

HOUSE BILL REPORT

HB 1491

As Passed House:
February 25, 2021

Title: An act relating to rights-of-way for the transport of timber, minerals, stone, sand, gravel, or other valuable materials.

Brief Description: Concerning the rights-of-way for the transport of timber, minerals, stone, sand, gravel, or other valuable materials.

Sponsors: Representatives Orcutt, Fitzgibbon and Lekanoff; by request of Department of Natural Resources.

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 2/10/21, 2/12/21 [DP].

Floor Activity:

Passed House: 2/25/21, 96-1.

Brief Summary of Bill

- Provides that the Department of Natural Resources is not required to issue a right-of-way certificate for right-of-way applications over lands in which the federal government claims the exclusive right to grant an easement or right-of-way.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 14 members: Representatives Chapman, Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Robert Hatfield (786-7117).

Background:

A person engaged in certain natural resources industries who seeks a right-of-way across lands managed by the Department of Natural Resources (DNR) must file a written application with the DNR. Upon receipt of such an application, the DNR must first appraise any damages or diminution to the value of land caused by the use of such right-of-way, including the value of any timber affected by the right-of-way, and must then notify the applicant of that appraisal. Once the applicant has paid the appraised value identified by the DNR, the DNR is required to issue a right-of-way certificate to the applicant that describes the terms and conditions upon which the right-of-way is granted.

Summary of Bill:

The obligation of the Department of Natural Resources (DNR) to issue a right-of-way certificate does not apply to an application for a right-of-way over land in which the federal government claims the exclusive right to grant an easement or right-of-way to third parties over such land. This exception does not apply where the DNR disputes the claim by the federal government. This exception may not be deemed an acknowledgement that the federal government holds any such exclusive granting rights.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is intended to remove legal risk to the state while still providing access to trust lands. The bill addresses those instances where roads over lands managed by the Department of Natural Resources (DNR) have functionally become United States Forest Service (USFS) roads, because the DNR has granted the USFS an exclusive easement for a road. This legal risk has prevented the DNR from granting easements to the USFS for over a decade, and the USFS in turn has refused to grant easements to the DNR over certain USFS lands. Removing this barrier will help the DNR tremendously in working on forest health treatments and related activities.

(Opposed) None.

Persons Testifying: Representative Orcutt, prime sponsor; and Duane Emmons, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.