

**ALASKA STATE LEGISLATURE  
HOUSE COMMUNITY AND REGIONAL AFFAIRS  
STANDING COMMITTEE**

April 24, 2003  
9:08 a.m.

**MEMBERS PRESENT**

Representative Carl Morgan, Chair  
Representative Kelly Wolf, Vice Chair  
Representative Pete Kott  
Representative Tom Anderson  
Representative Ralph Samuels  
Representative Sharon Cissna  
Representative Albert Kookesh

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 264

"An Act relating to the review of certain state public construction projects for compliance with building and other safety codes, relating to the inspection of certain state public construction projects, and exempting certain state public construction projects from obtaining building permits from municipalities, from municipal inspection during construction, and from complying with a review requirement; and providing for an effective date."

- MOVED HB 264 OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 264

SHORT TITLE: STATE CONSTR. PROJECTS; REVIEW/INSPECTION

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG

Jrn-Date	Jrn-Page		Action
04/14/03	0964	(H)	READ THE FIRST TIME - REFERRALS
04/14/03	0964	(H)	CRA, L&C, FIN
04/24/03		(H)	CRA AT 9:00 AM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE NORMAN ROKEBERG

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 264.

TIM ROGERS, Legislative Program Coordinator

Municipality of Anchorage

Anchorage, Alaska

POSITION STATEMENT: Testified that he wasn't sure HB 264, in its current state, would accomplish what everyone is after.

NANCY SLAGLE, Director

Administrative Services

Department of Transportation & Public Facilities

Juneau, Alaska

POSITION STATEMENT: Addressed the zero fiscal note of HB 264.

SAM KITO, III, Transportation Development Manager

Planning Division

Department of Community Development

City & Borough of Juneau

Juneau, Alaska

POSITION STATEMENT: Expressed concerns with regard to HB 264.

#### **ACTION NARRATIVE**

#### **TAPE 03-16, SIDE A**

Number 0001

**CHAIR CARL MORGAN** called the House Community and Regional Affairs Standing Committee meeting to order at 9:08 a.m. Representatives Morgan, Anderson, Samuels, and Cissna were present at the call to order. Representatives Wolf, Kott, and Kookesh arrived as the meeting was in progress.

#### HB 264-STATE CONSTR. PROJECTS; REVIEW/INSPECTION

CHAIR MORGAN announced that the only order of business would be HOUSE BILL NO. 264, "An Act relating to the review of certain state public construction projects for compliance with building and other safety codes, relating to the inspection of certain state public construction projects, and exempting certain state public construction projects from obtaining building permits from municipalities, from municipal inspection during construction, and from complying with a review requirement; and providing for an effective date."

Number 0073

REPRESENTATIVE NORMAN ROKEBERG, Alaska State Legislature, spoke as the sponsor of HB 264. He began by mentioning that the Ted Stevens Anchorage International Airport (TSAIA) is the motivation for the introduction of HB 264. Representative Rokeberg explained that the legislature entered into agreements with the administration to enter into agreements with the air carriers for a large construction project that would add to and rebuild Concourse C and other amenities. This project has been delayed due to seismic designs, plan checking, and review prior to the issuance of building permits. These delays precipitated a recent joint meeting of the House and Senate Transportation Standing Committees during which the Department of Transportation & Public Facilities (DOT&PF) discussed the \$33 million in cost overruns resulting from "this breakdown in the planning process." The aforementioned is part of the committee packet. The committee packet should also contain the Joint Committee on Legislative Budget and Audit review of the situation, which suggested the need for remedial legislation in order to ensure that [the delays and cost overruns] don't happen again.

Number 0293

REPRESENTATIVE ROKEBERG explained that HB 264 would allow DOT&PF, for projects over \$1 million in valuation, to immediately have the plan reviewed by a third-party organization, such as the International Code Council (ICC). The issue is the relationship between the state, DOT&PF, and the municipal governments that have plan reviews or building officials in the jurisdiction [of the project]. He indicated that mainly the larger communities, such as Anchorage, Fairbanks, and Juneau, have plan reviews by building officials. Typically, the process is such that one would obtain working drawings from an architect/consulting engineer and those plans would be taken to the building officials for review on matters of zoning and fire as well as the various building disciplines. Therefore, there will be variations between the codes of various jurisdictions.

REPRESENTATIVE ROKEBERG related his understanding that in order to expedite large projects there would usually be an agreement between the developer, the building officials, and the municipality to send the plans for review. However, the aforementioned didn't occur with TSAIA. He opined that such

review could've avoided the almost two years of delay and saved the state considerable money. However, the current situation means that the department will have to return to the legislature for further bonding authorization.

REPRESENTATIVE ROKEBERG concluded by noting that there may be some technical issues that need to be worked out. He noted that HB 264 has three committees of referral and if this committee decides to move it to the next committee of referral, the House Labor and Commerce Standing Committee, he pledged to work with all involved parties over the interim. He announced that he didn't intend for this legislation to move through the process this session. His intention, he said, is to focus on the plan checking, however the current legislation doesn't quite meet that goal.

Number 0812

REPRESENTATIVE CISSNA commented that this problem couldn't be unique to Alaska. Therefore, she inquired as to what other states do in similar situations.

REPRESENTATIVE ROKEBERG, speaking from his personal background in real estate, related that this [third-party plan check] is frequently performed. In Alaska, construction is typically done in the spring and summer. Therefore, the departments performing building checks can't manage the volume created during the concentrated flurry of building. The [third-party plan check] has been used in the past in order to avoid the bottleneck and ensure that projects proceed in a timely manner. In further response to Representative Cissna, Representative Rokeberg pointed out that the audit done by the Joint Committee on Legislative Budget and Audit specifies: "Local regulation of state construction is not a universal practice in other states. Our survey of the practices of 24 other states determined that state construction is not subject to local building permits in 18 of those 24 states." Whether the state is even subject to local building review is one of the issues, he said.

Number 1047

REPRESENTATIVE CISSNA highlighted the importance of local knowledge in these situations. She recalled that after the tidal wave in Kodiak, experts from "Urban Renewal" came in from Washington, D.C., and planned the community below the high tide line. Therefore, she asked if the local [officials] could be part of the team.

REPRESENTATIVE ROKEBERG agreed with Representative Cissna and related that the intention of HB 264 isn't to circumvent local control, particularly with regard to land use planning elements. This legislation focuses on the architectural and engineering drawings for plan review. Whether the standards adopted are national or regional building codes, professionals from other jurisdictions can know the code as well as the local plan checkers. He noted that the legislation needs to be tweaked so that local input is included. In fact, Alaska has a law that requires local plan checking in order to obtain a local permit.

Number 1179

REPRESENTATIVE SAMUELS informed the committee that before the TSAIA project started, the rental fees of one of the air carriers increased by about two-fold. Therefore, for a very small company the excess fees amounted to about \$200,000 and those excess fees aren't going to generate any extra passengers, and therefore the fares will be raised. Furthermore, all the employees of this small air carrier are impacted.

REPRESENTATIVE KOOKESH asked if the rental fees to which Representative Samuels spoke would've been raised anyway, had the project been completed on time.

REPRESENTATIVE SAMUELS said that all of the delays have resulted in what will amount to an extra \$50 million in fees. Although the rental fees would have increased, they wouldn't have doubled.

Number 1351

REPRESENTATIVE KOOKESH turned to the zero fiscal note and inquired as to who will pay for the review performed by national organizations.

REPRESENTATIVE ROKEBERG explained that currently the plan checking is carried out by the municipal government. "The developer of the state is paying for it now," he specified. With regard to who will receive the cost of the plan check, Representative Rokeberg related that there would be an offset. The presumption is that if the fee isn't paid to the municipality, it would be paid to the third party, and therefore it would be a wash.

REPRESENTATIVE KOOKESH said that he didn't agree.

REPRESENTATIVE ROKEBERG acknowledged that he didn't have the empirical evidence to support the presumption.

CHAIR MORGAN inquired as to how much more bonding is going to be requested and who will pay for it.

REPRESENTATIVE ROKEBERG informed the committee that DOT&PF is coming to the legislature to request that the dollar cap on the level of bonding be raised. He recalled that it is in the \$120-\$180 million range. He explained that the payment of the aforementioned would come from the revenues of the airport, to which Representative Samuels was referring. He acknowledged that there is a connection between the operating costs and the fare structure and ultimate cost to the public.

CHAIR MORGAN highlighted that Anchorage is the hub of the state, although it's becoming more difficult to get to Alaska because the air carriers face [increased fees]. However, in the end the consumer will be the one that pays for the additional bonding.

REPRESENTATIVE ROKEBERG remarked that the intent of HB 264 is to avoid the mistakes of the past and lower the costs to the public.

Number 1566

TIM ROGERS, Legislative Program Coordinator, Municipality of Anchorage (MOA), said that MOA shares the frustrations associated with the cost overruns and the time delays involved with the TSAIA expansion. He offered that if the municipality can do anything to streamline the process, it wants to be able to do so. However, he said he wasn't sure that HB 264, in its current state, would've solved the problems that occurred in the project.

MR. ROGERS turned attention to a letter from Craig Campbell, then Executive Director, Office of Planning, Development, and Public Works, MOA, dated June 6, 2002. This letter presents MOA's side of some of the issues cited in the audit. Mr. Rogers related that the municipality contends that the delays are due to engineering defects caused by the consultant engineer. The municipality did hire an engineering firm to review the project and act as MOA's agent. As the letter specifies, there were considerable delays in making changes suggested by the consulting engineering firm. However, Mr. Rogers acknowledged that the municipality isn't entirely blameless -- there's room

for improvement. Mr. Rogers said that [MOA] has realized that the permitting process for large projects is extremely cumbersome and, in a lot of cases, for good reason. Work to streamline the permitting process began in 1994. Mr. Rogers said that [MOA] is more than willing to work with the sponsor in order to develop ways in which to streamline the process. Mr. Rogers reiterated that he wasn't sure that HB 264, in its current state, would accomplish what everyone is after.

REPRESENTATIVE KOOKESH returned to the issue of the zero fiscal note and inquired as to who would pay for the third party or local engineers to oversee these projects.

Number 1794

NANCY SLAGLE, Director, Administrative Services, Department of Transportation & Public Facilities, noted that she isn't an expert on the matter of building permits. In response to Representative Kookesh, Ms. Slagle said that the cost for the third party or local engineer to oversee a project would be part of the cost of the project. For instance, in the past when permitting fees were paid to the local municipality/city, it was part of the construction cost as would be the case with this requirement. There would be a slight offset. She said she didn't believe this legislation would create a major cost savings or cost to the project. From that perspective, it should zero out.

Number 1838

REPRESENTATIVE CISSNA related her assumption that it's difficult to guesstimate the impact of this legislation, especially when the sponsor has expressed the need to fine-tune the legislation.

MS. SLAGLE acknowledged that many things can happen in the building of a facility and those things could cause additional cost overruns. In the case of TSAIA, the delays kept the contractor idle for a couple of years, which was costly. Furthermore, the amount of administrative overhead necessary to respond to the concerns by the municipality was a cost. Ms. Slagle agreed with Representative Cissna that it's difficult to estimate the cost of this legislation. However, this legislation may provide the state with a bit more control over its resources than otherwise.

REPRESENTATIVE KOOKESH indicated that he hasn't seen many projects being done in Anchorage for less than \$1 million; the

cap seems a little low, which is of concern. Very little can be built for less than \$1 million and have local involvement.

MS. SLAGLE related her understanding that in the last five years there have only been one or two projects that would fall under this \$1 million cap.

Number 2014

SAM KITO, III, Transportation Development Manager, Planning Division, Department of Community Development, City & Borough of Juneau, mentioned that the committee should receive a letter from the City & Borough of Juneau, which does have concerns with regard to HB 264. For Juneau and many communities in the Lower 48 and Alaska with building officials, there are a lot of local requirements for projects. This legislation would force the creation of a new industry of people who would understand, from a building official perspective, how to review a set of plans for code review compliance with national and local codes. Mr. Kito related his understanding that [the city] greatly subsidizes the building permits that come into the office - the fees collected don't reimburse the cost of the staff required to do the review. Therefore, one paying for those hours on a project would result in extra cost to the project. With respect to the planning commission review of a project, there is concern. Although the legislation includes an exemption for highway and road projects, no zoning and planning review for buildings would occur. However, the city has many requirements for density and parking that are addressed in the planning and zoning review, which is an area in which the city would like to be involved.

Number 2127

REPRESENTATIVE ROKEBERG addressed Mr. Kito's last point by saying that it wasn't his intent to take a municipality out of the loop with regard to the planning and zoning aspects of the building permitting process. He assured everyone that he would work on that to ensure that municipalities will be included in that process. With regard to the creation of a new industry, Representative Rokeberg disagreed because there are already many organizations that perform this [third-party review].

CHAIR MORGAN, upon determining that there was no one else who wished to testify, closed the public testimony.

Number 2218

REPRESENTATIVE ANDERSON indicated his belief that this legislation falls under the purview of the House Labor and Commerce Standing Committee, which is the next committee of referral.

REPRESENTATIVE KOOKESH commented that this committee should do its job and do as much as possible before moving the legislation to its next committee of referral. He announced that he would object on the basis that he wanted to be involved in the process.

REPRESENTATIVE ANDERSON remarked that this legislation is important. He [as the chair of the House Labor and Commerce Standing Committee] offered his commitment to include Representative Kookesh during the committee's discussion of HB 264.

REPRESENTATIVE KOOKESH reiterated his belief that this committee should do its job.

Number 2302

REPRESENTATIVE CISSNA stated her agreement with Representative Kookesh. She assumed that HB 264 was referred to the House Community and Regional Affairs Standing Committee because state projects are built throughout the state in communities that vary in regard to the local community's involvement. She asked if a subcommittee of the House Community and Regional Affairs Standing Committee could be created in order to address the issues under this committee's purview.

REPRESENTATIVE WOLF said that he has no problem passing HB 264 from committee. However, he noted concern with regard to the \$1 million cap, which he indicated was low. As a retired contractor, Representative Wolf said that he has all too often seen that city officials lack the time to perform the proper third-party review and plan check. He mentioned that [the third-party review and plan check] will save the state money.

CHAIR MORGAN remarked that HB 264 is a good bill, although he said he has the same concerns as Representatives Kookesh and Wolf. Chair Morgan said that he did believe the sponsor's commitment to work with those interested in the matter. Therefore, he noted that he doesn't have a problem moving HB 264 to the House Labor and Commerce Standing Committee.

Number 2480

REPRESENTATIVE ANDERSON moved to report HB 246 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE KOOKESH objected.

A roll call vote was taken. Representatives Wolf, Kott, Anderson, and Morgan voted in favor of reporting HB 246 from committee. Representatives Cissna and Kookesh voted against reporting it from committee. Therefore, HB 246 was reported out of the House Community and Regional Affairs Standing Committee by a vote of 4-2.

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:45 a.m.