute bill for SB 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."

1. Add to page 1, line 20, after the word "compliance.":

"The utility shall prepare an estimate of the work required by the order for review and approval by the municipality before beginning work."
2. Add to page 1, line 27, after the word "municipality.":

"The cost shall not exceed the approved estimate unless agreed to by the municipality."
3. Remove the word "municipal" from page 2, line 1.
4. Add to page 2, line 3, after the word "horizontal":

"feet and one vertical"
5. Add to page 2, line 6, after the word "permits":

"in that right-of-way"
6. Add to page 2, line 6, after the word "facilities.":

and the facility ^{was} ~~to~~ located ^{in compliance with M&E} ~~such that it met~~ all applicable codes, regulations, and statutes at the time of its installation."

Ms. Linda Anderson
March 30, 1987
Page 2

I will immediately follow up these suggested wording changes in SB155 with a letter describing some of my concerns and the impetus for making these changes. Thank you for your attention to our suggestions in this matter.

Sincerely,

Clark Milne

Clark R. Milne
Manager
Division of Civil Engineering

cc: Pat Walsh, Special Assistant to the Mayor, FNSB

cm8-141

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/26/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: TRANSPORTATION

**FISCAL NOTE(S) ATTACHED X **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/3/87

DATE TURNED INTO OFFICE 4/10/87

Mr. President:

C&RA

Committee considered SB 155

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

and recommended:

replace with CS for SB 155/CRA same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

Tim Kelly

OTHER RECOMMENDATIONS

Mike Dymowski
Tim Stumpf
Rick Skford

Richard Stumpf, Do Pass
Chairman signature and recommendation

Committee Backup Attached

230

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 155
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act change, relocation, or
removal of utility facilities..construction"
Sponsor: Josephson
Requestor: Senate C&RA

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

[Empty box for analysis]

Prepared by: Doug Griffin, Deputy Director
Division: Municipal & Regional Assistance

Phone: 465-4750
Date: 4/1/87

Approved by Commissioner: David S. Affm
Agency: Community & Regional Affairs

Date: 4-1-87

Distribution (by preparer):

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

S B

163



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB163	SPONSOR Senator Kerttula
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division	DATE 3/10/87	COMMISSIONER'S SIGNATURE <i>Donna Callinworth</i>	DATE 3-17-87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunting, fishing, trapping, recreational interests, Palmer/Wasilla area residents
ORGANIZATIONAL SUPPORT FOR BILL Nataruska-Susitna Borough Department of Natural Resources Environmental Organizations	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of establishing Willow Mountain Critical Habitat Area is to protect and preserve the habitat that is most crucial to the perpetuation of fish and wildlife populations, especially moose.

ANALYSIS OF BILL/PROGRAM EFFECTS

The bill establishes Willow Mountain Critical Habitat Area. It provides for the management of the area under the State Critical Habitat Area program. It establishes the purpose for which the area is to be managed and ensures protection of essential moose habitat.

AMENOMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB163
Publish Date: 3/4/87

Revision Date: _____

Agency Affected: Fish and Game

Title: An Act establishing the Willow

BRU: _____

Mountain Critical Habitat Area

Sponsor: Kerttula

Components: _____

Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce Baker

Phone: 465-4105

Division: Habitat

Date: 3/16/87

Approved by Commissioner: Orin Pellendworth

Date: 3-17-87

Agency: Fish and Game

Distribution (by preparer):

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

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4/10/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: TRANSPORTATION
RESOURCES

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE 4/17/87

Mr. President:

C&RA Committee considered SB 153

establishing the Willow Mountain Critical Habitat Area; efd.

and recommended:

replace with CS for SB 163 (C&H) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rick Hatfield
Mike Symons

Antoni Stupalski Do Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: _____
 Title: An Act establishing the Willow Mountain Critical Habitat Area
 Sponsor: Korttula
 Requestor: _____

Bill Version: SB163
 Publish Date: 3/4/87

Agency Affected: Fish and Game
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER		0				
TOTAL		0				

POSITIONS:

FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Bruce Baker
 Division: Habitat
 Approved by Commissioner: Orin Bellensworth
 Agency: Fish and Game

Phone: 465-4105
 Date: 3/16/87
 Date: 3-17-87

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

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
TIM KELLY, Vice Chairman
RICK HALFORD
MIKE SZYMANSKI
FRED ZHAROFF



P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4989

Senate Community and Regional Affairs Committee

TO: Senate C&RA Members

April 16, 1987

FROM: Senate C&RA Staff

A handwritten signature in dark ink, appearing to be "MFA", written over the "FROM:" line.

RE: SB 163 - "An Act establishing the Willow Mountain Critical Habitat Area; and providing for an effective date."

This bill establishes the Willow Mountain Critical Habitat Area. The original bill was only a boundary description. The committee substitute adds some management language to the bill and is the result of work by the sponsor, the departments of Fish and Game and Natural Resources and committee staff. All of these parties are supportive of the CS.

Dick Bradley, of Legislative Legal Services has expressed concern that committee members understand that there are other existing statutes regarding management of critical habitat areas that will also apply to this area. A copy of those statutes are in this packet.

Also in this packet are position papers and zero fiscal notes from Fish and Game and DNR, a copy of the relevant section of the Hatcher Pass Management Plan, a letter from the mayor of the Mat-Su borough expressing the assembly unanimous support for the bill, and a map of the area.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

April 16, 1987

The Honorable Arliss Sturgulewski
Chair, Senate Community & Regional
Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

Subject: CSSB 163, establishing the Willow Mountain
Critical Habitat Area.

Background: Willow Mountain contains numerous moose and, because of its proximity to urban locations, is an important moose hunting area. The planning team agreed that the area would be managed to maintain wildlife productivity and provide opportunities for hunting, trapping and recreation. The team also agreed that the area would remain open to mineral entry and forestry operations would be limited to disease control and habitat enhancement.

Position: The Department of Natural Resources supports the conclusion of the recently adopted Hatcher Pass Management Plan that this area be legislatively designated to ensure its long-term retention in public ownership and management for wildlife habitat values and public recreation. CSSB 163 will meet the conclusion of the Hatcher Pass Management Plan.

Please let me know if you would like additional information about the Hatcher Pass Management Plan.

Sincerely,



Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
Rod Swope
George Sullivan
Commissioner Collinsworth

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
 Revision Date: 4/13/87
 Title: An act establishing the Willow Mountain Critical Habitat Area
 Sponsor: Kerttula
 Requestor: Senate C&RA

Bill Version: CSSB 163
 Publish Date: _____

Agency Affected: Natural Resources
 BRU: Land and Water Management
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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)

The Department of Natural Resources anticipates no additional funding requirements stemming from this legislation.

Prepared by: Carol Wilson Phone: 465-2400
 Division: Commissioner's Office Date: 4/13/87
 Approved by Commissioner: [Signature] Date: 4/14/87
 Agency: Natural Resources

Distribution (by preparer):

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

*2007-2 copies
File*

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB163	SPONSOR Senator Kerttula
DEPARTMENT POSITION Support			
PREPARED BY Habitat Division	DATE 3/10/87	COMMISSIONER'S SIGNATURE <i>Donna Callinaworth</i>	DATE 3-17-87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunting, fishing, trapping, recreational interests, Palmer/Wasilla area residents
ORGANIZATIONAL SUPPORT FOR BILL Nataruska-Susitna Borough Department of Natural Resources Environmental Organizations	ORGANIZATIONAL OPPOSITION TO BILL None known

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of establishing Willow Mountain Critical Habitat Area is to protect and preserve the habitat that is most crucial to the perpetuation of fish and wildlife populations, especially moose.

ANALYSIS OF BILL PROGRAM EFFECTS

The bill establishes Willow Mountain Critical Habitat Area. It provides for the management of the area under the State Critical Habitat Area program. It establishes the purpose for which the area is to be managed and ensures protection of essential moose habitat.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS



Matanuska-Susitna Borough

BOX B. PALMER, ALASKA 99645 • PHONE 745-4801

BOROUGH ASSEMBLY

February 5, 1987

FEB 9 1987

Jan Faiks, Senate President
State of Alaska
Pouch V
Juneau, AK 99811

RE: Willow Mountain Critical Habitat Area ←

Dear Senator Faiks:

The Matanuska-Susitna Borough Assembly voted unanimously on February 3, 1987 to approve and endorse legislation to create the Willow Mountain Critical Habitat Area (approximately 23,000 acres) and to express concern for ensuring that the management intent of the area stays in-tact as described in the Hatcher Pass Management Plan.

If you should have any questions or need further information, please feel free to contact my office.

Sincerely,

Dorothy A. Jones
Dorothy A. Jones, Mayor
Matanuska-Susitna Borough

DJ/clg
Enclosure

cc: Commissioner, Dept. of Fish & Game
Senators ✓Kerttula & Szymanski
Representatives Larson & Menard
Jack Didrickson

HATCHER PASS

MANAGEMENT PLAN

FINAL
OCTOBER, 1986



Prepared by:

Alaska Department of Natural Resources

In cooperation with:

Alaska Department of Fish and Game

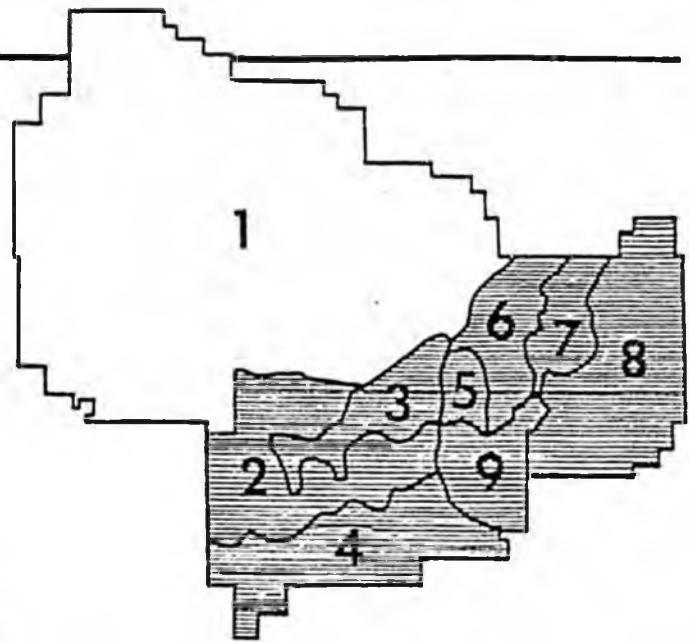
Alaska Department of Transportation and Public Facilities

Matanuska-Susitna Borough



Alaska Department of
**NATURAL
RESOURCES**

I. Willow Mountain



A. LAND USE DESIGNATIONS

Primary Uses: Fish and Wildlife Habitat, Recreation

Secondary Uses: Grazing (see Map 11 for location)

Prohibited Uses: Settlement, Remote Cabin Permits, Commercial Recreation Development, Grazing outside designated areas (see Map 3, pages 116/117)

Mining: Open

B. BACKGROUND

The rugged peaks of the Talkeetna Mountains end in a gently sloped plateau known as Willow Mountain in this subunit. Peters, Purches and Little Willow Creeks flow out of steep-walled mountain valleys to the north and south of the Willow Mountain plateau. The lowlands portions of the subunit contain many swampy areas that make access difficult.

Willow Mountain is an important moose habitat area. Year-round populations between 1,500 and 2,000 moose occur in western portions of this unit and are among the highest in the Susitna Basin. Willow Mountain provides winter and summer moose habitat that supports breeding and calving activities. This is an important moose hunting area due to its relative accessibility to urban areas and an abundance of moose. The alpine zone (above 2,800 feet in elevation) is good bear, sheep, and caribou habitat, and brown and black bear are often seen in these areas. Furbearing animals are also common and trapping is an important use of the area. Black bear and ptarmigan hunting are popular as well.

Extensive placer claims occur along Peters and Purches Creeks; mineral potential in the eastern mountainous portion is high. However, the Willow Mountain plateau has low mineral potential.

The Willow Mountain subunit contains a significant portion of the potential range resources within the management unit. However, many portions of the Willow Mountain plateau where most of the grazing resources occur in the subunit has boggy and standing water areas, and access is difficult.

Currently, there are no roads to this subunit. Motorized access is by aircraft, snowmachine or all terrain vehicle. This is a popular snowmachining area due to extensive, wide-open terrain. A cabin built by the Mat-Su Motor Musers and used by the public is located on the southeast corner of the Willow Mountain plateau. Dog mushing also occurs in some areas. Views of the Susitna Valley and Alaska Range from Willow Mountain are spectacular. Wilderness foot travel occurs in the steep eastern portions. Bogs, brush, wetlands and creeks limit summer and fall access in the lowlands portions of this subunit. Extensive ORV trails occur in the wetlands in the southwest corner of the subunit. The Peters-Purches trail which goes over Lucky Shot Ridge receives its heaviest use during moose hunting season. However, erosion and trail widening is occurring in the steep portions and in bogs along the existing trail alignment.

There is high forestry potential on the western edge below 1000 feet where a dense white spruce forest occurs. Access for forestry to the proposed Kashwitna State Forest area west of Willow Mountain is planned in the near future.

C. MANAGEMENT INTENT

The Willow Mountain subunit will be managed primarily to maintain its exceptional wildlife productivity and to continue to provide opportunities for hunting, trapping and other dispersed recreational activities to meet existing and future demand. The entire subunit is open to mineral entry.

The management intent includes reserving the option to utilize existing grass forage resources for future grazing; however, the priority is to utilize the grasslands in the Hillside and Little Susitna subunits prior to those in the Willow Mountain subunit. In the interim, research should be conducted to determine whether grazing can take place without major adverse impact to wildlife habitat.

Forestry is an allowed use in the western perimeter of the subunit. The intent is that any forestry operations will be limited to disease control or habitat enhancement as defined by ADF&G and compatible with scenic views from the ridge above.

Motorized access is an important use for hunting, trapping, and general recreation. The intent is for these uses to continue. The management intent is to limit summer/fall use to designated trails to minimize erosion and trailmaking. An exception will be to allow retrieval of

downed big game animals. This policy will be put into effect after working with users to clearly map and sign designated trails. No highway vehicles will be allowed in the Willow Mountain Subunit (unless authorized as part of a mineral development). New trails may be established within the subunit and designated for a specific use, such as for dog mushing, ATV and snowmachine use.

D. PLANNED ACTIONS

1. HABITAT DESIGNATION

The moose concentration area on the west slope of Willow Mountain is proposed for legislative designation to ensure long term retention in public ownership and management for its wildlife values (see Map 11). ADF&G originally proposed that the plan recommend that the entire subunit be legislatively designated as a Critical Habitat Area and a portion closed to mineral entry. However, the planning team was unable to agree on this. See Appendix X for further explanation.

2. TRAIL REPAIR

Where erosion and extensive trail making in boggy areas is occurring, DNR and ADF&G should work with users to reduce trail damage, establish trail erosion prevention measures and do minimal trail improvements to maintain motorized access opportunities.

3. SNOWMACHINE USE AND MOOSE

If there is documentation that snow machine use is adversely affecting overwintering moose in certain areas, seasonal closures in these key areas may be established.

4. MOTORIZED USE MANAGEMENT POLICY

A special use area will be established for off-road vehicle use. When there is insufficient snow cover to protect the soil and vegetation from cutting and erosion, motorized use will occur on designated trails only by non-highway vehicles. An exception will be to allow retrieval of big game. This policy will be put into effect once DNR and ADF&G work with users to map and designate a trail system. See Chapter Three, ORV Management Guidelines, page 160, for more information.

5. IDENTIFY BROWN BEAR CONCENTRATIONS

ADF&G will identify brown bear concentration areas and habitat use areas and make a recommendation to DNR on when a significant potential or actual conflict with grazing may exist.

6. PUBLIC USE CABINS

The existing cabin on Willow Mountain built by the Mat-Su Motor Musers should be converted to a public use cabin. Agreements with recreational groups may be negotiated for its maintenance. Other cabins on public land in the subunit should also be evaluated for suitability as public cabins.

Other public cabins may be established at three possible backcountry locations. Potential sites are indicated on the land plan map.

7. DOG MUSHING TRAIL

Establish a 20-mile dog mushing loop trail. The location is to be determined by DNR based on consultation with ADF&G, and recreational users.

8. CROSS COUNTRY SKI TRAIL

Establish a cross-country ski trail in the forest/alpine transition zone accessible to the Hatcher Pass Road.

E. GUIDELINES1. FORESTRY/BROWSE ENHANCEMENT

Type of Forestry Cuts. Timber harvest to enhance moose habitat may occur. If this occurs cutting areas will be located on the western perimeter of this unit and must receive concurrence with ADF&G and DNR. DOF maintains the option, however, to institute emergency harvests for insect control after receiving ADF&G approval. ADF&G maintains the statutory obligation to institute habitat enhancement activities when necessary and appropriate.

2. GRAZING

a. Grazing on Important Habitat Lands. Grazing is proposed to occur on Willow Mountain only after complete utilization of the grass resources of the Little Susitna and Hillside units. The option to graze livestock in this unit shall be retained and research should be initiated and continued to determine how to make livestock and wildlife uses compatible in this area. There are approximately 8600 acres of land that is potentially feasible for grazing between Canyon

Creek and an unnamed stream in Section 24, Township 21 North, Range 3 West. About 17-20 miles of fence may be required.

- b. Grazing Season. Cattle shall be removed from the range two weeks prior to opening of the moose hunting season.
- c. Grazing in Habitat Areas. See area-wide policy in Chapter 3, page 121.

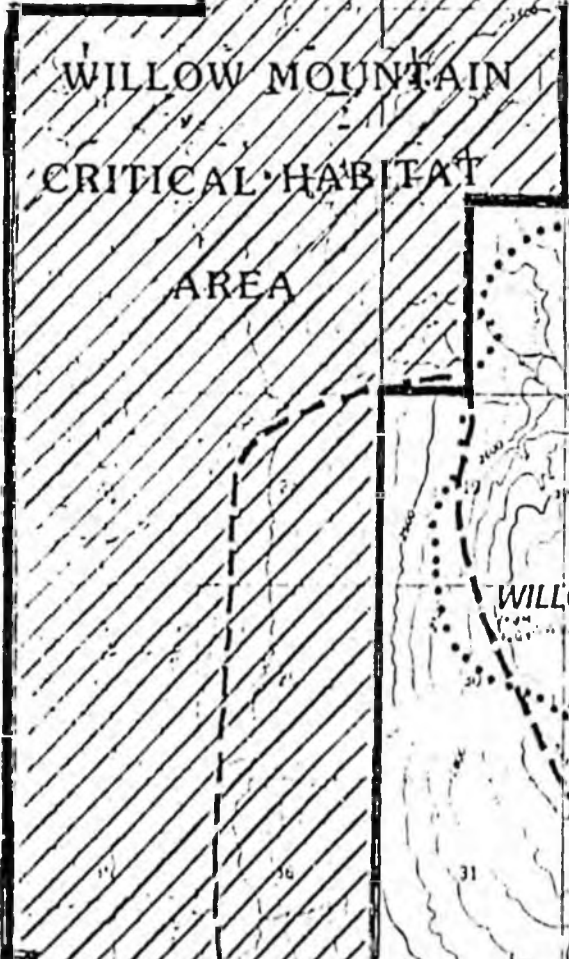
3. ACCESS

- a. Minimize Wildlife Impacts. Any new roads and trails proposed for forestry, mining, recreation or grazing within or near the subunit will be designed to minimize negative impacts to the wildlife resources and related public uses. Access routes will be centralized and of very low density. ADF&G will be consulted on location prior to authorization.
- b. Public Use of Mining Roads. The public use of access roads developed for mining will be determined on a case-by-case basis by ADF&G and DNR, based on what will be most beneficial to the management of the moose population. The options are private or public access, temporary or permanent. That is, use of the access road by highway vehicles may be restricted to mine personnel only if necessary to minimize impacts to wildlife. The mine operator may be required to remove the road upon completion of the project. The other option would be to keep it open as a public access road. Seasonal use restrictions may be authorized.
- c. Wetlands. Where an ever-widening network of trail making is occurring in the Willow Mountain subunit, DNR and ADF&G will work with user groups and/or state correctional facility labor to do primitive corduroy-type improvements to enable access through the bogs for hunting purposes. The level of damage to these wetlands should be assessed by DNR and ADF&G and recommendations made for rehabilitation and prevention of further damage.

4. RECREATIONAL OPPORTUNITY SPECTRUM

- a. Setting. The intended recreational setting described in Part "a" is for the purpose of guidance to land managers who must adjudicate land use requests. It is not intended to be a hard and fast set of rules.
 - (1) Physical Setting: Predominantly natural appearing environment in western portions; unmodified, natural environment in the eastern, mountainous portions
 - (2) Social Setting: Low concentration of users except in moose season; low interaction between users

- (3) Managerial Setting: Minimum of on-site controls
 - (4) Access and Mode of Travel: Designated trails for ORV use with minimum improvements to prevent rutting and erosion in western portions; cross-country foot travel in mountains; aircraft access
 - (5) Vegetative Alterations and duration of impact: Moderate loss of vegetation and soil on major trail routes and where camping occurs, trail impacts persist from year to year. Non-trail areas should only show temporary impacts.
 - (6) Type of Experience: High probability of seeing wildlife, experiencing quiet and solitude (except for trail areas), freedom, challenge, risk, closeness to nature
- b. Facilities. The purpose of this section is to describe the intended level of recreation facility development. Where no facilities are proposed, this does not mean it is a prohibited use.
- (1) Public Facilities: Public cabins: one each in Peters and Purches below timberline, one existing Willow Mountain, one in alpine north of Dogsled Pass; parking at Peters-Purches trailhead
 - (2) Camp Sites: No developed sites
 - (3) Picnic Sites: None planned
 - (4) Water Supply: None planned
 - (5) Sanitation: Outhouses at public cabins
 - (6) Signs: Limited signing for designated trails
 - (7) Water Crossings: Ford crossings, no bridges
 - (8) Interpretative: Interpretation through self-discovery
- c. Guidelines for Appropriate Commercial or Other Private Uses to be Authorized by Lease or Permit
- (1) Commercial and Other Private Uses: None by lease; generally permitted activities as listed in the Division of Land and Water Management Policy and Procedure Manual (Chapter 5122, Section 01) will not be affected; applications for permit will be considered on a case-by-case basis if compatible with guidelines and management intent.
 - (2) Stimulations on Private Uses: It is important that private uses maintain the recreation setting as described above and provide a clear public benefit. Additionally, private recreational uses must require no roads and not negatively impact wildlife populations.



PROPOSED
WILLOW MOUNTAIN
CRITICAL HABITAT
AREA

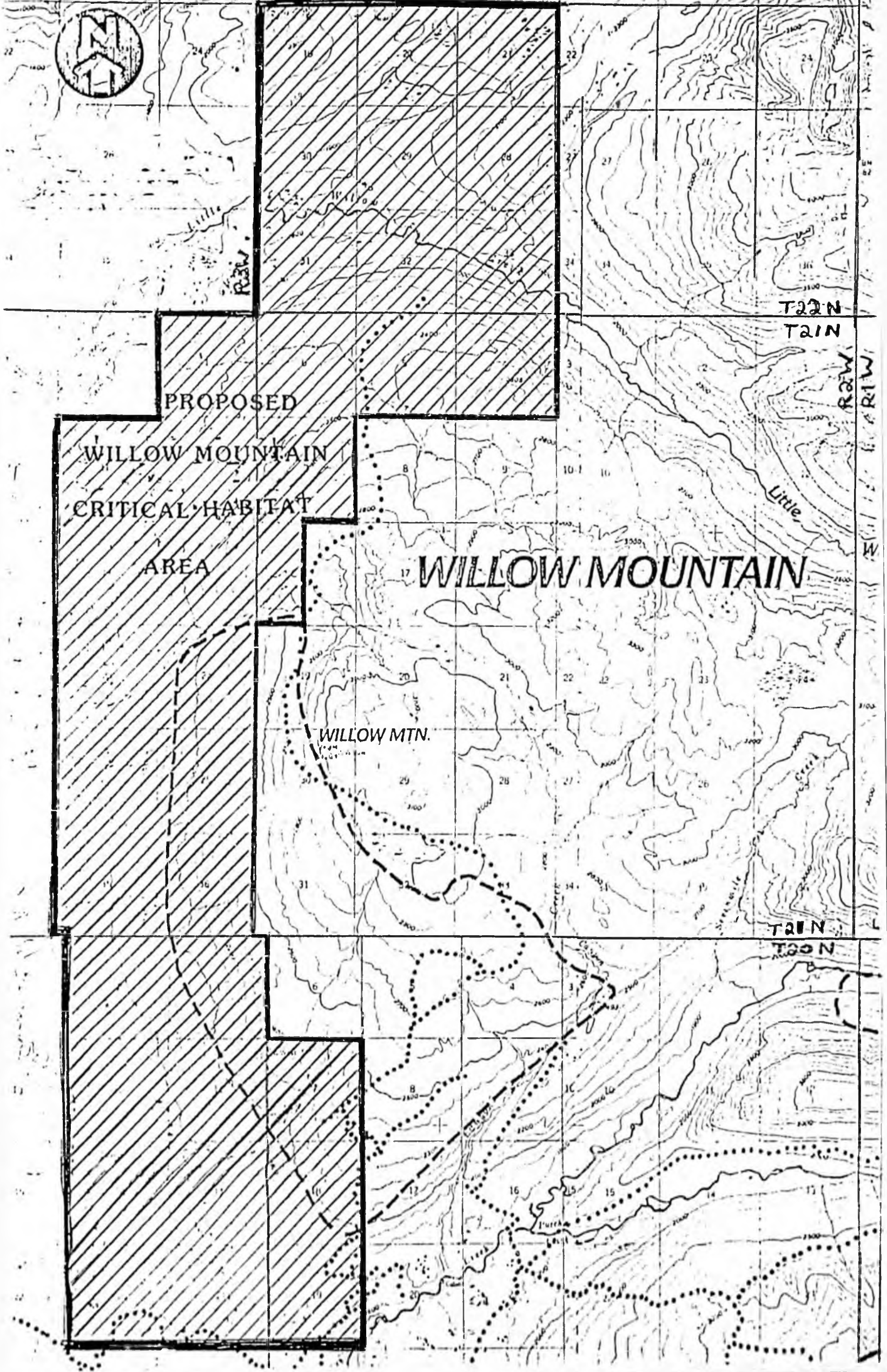
WILLOW MOUNTAIN

WILLOW MTN.

T22 N
T21 N

T20 N
T20 N

R2W
R1W
W



SB

170

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 170
Publish Date: _____

REQUEST 3-25-87

Revision Date: _____
Title: Nondalton-Iliamna Road Bridge
Work _____
Sponsor: Zharoff
Requestor: Transportation and Finance

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			-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL			-0-	-0-	-0-	-0-
SUPPLIES			-0-	-0-	-0-	-0-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	3,000.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	3,000.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	3,000.0	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: See attached analysis

Prepared by: William R. Snell (signed)
Division: Regional Director, Central Region

Phone: 266-1440
Date: March 31, 1987

Approved by Commissioner: *M. L. H.*
Agency: Department of Transportation and Public Facilities

Date: 4/4/87

Distribution (by preparer):

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

Fiscal Note
SB 170

1. Background Information

The Nondalton/Newhalen Road Project has been developed and constructed by the City of Nondalton under a cooperative agreement with the three communities of Nondalton, Newhalen, and Iliamna. Previous funding for this project has been through two Transfer of Responsibility Agreements (TORA) from the Department of Transportation and Public Facilities (DOT&PF). The first TORA was issued in 1983 for \$1,450,000 and the second was issued in August 1984 for \$3,000,000.

A pioneer road has been constructed from the end of the State-maintained road in Iliamna to the Newhalen River with the funds. The pioneer road covers approximately 10 miles. DOT&PF has made two bridges (Lowe River Bridge and Gulkana Bridge) available which will be combined to form one bridge for the project. Some refurbishing will have to take place, and the Lowe River Bridge will have to be transported to the site.

2. Current Status

The remaining work necessary to complete the project includes installing the bridge and approaches on both sides of the river, construction of a center pier, as well as additional work to smooth out the pioneer road and complete the 3.2 miles of road from the river crossing into Nondalton.

3. Construction Costs

The \$3,000,000 estimate is sufficient to complete the bridge work for the Iliamna-Nondalton Road. The Department estimates that a total \$9,000,000 is estimated to be needed to complete the project. This figure includes installation of the bridge, a center pier, and approaches on both sides of the river, as well as additional work to smooth out the pioneer road and complete the 3.2 miles of road into Nondalton.

4. Maintenance Costs

If only the bridge is funded, as proposed in the special appropriation, there will be no impact on the DOT&PF maintenance budget since the facility will not be operational. Average maintenance costs per year for the rural road once it is completed is determined by multiplying the number of road miles by maintenance cost per mile by the two lanes of road.

$$19.2 \times \$5,000 \times 2 = \$192,000$$

These operating costs assume that the road and bridge will be owned and maintained by DOT&PF. If the road and bridge are owned and maintained by local government, then the fiscal impact on the State operating budget would be zero.



SENATOR FRED F. ZHAROFF
ALASKA STATE LEGISLATURE

P.O. BOX 405, KODIAK, ALASKA 99615 (907) 486-5259

DURING SESSION:

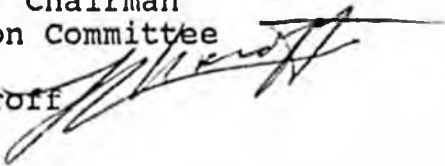
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3473 • 465-3474

DISTRICT N

ALASKA PENINSULA • ALEUTIAN CHAIN • BRISTOL BAY • KODIAK ISLAND • LAKE CLARK/LAKE ILIAMNA • PIRIBILOF ISLANDS • SHUMAGIN ISLANDS

MEMORANDUM

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Fred F. Zharoff 

DATE: March 25, 1987

SUBJ: Senate Bill 170

Senate Bill 170, "An Act Making a Special Appropriation to the Department of Public Facilities for the completion of bridge work for the Iliamna-Nondalton Intertie Road, and providing for an effective date." which I introduced has been referred to the Senate Transportation Committee. I have included back up information along with this memo for your consideration. In addition, I would appreciate your consideration of scheduling this measure for a hearing before the Transportation Committee in the near future.

Thank you.

February 25, 1987

Mr. Bob Evans
Legislative Staff Assistant
Office of the Governor
P.O. Box A
Juneau, Alaska 99811

Re: Iliamna-Nondalton Intertie

Dear Mr. Evans:

At our meeting of February 23, 1987, we discussed the Iliamna Nondalton Intertie , the progress so far and how much it will take to complete it.

We, at the City level, realize the seriousness of the State's finances so we want to try to be realistic about our request in regards to the Intertie project. We know that to complete the project it would take \$9,000,000 which at this time of money shortages is not a realistic request.


So far the Intertie is a pioneer road and is used and maintained by the cities of Newhalen and Nondalton. The only problem is not being able to cross the Newhalen River . The vehicles must make prior arrangements to be met at the river by boat, even during the winter months when the ice is too thin to cross.

We have the bridges already so it will just be a matter of putting them in place. The cost to install the bridges was estimated at \$3,000,000. This price would include repairs to the bridges after transport to the site, the bridge approach, and the center pier.

In order to make full use of the Intertie, because it may remain a pioneer road for years to come, we feel that our request for \$3,000,000 to install the Newhalen River Bridge is not an unrealistic one.

Thank you for your time and consideration on this matter and please feel free to call on me if you have any questions.

Sincerely,


June D. Tracey
Mayor
City of Nondalton
Nondalton, Alaska 99640

xc: Nadine Winters, DCRA
Adelheid Herman, State Representative
Fred Zharoff, State Senator

November 25, 1985

Division of Budget Review
Office of Management and Budget
Pouch AM
Juneau, Alaska 99811

Attention: Thelma Cutler
Program Budget Analyst

Re: Capital Project Priorities

Dear Ms. Cutler:

d

The following is a list of the capital projects prioritized by the Nondalton City Council.

1. Iliamna-Nondalton Intertie. This project is our road project which will connect the Iliamna Airport to Nondalton. This project will remain a high community priority until completion as it will be a vital part of our transportation link to economic well-being of our community. Planning, design and cost estimates for the next phase are complete and will follow this letter.
2. Erosion Control. We received \$50,000 in FY'85 for this project which will be used to plan and estimate costs to further prevent erosion in our city. More funds will be needed to do the actual work to control our erosion problem. Planning, design and cost estimates will follow when complete.
3. ~~Nondalton City~~ Hall Building. This building was built with funds from Municipal Assistance which, as you know, has been left unfunded by the legislature. There is currently \$80,000 worth of work left to be done to this building before it is complete. Part of this is also landscaping to return the earthwork done back to its original condition. Planning, design and cost estimates will follow.
4. Water & Sewer. Additional funding for this project would have all existing homes and businesses in the city on a water and sewer system. Public Health Service is currently connecting new HUD (U. S. Dept. of Housing and Urban Development) and BIA (Bureau of Indian Affairs) homes into the existing system, and, also, upgrading this existing system. Planning, design and cost esti-

Division of Budget Review
November 25, 1985
Page Two

mates can be obtained from Mr. Larry Lockyer, District Engineer; Environmental Health Branch; 701 C Street, Box 65; Anchorage, Alaska 99513.

5. Small Hydro Project. This project would be to utilize a creek for electrifying our water and sewer system. The cost of running our present system is high so if we could run it off a small creek near the village the cost would be reduced drastically. Planning, design and cost estimates are not available at this time.

Thank you for your time and consideration of the above capital projects priorities as defined by the Nondalton City Council.

Sincerely, m^d

Lydia K. Wilson
Mayor

CITY OF NONDALTON

General Delivery
Nondalton, Alaska 99640

January 30, 1985

To: Rep. A. Herrmann
Sen. F. Zharoff
Office of the Governor

Ref: Capital Appropriation Request

Pursuant to your letter of January 21, 1985, the Council of the Municipality of Nondalton has established the following priorities for FY 85/86.

1. Phase 3 of the Iliamna Nondalton Inter-Tie Road Project. Including bridge installation and substantial completion of the project. Total funding required is \$6.2 million dollars. Project equipment is on-site and Phase 2 will be completed by June 30, 1985.
2. Erosion Control for municipal roads, embankments and streams to eliminate the continued filling of the Nondalton Bay in Six Mile Lake. Funding requirement of \$250,000. An expenditure in this amount at this time for hydroseeding equipment and supplies will eliminate a major dredging/containment program five years from now which could cost 10 to 20 times this prevention expense.
3. Municipal Hall Completion, consisting of interior finishes on the lower level, site work and exterior sealing and painting. Total funding required is \$80,000.
4. Mini-Hydro Site Study. Two streams within the city limits have the potential to be developed into mini-hydro site with no significant impact to the fishery or the surrounding environment. We would like these sites studied to determine the feasibility of these site being used to offset municipal operating electrical costs.

Your time and consideration of these appropriations is greatly appreciated. Mr. James D. Wilson and Mr. Duffy Jackinsky, both Councilmen and former Mayor's, will be acting on our behalf this year in Juneau during the legislative process. If either myself or our staff can be of help or if you require additional information please do not hesitate to contact me.

Cooperatively yours,

Duffy Jackinsky
By Direction of
Rick Belkittie, Mayor

RECEIVED OCT 3 1983

September 26, 1983

Kay E. Larson, Executive Director
Bristol Bay Native Association
P.O. Box 189
Dillingham, Alaska 99576

Dear Ms. Larson:

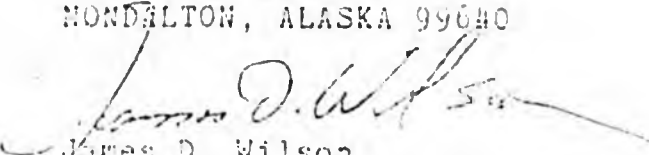
Here are the three top projects for this year:

1. Nondalton Road Project
2. Pedro Bay Electrification
3. Newhalen Dock

If you need a copy for the projects in progress, I will send one down. A copy will also be sent from each appropriate village.

Sincerely,

NONDALTON CITY COUNCIL
CITY OF NONDALTON
NONDALTON, ALASKA 99640


James D. Wilson
Mayor

JDW:ke

cc: Greg Anelon Jr., Newhalen
Gerry Armstrong, Iliamna
Administrator, Pedro Bay
Administrator, Kokhanok
Administrator, Igugius

✓

S B

183

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____
 Revision Date: _____
 Title: "An Act relating to dams and
 reservoirs..."
 Sponsor: Sen. Sturgulewski
 Requestor: Senate Transportation

Bill Version: SB 183
 Publish Date: _____
 Agency Affected: Department of Law
 BRU: Prosecution, Legal Services
 Components: Prosecution - All
Legal Services - Operations

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-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: March 18, 1987
 Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 18, 1987
 Agency: Department of Law

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. SB 183

This bill amends AS 46 by adding a new chapter that establishes a dam safety Act, which provides for the regulation, supervision, and periodic inspection of privately owned and state-owned dams and reservoirs. The Department of Law would assist the Department of Natural Resources to administer the Act by securing court injunctions needed to halt unsafe practices, and by prosecuting misdemeanor violations.

Although some of this work will undoubtedly be required, it is our view that such work will entail only a few occurrences each year, and it will not be sufficient to warrant fiscal note costs.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 183
Publish Date : _____

Revision Date: _____
Title: Relating to dams and reservoirs

Agency Affected: Environmental Conservation
BRU: N.A.

Sponsor: Senator Sturqulewski
Requestor: Senator Jones--Transportation

Components : N.A.

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-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

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)

Prepared by: Randy Bayliss
Division: Office of the Commissioner

Phone: 465-2600
Date: March 17, 1987

Approved by Commissioner: _____
Agency: Environmental Conservation

Date: 3/18/87

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: Senate Bill No. 183
Publish Date: 3/12/87

REQUEST: --

Revision Date: _____
Title: An act relating to dams and
reservoirs
Sponsor: Sturgulevski
Requestor: _____

Agency Affected: Natural Resources
BRU: Land and Water Management
Components: Land and Water Public Use

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)
Senate Bill No. 183 will qualify DWR's Dam Safety Program to qualify for at least \$65.0 federal funding under P.L. 99-662 for five years. No increases in state expenditures will occur as a result of this legislation.

Prepared by: Kyle J. Cherry Phone: 562-3332
Division: Land and Water Management. Date: 3/26/87

Approved by Commissioner: _____ Date: _____
Agency: _____

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

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

COMMITTEE REPORT

Madame President:

The transportation committee expresses that it is not the intent, either through Senate Bill 183, nor through regulations, that the bill affect settling ponds of small placer miners.

The transportation committee also asks to see and review the regulations that are promulgated to implement the legislation.

Sincerely,

A handwritten signature in cursive script that reads "Lloyd Jones".

Senator Lloyd Jones, Chairman
Senate Transportation Committee

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of March 26, 1987 75-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: RESOURCES
FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/12/87

DATE TURNED INTO OFFICE April 2, 1987

Mr. President:

TRANSPORTATION

Committee considered SB 183

dams and reservoirs; efd.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
2 zero / fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tim 1987
[Signature]
[Signature]

[Signature] Do Pass
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508


While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-1818

Senate

MEMORANDUM

March 28, 1987

TO: Senator Lloyd Jones, Chairman
Senate Transportation Committee

FROM: Senator Arliss Sturgulewski 
Senate District F

RE: SB 183 "An Act relating to dams and reservoirs and providing for
an effective date."

Thank you for scheduling a hearing on SB 183 "An Act relating to dams and reservoirs and providing for an effective date."

Senate Bill 183 was before the legislature last year and extensive hearings were held. However at the end of last session the bill was still in the Senate Finance Committee. Senate Bill 183 sets up a formal system of regulation of dams by the Department of Natural Resources (DNR). Presently the DNR only has clear authority to regulate construction activities and no clear authority to monitor the safety of dams throughout the life of the dam. This legislation is based on a Model State Dam Safety Program sponsored by the Association of State Dam Safety Officials and the Council of State Governments. The main purpose of this legislation is to protect the public health and safety.

In order to assist states in the implementation of a dam safety program, the federal government will make funds available through PL 99-662. Alaska would be eligible to receive at least \$65,000 per year for the next five years.

I have enclosed a sectional analysis prepared by the Legislative Legal Services Division and a recent Wall Street Journal article discussing dam safety. My staff is available to assist if you need additional information.

Enclosures

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITOL
JUNEAU, ALASKA 99801
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Sectional Analysis of SB 183
(Dams and reservoirs)

TO: Senator Arliss Sturgulewski
Chairman, Community and Regional Affairs
Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 imposes criminal penalties for knowingly making a false report to the Department of Natural Resources concerning the condition of a dam or reservoir.

Section 2 adds a new chapter concerning dam and reservoir safety.

Sec. 36.17.010 sets out the legislative purpose.

Sec. 46.17.020 gives the Department of Natural Resources responsibility for supervising the safety of dams and reservoirs.

Sec. 46.17.030 requires the department to adopt regulations and issue orders necessary to carry out the chapter.

Sec. 46.17.040 prohibits construction, repair, or removal of a dam or reservoir unless the department approves. Routine maintenance and operations are excepted.

- Sectional Analysis -

Sec. 46.17.050 directs the department to inspect each dam and reservoir subject to the chapter once every five years and permits the department to inspect more frequently. The department may require the owner to perform the inspection or pay for the cost of an inspection performed by the department.

Sec. 46.17.060 permits the department to seek a search warrant to allow an inspection if the department has given two weeks' written notice. The department may enter premises without notice if a dam or reservoir is believed to be unsafe.

Sec. 46.17.070 sets out standards for the department's determination of whether a dam or reservoir constitutes or would constitute a danger to life or property.

Sec. 46.17.080 permits the department to seek an injunction and damages in enforcing the chapter.

Sec. 46.17.090 subjects a final action of the department to judicial review under the Administrative Procedure Act.

Sec. 46.17.100 permits the department to enter into cooperative agreements with other governments and prohibits municipalities from exercising powers that conflict with the powers and duties given the department. Under subsections (c) and (d), the chapter does not apply to a federally-owned or operated dam or reservoir and does not affect the powers of the Department of Environmental Conservation or the Department of Fish and Game.

Sec. 46.17.110 limits actions against the state. An action may be maintained against the state if the state negligently orders a dam owner to perform an action and the dam owner complies with the order but objected to it.

Sec. 46.17.120 acknowledges that the chapter does not relieve an owner of a dam or reservoir of the duties or liabilities incident to the ownership or operation of the dam or reservoir.

Sec. 46.17.150 imposes penalties on persons who knowingly violate the chapter, an approval, order, regulation, or requirement of the department, or who obstruct performance of duties

Senator Sturgulewski
Page 3
March 27, 1987

Sec. 46.17.900 is a definition section.

Section 3 is an immediate effective date clause.

If I may be of further assistance, please advise.

TBC:mkr
m10/065

March 30, 1987

The Honorable Arliss Sturgulewski
Sponsor of Senate Bill 183
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Senator Sturgulewski:

Subject: Senate Bill 183, relating to supervision of safety of dams and reservoirs.

Position: The Department of Natural Resources recommends the passage of Senate Bill 183.

Background: Currently, there are 185 dams on Alaska's dam inventory. In 1981, the U.S. Department of the Army, Corps of Engineers, ended its dam safety program for non-federal dams in Alaska. There are but 20 federal dams in Alaska. The remaining dams are covered under a minimal dam safety program the Department of Natural Resources, division of land and water management, established through regulations. The department adopted regulations in 11 AAC 93 under the authority of several sections in AS 46.15, the Alaska Water Use Act, including a provision in AS 46.15.080 which gives the commissioner authority to regulate water diversions.

Alaska Water Resources Board resolution 84-4, dated March 14, 1984, recommended review of the existing statutory authority under which dams in the state are regulated by the division.

About half of the 50 states have enacted specific dam safety legislation, but most of these states did so in response to dam failures resulting in loss of life and extensive property damage. Clearly it would be advantageous for Alaska to have a well-founded, comprehensive dam safety statutory scheme and program in effect to prevent such tragedies from occurring here. SB 183 is based on the Model Law for State Supervision of Safety of Dams and Reservoirs drafted by the United States Committee on Large Dams of the International Commission on Large Dams.

- POSITION Paper -

Section 2, which contains the body of the bill, creates a new ch. 17 in AS 46. Proposed AS 46.17.010 first states the purpose of the chapter. It then makes the supervision of safety of dams and reservoirs the responsibility of the Department of Natural Resources. The commissioner of that department is directed to employ a qualified engineer experienced in the design and construction of dams and reservoirs to direct the dam safety program. Proposed AS 46.17.040 would make it unlawful for anyone to construct, enlarge, repair, alter, remove, maintain, operate, or abandon a dam or reservoir, as defined in the bill, except upon application to, and approval of, the department. To ensure that dams and reservoirs remain safe once constructed, the department is directed in proposed AS 46.17.050 to inspect or to require owners to inspect dams and reservoirs covered under the bill at least once every five years, or more frequently if necessary. To ensure that it can make adequate inspections, the department is also given authority, in proposed AS 46.17.060, to enter the private property on which the dam or reservoir is located as might be necessary to make the inspection. Proposed AS 46.17.050 also authorizes the department to require owners to bear the costs of inspection.

Proposed AS 46.17.070 sets out specific standards for determining the safety of a dam or reservoir. In addition, the department is allowed, by proposed AS 46.17.110, to enter into cooperative management agreements with municipal corporations and other state and federal agencies to effectuate its responsibilities under the bill. To ensure that the state's action in inspecting and regulating the operation of dams or reservoirs does not shift the liability of the private owner to the state for loss of life or property damage due to a dam or reservoir failure, proposed AS 46.17.120 bars any action against the state based on any purported act or omission of a state agent or employee connected with the dam safety program.

Section 1 of the bill amends AS 11.56.800(a), dealing with the crime of making a false report. A new paragraph (4) will make it a crime to file a false report with the Department of Natural Resources concerning the condition of a dam or reservoir. Additional criminal sanctions are also contained in sec. 2 of the bill in proposed AS 46.17.100, which would make it a class A misdemeanor to violate any provision of AS 46.17 or lawful order the department issues under AS 46.17.

The Honorable Arliss Sturgulewski -3- March 30, 1987

Recommendation: Given the importance of a good dam safety program to the State of Alaska, the Department of Natural Resources favors passage of this legislation.

Sincerely,

Judith M. Brady
Commissioner

cc: Senate Transportation Committee
George Sullivan
Rod Swope

THE WALL STREET JOURNAL

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WESTERN EDITION

THURSDAY, MARCH 19, 1987

FEDERAL WAY, WASHINGTON

Flood Watch

Dams' Safety Worries Officials Who Believe Repairs Are Lagging

Earthquakes and Other Risks
Give Nightmares to Some
Despite a Recent Respite

Stitching Up a TVA Crack

By BRUCE INGERSOLL

Staff Reporter of THE WALL STREET JOURNAL
MONCKS CORNER, S.C. — The 1983 dam scare here is remembered as "the peril at Pinopolis."

On a languid summer morning, the West Pinopolis Dam suddenly sprang an enormous leak, setting off alarms in the powerhouse. While the police rapped on doors to evacuate downstream residents, emergency workers struggled to keep the huge dam from collapsing. They tried plugging the leak with weighted bales of hay. They tried steel plates. Increasingly desperate, they bought a furniture store's entire stock of mattresses, only to find them too buoyant. Finally, they slapped together a makeshift dam with pile-driven utility poles.

A disaster was averted—for the time being. But federal dam regulators worry that West Pinopolis is one of many dams around the country that would collapse if a severe earthquake hit. Hundreds of dams couldn't withstand a major flood. Thousands more have fallen into disrepair, some leaking or slumping so badly that they are in danger of collapse.

"One of these times, Mother Luck isn't going to hold," warns William Bivins, the dam safety coordinator for the Federal Emergency Management Agency. "One of these high-hazard dams is going to pop at night when everybody is asleep in bed. It will wipe out hundreds of people."

Recent Dam Breaks

But to some top officials, warnings about dam disasters are overblown, and in most states public interest in dam safety is low. In the 1970s, nearly 500 people died in six major U.S. dam breaks, but in the 1980s the fatalities have been few in this country, though a 1985 dam break in Italy killed more than 220 people.

Meanwhile, dam safety initiatives have been slowed by tight budgets, bureaucratic inertia and the lack of a political constituency. "All of our constituents are dead people," says safety advocate Bruce Tschantz, a professor of civil engineering at the University of Tennessee.

Of the 80,000 or so dams in the U.S., about 8,000 are owned or regulated by federal agencies. The rest are owned by farmers, ranchers, developers, utilities or states and municipalities. Most major dams are owned and maintained by big agencies such as the Pentagon's Army Corps of Engineers and the Interior Department's Bureau of Reclamation.

The bureau is still haunted by the 1976 collapse of the Teton Dam in Idaho as it was being filled for the first time, killing 11 people. One-fifth of the bureau's 300 dams, all in the West, are classified as unsafe. Critics say the bureau doesn't treat dam safety as a priority. Bureau officials disagree, but since 1980 the agency has spent only 11% of \$750 million authorized by Congress for safety "modifications."

Internal documents obtained from the Corps of Engineers, meanwhile, show that a superflood would overwhelm at least 20 of that agency's 600 dams, engulfing such communities as Houston and Valley City, N.D. The corps is also studying how well several structures, including two dikes on the Clemson University campus in South Carolina, would hold up in a major earthquake. If the dikes failed, the football stadium, dubbed "Death Valley" by Clemson's foes, would be swamped. Overall, "We are concerned about 36 dams," says Lloyd Duscha, the corps' deputy director of engineering and construction.

Remedial efforts have been limited, however. Some cost-conscious Reagan administration appointees haven't shared agency engineers' sense of urgency. "Bureaucratic engineers always try to figure out a way to perpetuate themselves and build up their budgets," asserts William Giarelli, who in recent years oversaw the corps as assistant Army secretary for civil works.

Underfunded and Undermanned

On the state level, the number of unsafe dams has been reduced to 1,948 from about 2,900 in 1981, according to a survey for the Federal Emergency Management Agency. Many dam owners simply dismantled their aging structures rather than make repairs. But the survey says that only 21 states have adequate regulatory programs and that the rest are underfunded and undermanned.

For Joseph Ellam, Pennsylvania's director of dam safety, the situation is unsettling. "Catastrophic failures have occurred before, and they will occur again," he warns. "With the exception of nuclear power plants, no man-made structure has a greater potential for killing a large number of people than a dam."

The West Pinopolis Dam, 30 miles from Charleston, S.C., is one such dam.

Although the dam now is in good repair, earthquake experts believe it would fail in the event of an earthquake as powerful as the devastating Charleston earthquake of 1886, which killed 86 persons and caused panic as far away as Cleveland.

If the dam failed, some 2,000 residents along the Cooper River "wouldn't have any time to run for their lives," says Ronald Corso, the director of hydropower licensing for the Federal Energy Regulatory Com-

Please Turn to Page 18, Column 1

Article on Dams

Flood Watch: The Safety of Some Dams Worries Officials Who Believe Earthquakes Pose Big Threat

Continued From First Page

mission. The flood would engulf the Charleston Naval Yard and the Atlantic Fleet's nuclear-weapons arsenal as well as a major industrial corridor, causing \$1 billion in damage. It would also clog Charleston's harbor with silt, closing a key port for the Navy.

The dam is vulnerable to an extraordinary phenomenon known as "liquefaction," Mr. Corso says. Seismic shock waves could "liquefy" the sand in the dam's foundation, turning it into quicksand or "mush." The shuddering dam would quickly slump, spilling the waters of Lake Moultrie in a thunderous rush.

The dam's owner, South Carolina Public Service Authority, also known as Santee Cooper, calls the chance of such a disaster remote, but the state-owned utility, under federal pressure, has agreed to strengthen the dam. "We don't care where they get the money so long as they fix it," Mr. Corso says.

Other Worries

The energy regulatory commission has worries about more than 100 of the 2,000 dams it regulates and has ordered several utilities to make repairs. Montana Power Co., for one, is rehabilitating an ice-battered dam near Missoula to protect the Clark Fork River. It holds back tons of toxic smelting waste in the bottom silt. Mr. Corso says, "If you dump that waste down the river, it will be the biggest mess known to mankind."

The Tennessee Valley Authority has pared its list of unsafe dams to 14 from 21. Fixing Fontana Dam in western North Carolina is a high priority. At 480 feet, Fontana is the tallest dam east of the Rocky Mountains. The upper part of the dam needs reinforcing against a major earthquake. And an alarming 100-foot-long crack in the concrete has reopened and requires restitching with cables.

In Wyoming, Reclamation Bureau officials are keeping close watch on the badly leaking Fontenelle Dam on the Green River. The same sort of seepage that caused a near-failure in 1965 is undermining the dam. The officials are keeping the reservoir level as low as possible, rather than risk deluging Green River, Wyo., (population: 13,000), but they admit to being at "Mother Nature's mercy."

Last summer, so much melted snow came down from the mountains that officials couldn't discharge water fast enough to keep the reservoir from refilling. "We baby-sat that dam night and day," says one Reclamation Bureau official. "We had two bulldozer operators there 24 hours a day."

Support Is Lacking

For years, federal officials in the field have been warning their superiors about Fontanella and other deteriorating dams. But cumbersome cost-sharing arrangements and resistance from the White House budget office have limited the Reclamation Bureau's efforts to a few projects. While the agency has begun budgeting more money for dam safety, many other projects will have to wait.

"It takes a long time to get momentum building behind a program, especially when it doesn't have high administration

support," says Neil Parrett, the bureau's chief of dam design. "We all could do better. But I celebrate the progress we've made to reduce the threat out there."

The Reclamation Bureau, like most of its regulatory brethren, has been slow to bring its substandard dams into compliance with the latest safety guidelines, as ordered by President Jimmy Carter in 1979. Federal dams should be stable enough to withstand the "maximum credible earthquake," usually defined as the quake from a known source like California's San Andreas Fault that could cause the most severe "vibratory ground motion" at a dam site.

Under the guidelines, federal dams should also have enough spillway capacity to discharge the "probable" maximum flood. Hydrologists calculate such a flood on the basis of the worst combination of meteorological and hydrological events likely to occur in watershed. In the Rockies, for example, it could be heavy rains mixed with a record snowmelt.

The 'Overtopping' Problem

Several Reclamation Bureau dams, including four on the Salt River and two on the Verde River in Arizona, are vulnerable to "overtopping" by a superflood. The crucial dam is a national historic monument, Theodore Roosevelt Dam. If it were overtopped by the probable maximum flood on the Salt, the top of the dam would crumble, triggering a "domino effect," says the bureau's Mr. Parrett.

The flood would heavily damage two downstream dams, knock out a third and surge on toward Phoenix. "Phoenix gets drowned," Mr. Parrett says. An estimated 250,000 people would be flooded; property damages would hit \$9.5 billion.

The Corps of Engineers has made even less headway than the Reclamation Bureau, largely because of budget ceilings and high-level skepticism at the Pentagon about probable maximum floods. The corps under Mr. Gianelli undertook only two dam modifications between 1981 and 1984. In contrast, the much smaller TVA started five. Mr. Gianelli, now a engineering consultant in California, says that the corps could never explain to his satisfaction how it calculated the probable maximum flood.

Prado Dam, perched in a canyon above suburban Los Angeles, is one project that Mr. Gianelli held up. If the dam failed, the probable maximum flood on the Santa Ana River would inundate 1.3 million residents in Anaheim and other suburbs and cause as much as \$40 billion in damages, mostly in Orange County, according to the corps's risk assessment.

Mr. Gianelli, who served as California's water resources director under Gov. Ronald Reagan, remains unpersuaded. "That dam has been there 50 years," he says. "It has never filled to the point where the spillway is even used. You fix a dam if it's leaking."

Delaying Repairs

In the private sector, meanwhile, dam safety continues to lag. Some farmers scoff at warnings that the dams they built with the Soil Conservation Service's assistance are about to flood out their neighbors. And many corporate dam owners put off costly

repairs.

"It's the last place anybody wants to spend money," says Gerald W. Farquhar, a Washington attorney. "Everybody says it'll be the other fellow's dam that goes."

Among state governments, money for regulating dams remains tight. While California leads the nation with a \$3.8 million budget and a 60-person staff, most states make do with much less—on average, \$265,000 a year. Some states, including Delaware, Alabama and Hawaii, don't yet have a semblance of a dam-safety program.

Pennsylvania, however, has accomplished more than most federal agencies, whittling its backlog of 208 unsafe dams to 72 in five years. More than \$50 million, including low-interest state loans, has gone into dam repairs, usually under consent agreements with the state. The Pennsylvania Gas & Water Co. has agreed to fix 16 water-supply dams, while the Greater Johnstown Water Authority has promised to fix or dismantle the Salt Lick Dam near the site of a famous dam-break nearly a century ago.

"If Salt Lick were to fail," says the state's Mr. Ellam, "it would be as bad as the great Johnstown Flood of 1889, the greatest catastrophe in U.S. history," that swept 2,200 persons to their deaths.

S B

208

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 23, 1987

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

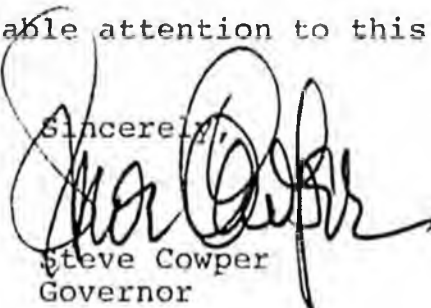
Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to school district transportation of pupils. The measure repeals existing AS 14.09.010, under which districts required by the department to provide pupil transportation are reimbursed on a "unit cost basis" determined by the department, and would replace it with a provision that makes pupil transportation services optional with the local districts, and directs the department to adopt regulations providing for the determination of eligibility for state pupil transportation aid and the amount of that aid. AS 14.09.020, which requires the department to provide transportation for nonpublic school students in certain situations, is repealed in sec. 2 of the bill.

The reason for the changes to AS 14.09.010 is that reimbursement on a "unit cost basis" essentially rewards districts that have high costs for their failure to contain costs, while districts that run more efficient transportation systems are penalized. Under the proposed new language of AS 14.09.010(b), the Department of Education will develop a system of distributing pupil transportation money which does not contain such disincentives to efficiency.

I urge your prompt and favorable attention to this bill.

Sincerely,


Steve Cowper
Governor

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: 58208

Bill Version: 773-87-0128
Publish Date: _____

Revision Date: _____
Title: ...transportation of pupils...

Agency Affected: Education
BRU: K-12 Support

Sponsor: Governor
Requestor: Governor

Components: Pupil Transportation

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
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS :

This legislation will not require an increased appropriation.

Prepared by: Steve Hole *Steve Hole*
Division: Commissioner's Office

Phone: 465-2800
Date: March 18, 1987

Approved by Commissioner: Marshall L. Lind *MLL*
Agency: Education

Date: March 18, 1987

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

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: transportation of pupils . . .

Agency Affected: Education
BRU: K-12 Support

Sponsor: Governor
Requestor: Senate Transportation

Components: Pupil Transportation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		Ø	Ø	Ø	Ø	Ø

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Steve Hole
Division: Commissioner's Office

Phone: 465-2800
Date: 1-23-88

Approved by Commissioner: William G. Demmert
Agency: Department of Education

Date: 1-23-88

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

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4/22/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: TRANSPORTATION
JUDICIARY
FINANCE

**FISCAL NOTE(S) ATTACHED 1 **
IN ACCORDANCE WITH AS 24.08.035
(see below) **Gov. Fiscal Note attached**

3/24/87 DATE TURNED INTO OFFICE 5/18/87

Mr. President:

HESS Committee considered SB 208

transportation of pupils; efd.

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero previous fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

~~_____~~

Do not pass
Agree (No Rec)

Paul Frick No Rec
Chairman signature and recommendation

Committee Backup Attached

MEMORANDUM

State of Alaska
Department of Education

TO: Mary Hakala
Special Assistant
Office of the Commissioner

DATE: April 14, 1987

FILE NO:

TELEPHONE NO: 465-2865

FROM: ^{RK} Romaine Kareen, Administrator
Pupil Transportation Services

SUBJECT: Pupil Transportation
Funding

Per your request, attached is a write-up on the interim method recommended by the Department of Education for funding pupil transportation during FY 1987-88 and FY 1988-89. The method provides for funding based on the percentage allocation that school districts received of the statewide pupil transportation reimbursement during FY 1986-87. A copy of the estimated percentage distribution applied to the Governor's budget request for FY 1987-88 pupil transportation is attached.

The method would be in effect for a two year period only during which time accurate statistics on miles traveled, students transported, capacity and age of vehicles, and so forth will be collected, compiled and analyzed. A finite way of determining allocations based on current, reliable data will then be established for implementation July 1, 1989.

Regulations for the interim funding method will be presented to the State Board of Education for promulgation at its April 27, 1987 meeting. Public comments will be solicited. Final drafting of regulations will be completed this week by Department of Law and Department of Education.

The interim method would allow school districts to know by June how much money they will receive for the ensuing fiscal year. This would give districts an opportunity to take legally defensible cost reduction measures to bring pupil transportation expenditures in line with established allocations, thereby reducing local contributions.

The current method requires districts to spend money first, then be prorated at the end of the year if our appropriation is not adequate to cover total approved statewide transportation expenditures. If a district reduces costs during the year, the savings are shared by the state as a whole. Under the proposed method, savings generated by a district would stay with that district. We believe this interim concept would provide incentive for cost reduction at the local level.

If you have questions, or would like additional information about the proposed funding method, feel free to contact me.

Attachments

cc: Larry Huxel
Jim Tozer

Romaine Kareen, Pupil Transport DOE

STATE AID FOR PUPIL TRANSPORTATION

Interim Funding Method Recommended
by Department of Education for
Fiscal Years 1987-88 and 1988-89

1. Effective for Fiscal Years 1987-88 and 1988-89, each school district providing transportation services for students to and from school is entitled to receive state aid from the department based on either the method described below, or actual transportation costs, whichever is less:

a. For districts that received pupil transportation reimbursement from the department for fiscal year 1986-87:

(1) an allocation will be established based on reimbursement received during this period, divided by the total statewide pupil transportation payments for this period.

(2) this allocation percentage will apply to 98% of the pupil transportation legislative appropriation for to/from school transportation for fiscal years 1987-88 and 1988-89.

b. Two percent of the appropriation will be distributed as follows:

- (1) For districts that received pupil transportation reimbursement from the department for a portion or none of fiscal year 1986-87, an allocation will be established based on costs approved by the department for fiscal years 1987-88 and 1988-89.
- (2) For districts that require increased service due to increased enrollment, the department may assist with additional funding.
- (3) The balance of unallocated funds at the close of the fiscal year will be distributed to districts according to the allocation percentages established pursuant to a.(1) and b.(1) of this section.

2. Districts are not required to provide transportation services. The local school board will determine what services, if any, will be provided. State aid will be paid only if services are provided.

3. Payment to eligible districts for the allocation established under this section will be distributed in the following manner:

- a. On the first day of each month commencing with September 1 and continuing through February 1, two-thirds of the annual allocation initially determined will be distributed in six equal installments. The remaining one-third of the annual allocation will be distributed in three equal installments on the first day of each month commencing with March 1, subject to the availability of funds as determined by the Department.
- b. The remaining balance of the initial 2% unallocated funds will be distributed no later than August 15 providing reporting requirements have been met.