

MINUTES
SENATE FINANCE COMMITTEE
May 05, 2001
9:14 AM

TAPES

SFC-01 # 97, Side A
SFC 01 # 97, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:14 AM.

PRESENT

Senator Pete Kelly, Co-Chair
Co-Chair Dave Donley
Senator Jerry Ward, Vice Chair
Senator Alan Austerman
Senator Donny Olson
Senator Lyman Hoffman

Also Attending: REPRESENTATIVE JEANETTE JAMES; BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources

Attending via Teleconference: From Denali: JEFF KNUTCHNE, resident of Stampede Road; BRUCE LEE, operator of dog sled business; From Fairbanks: JOE FIELDS, President, Kantishna Holdings, Inc.; From Anchorage: NANCY BALE, Board Member, Denali Citizens Counsel, 25-year resident and employee of Denali Borough

SUMMARY INFORMATION

HB 244-RIGHT-OF-WAY TO DENALI BOR. FOR RR/UTIL.

The Committee heard from the sponsor, the Department of Natural Resources, the Denali Borough and members of the public. The bill moved from Committee.

HB 65-MEDICAL ASSISTANCE:BREAST/CERVICAL CANCER

The Committee heard from the Senate Health Education and Social Services Committee. The bill moved from Committee.

#HB244

SENATE CS FOR CS FOR HOUSE BILL NO. 244(RES)

"An Act relating to a grant of state land to the Denali Borough for a railroad and utility corridor and a railroad development project; repealing provisions relating to a grant of a right-of-way of land for a railroad and utility corridor to the Alaska Industrial Development and Export Authority; and providing for an effective date."

REPRESENTATIVE JEANETTE JAMES testified the bill authorizes the Denali Borough to identify and survey a right-of-way in an area between Healy and Denali National Park for the purpose of a railroad corridor. She remarked the intention is to expand the right-of-way into the park itself. She informed that this project "has been around for a long time" and that she has been working on it for nine years.

Representative James reminded of an authorization given several years prior for the Department of Natural Resources to convey land across the 90,000-acre area referred to as Wolf Townships. She elaborated that within this land, a corridor could be identified under the provisions of the earlier authorization and granted through the Alaska Industrial Development and Export Authority (AIDEA). However, she said this process was unsuccessful for a variety of reasons and this legislation represented a new plan for granting authority to the Denali Borough rather than AIDEA.

Representative James explained the process of the Department of Natural Resources working with the Denali Borough to identify a corridor and any existing rights and uses within that corridor after which, a survey could be performed. Once the survey was completed, she continued, a maximum amount of 3,500 acres of land would be transferred from the Department of Natural Resources to the borough.

Representative James pointed out a sunset date of the year 2010 contained in the bill. She stated that if the Denali Borough has not leased the identified land to a party for the purpose of a right-of-way into the edge of the park, the land would revert to state ownership.

Representative James surmised that approximately 1,500 acres would actually be transferred under this program. She stressed this land would be considered as part of the Denali Borough's land entitlement selection. She noted that to date, the borough has only received about half of its entitlement land.

Representative James noted several local residents are concerned over this matter and that she has made arrangements to visit the area on June 3, 2001 to "allay their fears". She assured a public process would occur as one occurs with any right-of-way issue.

Co-Chair Kelly asked about the increased expenses in FY 05 shown on the fiscal note.

Representative James ascertained this relates to the original completion date of 2006 and noted the date has been extended, through this legislation, to the year 2010. She said it was not her intention to set an unrealistic deadline.

Senator Austerman assumed it would be necessary to lay new rails across this corridor.

Representative James affirmed and stated this project would connect to the Alaska Railroad on one end. She informed that Kantishna Holdings, Inc. has been negotiating with the Alaska Railroad Corporation as to where this connection would be located. She indicated there is a plan to construct a hotel in the community of Healy to serve passengers traveling along this route. She estimated the length of the new route at approximately 40 miles to the boundary of the park.

Senator Ward offered a motion to report the bill from Committee.

It was noted that testimony was not concluded and the motion was WITHDRAWN without objection.

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources testified that access to Denali National Park could bring significant benefits to the state. However, he remarked, the department has concerns that this bill might not achieve those benefits. He listed four concerns on this point.

Mr. Loeffler spoke to the first concern that the bill conveys a right-of-way to Kantishna Holdings, Inc. for one-third of the distance. He warned that without agreement from the United States National Park Service over control of the remaining two-thirds of the land, no right-of-way could be established for this or any other corridor. He explained that if the Denali Borough establishes an "exclusive use corridor" for a railroad by Kantishna Holdings, Inc., other opportunities for access to the park would not be considered. He recommended agreement between "all players" before the state commits to a specific corridor mechanism and developer.

Mr. Loeffler listed the second concern over public policy that would essentially provide a legislative land grant to a single private developer.

Mr. Loeffler stated that the bill thirdly, "unintentionally... may put the borough in a poor marketing position with a private developer." He referenced language that stipulates that if the borough does not grant the land to Kantishna Holdings, Inc. by a certain date, ownership of the land returns to the state. He cautioned that this limits the criteria the borough could place on any agreement with the corporation, because it is known there is a consequence to the borough if no agreement is reached.

Mr. Loeffler remarked, the final concern that the role of the Department of Natural Resources is "ambiguous" in the land transfer process. He noted the legislation requires that the department review selections made by the borough, but exempts the review from standards in municipal entitlement law. He stressed that the bill however, does not remove the department's obligation to determine that disposal of this land to the borough is in the state's best interest. He added that numerous other obligations contained in Title 38 of the Alaska State Statutes governing land disposal, are also not exempted.

Co-Chair Kelly opined that if the Committee addressed these four concerns raised by the department, the commissioner would still oppose the legislation.

Mr. Loeffler commented this was possible.

JEFF KNUTCHNE, resident of Stampede Road, testified via teleconference from Denali and told of the many visitors to his bed and breakfast and sled dog tours establishment. He spoke of concerns with protecting the remote atmosphere of his location and warned that this project would "ruin" his business. He informed that the local homeowners association, with 160 landowners occupying land within the proposed corridor, is in opposition to the development of the railroad in this area. He stated that this project has had little input from the people affected the most and he questioned the public process related to this land disposal, referring to the way the matter is listed as "old township concerns" on agendas without mention of the Alaska Railroad Corporation. He also told of the historical use of the area in question.

BRUCE LEE, operator of dog sled business, testified via teleconference from Denali to oppose the bill on three points: how

it would affect him personally, how it impact subsistence and the financial implications. He told the Committee about his cabin in a remote area on land that he obtained 26 years ago through the open entry process but would be taken away from him under this legislation. He stated that there is little available land for local residents because the United States Park Service and Native Corporations own most of the land in the area. He requested that consideration be given to the use of this land by caribou as a preferred winter range and he stressed the importance of subsistence. He did not agree with public lands being given to a private "non-local, non-borough corporation" that has demonstrated no history of operating such a large-scale operation. He opined it is not "sound financial judgment" for the state to place the borough in this position. He disagreed with the assessment that the project is favored at a ratio of 15 residents to one, asserting that he knew of only a few residents who support the proposal.

JOE FIELDS, President, Kantishna Holdings, Inc., testified via teleconference from Fairbanks that the Committee should be concerned about the local residents' issues, but that he thought this legislation addresses them. He stated that the township consists of 100,000 acres and that this legislation would only utilize 15,000 acres. He countered earlier arguments asserting that there has been a public process on this matter for over nine years. He noted the newly elected Denali Borough Assembly, unanimously voted to endorse this legislation on April 8, 2001. He stressed that while the local residents might see trains, these would not be freight trains, but rather passenger trains carrying tourists. Also, he said, there would be no road crossings and accompanying whistles at these crossings.

Mr. Fields qualified that he did not know what impact this corridor would have on subsistence, but he predicted it would not be much. He stated he has tried to learn the number of caribou strikes by train and although he didn't have an amount, the amounts seemed different than moose strikes and different than areas with greater snow levels.

Mr. Fields stated that the intent of this effort is for the study of the corridor to create a northern access to Denali National Park. He told of an endorsement given in 1994 by a national park system advisory board. He said consideration has been given to an additional access route to the southern portion of the park but that there is no funding in the Statewide Transportation Improvement Program (STIP) for actual construction of the entire project for at least six years.

Mr. Fields asserted that the northern access route would create 300

to 900 jobs. He spoke of efforts to receive approval from the United States Secretary of the Interior for the route, which he said involves more public process. He then stated this route would reduce road traffic by 1,300 vehicles annually. He stressed that this is "good sound development" and is environmentally sound. He remarked that many people would be able to safely experience the national park.

Co-Chair Kelly commented, "This is, I think, a pretty exciting project." He understood that each time such a project is proposed, some people's lives are impacted and that there is concern about the extent of these changes. He stated this is a part of living in a "growing state".

Mr. Fields expressed he is willing to meet with those residents with concerns and to give them a tour of the proposed area and detail the impacts. He anticipated the actual location of the corridor would be south of most of the trails the residents feel are threatened. He added that it is unlikely the tracks could be seen from the areas used by the guides. He said he wanted to have discussions with the community "talking honestly about their issues and not getting all excited about how they are going to lose their rights to use the public land for free."

Senator Olson spoke as a small businessman and the need to protect the ability to earn a living. He asked the previous two witnesses to describe how this project would adversely affect their business operations. He wanted to know if they would go out of business.

Mr. Knutchne responded that the business would fail without access to the remote cabins located across from the proposed corridor. He detailed the three and five day trips on the state-owned land and the areas of travel.

Co-Chair Kelly asked why the groups could not cross the railroad tracks.

Mr. Knutchne asserted that the language in this legislation "could possibly eliminate" any competing business ventures in the corridor.

Senator Olson asked Mr. Fields if this is true and that Mr. Knutchne would have no other way to access the cabins then across the right-of-way.

Mr. Fields did not think this would be the case. He assumed bridges and culverts would be built across the rivers and creeks but no plans were yet made to provide for railroad crossings. He explained

that railroad crossings are possible, but are done at the traveler's own risk. However, he stressed that there would be no high-speed trains operating on these tracks and that the proposed passenger trains are comparatively lightweight. He knew of no right-of-way or corridor that does not allow crossings. He opined if the intent is to have sole access to complete wilderness, then this intent is self-centered and unrealistic.

NANCY BALE, Board Member, Denali Citizens Counsel, 25-year resident and employee of Denali Borough, testified via teleconference from Anchorage to contradict the claim that a 15 to one ratio of borough residents are favor of the project. She anticipated a large turnout at the next borough assembly meeting of residents against the railroad access. She stated that there is significant opposition largely because the residents have no say as to whether or not the project would occur. Preferable, she said, is a consulted public process.

Ms. Bale began listing specific concerns over some of the language in the committee substitute, starting with page 2, line 4, "The borough, in consultation with Kantishna Holdings, Inc., shall also identify and select ancillary land necessary to support the development and operation of a railroad and facilities to support economic development in conjunction with the railroad development project." She shared that this is of particular concern to residents because, although the right-of-way is only 300 feet wide, there is no stipulation as the size of the ancillary land. She stressed that this provision contains, "so few controls that rail-only is not even guaranteed" and that there is the possibility of a road. She detailed the potential impact on local and subsistence use of the land.

Ms. Bale next referred to page, 2, lines 7 and 8, "The department shall review the selections within 90 days after the selections are made." She asked if the department in question is the Department of Natural Resources.

Co-Chair Kelly answered this is correct.

Ms. Bale asked if this review process would involve a best-interest finding, or an in-house "paper review." She remarked that "lip service" has been given that an environmental impact statement would be conducted, but stressed that it is not guaranteed in the bill, nor is a best interest finding.

Ms. Bale continued reading from page 2, line 10, "...the borough shall survey the land..." and emphasized that it is uncertain how this would be funded. She pointed out that the borough is already

funding most of its school system and she asked if money would be taken away from education or if state funds would be appropriated for a survey.

Ms. Bale spoke to page 2, line 19, "By September, 1, 2010, the Denali Borough shall lease the land received under this section to a person for a railroad development project." She wanted to know how this person would be selected and whether there would be a competitive bidding process at that time.

Ms. Bale commented that a Denali task force has been cited as supporting a northern access to the park, but stressed she disagreed with this claim. To demonstrate, she read from a report on the issue generated by the task force, "While all task force members felt strongly that new opportunities to experience the national park should be provided, a majority felt that the recommended alternative, primarily on the south side, would in part meet future demands. The north route is also perceived to be less cost effective and less consistent with maintaining the primitive character of Kantishna. The approval of north access in this document was a minority opinion."

Co-Chair Kelly addressed the witness's question regarding "person", explaining this is a legal term that could apply to a person or a corporation. He said that when an individual person is referenced in statute, the correct language is "individual."

Ms. Bale again asked if the bill allows for a competitive process in the lease of the right-of-way land.

Representative James responded that the process in requesting a right-of-way is by application rather than a request by the state for competitive bids. She noted that in this legislation the reason "person" is used instead of Kantishna Holdings, Inc. is in the event that the corporation fails and another party is interested in the project before the deadline of 2010. She stated there would be a public process on this issue.

Representative James addressed the funding of the land survey, saying the funds would probably come from a source other than the borough if the borough could not afford it. She noted federal funds could be available, provided state matching funds were appropriated.

Senator Ward shared his conversation with Denali Borough mayor and former Alaska Representative, John Gonzales and the assurances given that the borough is "capable of handling the public process." Senator Ward shared that the mayor asked that the legislature "have

faith" in the borough to determine its best interest.

Co-Chair Kelly asked Mr. Loeffler if language is contained in the legislation that protects traditional access across the right-of-ways.

Mr. Loeffler replied that the bill "indicates" that the corridor shall protect existing rights. He noted that a Department of Natural Resources best interest finding would address the matter.

Senator Hoffman asked about the cabins previously discussed.

Mr. Loeffler qualified that it is not guaranteed there would be no impact but that users of these cabins would have access through the corridor.

Senator Ward offered a motion to move from Committee SCS CS HB 244 (RES) with \$16,800 fiscal note from the Department of Natural Resources.

Without objection the bill MOVED from Committee.

AT EASE 9:57 AM / 1:20 PM

#HB65

SENATE CS FOR CS FOR HOUSE BILL NO. 65(HES)
"An Act relating to a new optional group of persons eligible for medical assistance who require treatment for breast or cervical cancer; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Senator Green moved to adopt SCS CS HB 65 (HES) as a working draft.

Without objection it was ADOPTED.

Senator Green spoke to the Senate Health, Education and Social Services committee substitute, noting the bill had been discussed extensively in that committee. She informed that this legislation is an extension to the Medicaid program.

Senator Green pointed out changes made to the original bill, the first being a limitation that no more than \$175,800 general funds could be spent in FY 02 on services for eligible persons who have been diagnosed with breast or cervical cancer. She added that no more than \$189,500 general funds could be spent for these services in FY 03. She noted these amounts were requested by the Department

of Health and Social Services.

Senator Green told of the second change made in the committee substitute regarding reporting requirements from the Department of Health and Social Services to the legislature indicating whether environmental, behavioral or genetic factors were associated with the onset of these illnesses. She indicated press releases state that these cancers are "epidemics" in Alaska. She remarked that the intent of this provision is to inform the public of any correlations and tell of actions that could be taken to prevent these illnesses.

Senator Green spoke to questions regarding the amount of money allowed for each patient. She shared there has been a discrepancy between the amount allotted per person and the actual expenses for treatment services. She stated the committee substitute stipulates the Department of Health and Social Services provides a breakdown of how much money was spent on each patient.

Co-Chair Kelly asked if qualification for Medicaid remains at 250 percent of the poverty level.

Senator Green affirmed.

AT EASE 1:25 PM / 1:25 PM

Senator Lemman responded to press reports published in the Anchorage Daily News regarding the hearings held on this bill in the Senate Health, Education and Social Services Committee. He shared that an article quotes Commissioner Karen Perdue, of the Department of Health and Social Services, as saying "...There's no way in hell that government should be snooping in private matters of women."

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Senator Lemman acknowledged that the newspaper did not quote him properly on this matter and that it was therefore possible that the commissioner was misquoted as well. He asserted however that, if accurate, this is an inappropriate statement for a commissioner to make. He said this is especially true because this information must be collected under the federal Medicaid requirements.

Senator Lemman relayed that in the Senate Health, Education and Social Services Committee, he asserted, "We're not looking to snoop in the lives of women, but we want to know, if Alaska women are getting breast and cervical cancer at higher rates than the rest of the country; we want to know why and if there are things that we can do to change the environment, change what's happening in Alaska to reduce those chances, then we ought to identify them."

Senator Lemman assured the study would not be conducted by the legislature but rather by the Department of Health and Social Services would release information generated by the Nation Institute of Cancer and other organizations in the field.

Senator Lemman commented that the action taken in the Senate Health, Education and Social Services Committee was intended to be "very positive, constructive; helping women in Alaska" but was interpreted by some and being misrepresented "as something else."

Senator Lemman stated that, while he is not an expert on medicine or cancer, he does "care about women in Alaska" and the fight against cancer. He shared that he has lost family members to cancer and to breast cancer, which has had a "profound effect" on him and his family. Therefore, he asserted that when "others misrepresent what we're trying to do, it hurts."

Senator Lemman reiterated that this legislation is "a positive step" and surmised that Alaskans should benefit from it.

Senator Green offered a motion to move SCS CS HB 65 (HES) from Committee with accompanying \$598,200 fiscal note from the Department of Health and Social Services.

The bill MOVED from Committee without objection.

AT EASE 1:28 PM / 1:30 PM

RECESS TO THE CALL OF THE CHAIR 1:30 PM / 9:07 PM

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 09:07 PM.