

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 16, 2004

9:53 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Paul Seaton
Representative Max Gruenberg

MEMBERS ABSENT

Representative John Coghill
Representative Bob Lynn
Representative Ethan Berkowitz

COMMITTEE CALENDAR

OVERVIEW: DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

- HEARD [See 8:04 a.m. minutes for this date]

HOUSE BILL NO. 327

"An Act relating to the powers and duties of the Department of Transportation and Public Facilities; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 327

SHORT TITLE: POWERS/DUTIES DOTPF

SPONSOR(S): REPRESENTATIVE(S) HOLM

05/16/03	(H)	READ THE FIRST TIME - REFERRALS
05/16/03	(H)	TRA, STA
02/19/04	(H)	TRA AT 1:30 PM CAPITOL 17
02/19/04	(H)	Heard & Held
02/19/04	(H)	MINUTE(TRA)
02/26/04	(H)	TRA AT 1:30 PM CAPITOL 17
02/26/04	(H)	Moved CSHB 327(TRA) Out of Committee
02/26/04	(H)	MINUTE(TRA)

03/01/04 (H) TRA RPT CS(TRA) NT 4DP
03/01/04 (H) DP: MASEK, OGG, STEPOVICH, HOLM
03/16/04 (H) STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

TODD LARKIN, Staff
to Representative Holm
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the changes made by the bill on behalf of Representative Holm, sponsor of HB 327.

JEFF OTTESEN, Director
Division of Program Development
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the division during the hearing on HB 327.

ACTION NARRATIVE

TAPE 04-37, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting back to order at 9:53 a.m. Present at the call back to order were Representatives Holm, Seaton, Gruenberg, and Weyhrauch. [For the overview by the Department of Transportation & Public Facilities, see the 8:04 a.m. minutes for this date.]

HB 327-POWERS/DUTIES DOTPF

[Due to technical difficulty, there are approximately 20 seconds of blank tape. The following is reconstructed from the committee secretary's log notes.]

Number 0001

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 327, "An Act relating to the powers and duties of the Department of Transportation and Public Facilities; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

[Tape recording begins here.]

Number 0020

REPRESENTATIVE HOLM, as sponsor of HB 327, offered a brief introduction to the bill.

Number 0035

TODD LARKIN, Staff to Representative Holm, Alaska State Legislature, testified on behalf of Representative Holm, sponsor of HB 327. He noted that HB 327 would change and repair portions of statute that have needed attention for quite awhile. He said, "Though it is the duty and power of the legislator to overturn court decisions from time to time, I want to take a moment on the record to acknowledge the [Alaska] Superior Court. It is the judges' thoughtful review which has allowed us to identify the correct problems in statute."

Number 0084

CHAIR WEYHRAUCH requested that Mr. Larkin distribute the court's decision before the next hearing on the bill.

MR. LARKIN said he would. He noted that [Representative Holm's office] had just received that information this morning. He addressed the basic history of the bill, as follows:

In the late seventies, an executive order that was not acted on by the legislature found its way into law. It created some project study requirements and a transportation council. Both were impractical because of the great attention needed to keep compliance with federal funding requirements. And also, the council itself - which was created - has not had members to consult for about 24 years.

MR. LARKIN, in response to questions from Chair Weyhrauch, clarified that the executive order, written in [1977], had not been acted upon by the legislature.

Number 0179

MR. LARKIN continued as follows:

Because of that, currently in statute, the commissioner is required to consider recommendations

of that same council. We're offering this bill to repair these problems, which have already begun to hold up at least two projects and are bound to hold up more. Time is a concern; if we accomplish this soon, one of the projects can catch this building season, possibly.

MR. LARKIN urged the committee to support HB 327.

Number 0217

JEFF OTTESEN, Director, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), told the committee that he, Representative Holm's staff, and the Department of Law have been involved in the drafting of [HB 327]. He indicated that [the bill] hinges upon a lawsuit that is currently "wending its way through superior court." He said there has been a preliminary injunction filed. He said the statute is identified as that with which "we" can't fully comply. He said, "It's the requirement that we consider cost and benefits of all projects that run through the process." Mr. Ottesen remarked that [DOT&PF] doesn't consider cost and benefits of the Marine Highway system. He explained that that system is essentially a "public good" that operates at subsidy. He noted that many other aspects of the transportation system are "in the same boat."

Number 0285

CHAIR WEYHRAUCH indicated that [the legislature] needs to know whether litigants' cases may be harmed by legislative action. He suggested anticipating "those kind of questions." He also suggested that the attorney general involved could be available [for the next hearing of the bill].

Number 0329

REPRESENTATIVE SEATON noted that the bill [proposes] a one-year revision, which he said he would oppose. He said [changing to one year] would mean going to an annual review for the Statewide Transportation Improvement Program (STIP) list. He explained that the effort has just been made to change it to a bi-annual [review] so that the list doesn't have to be made every year. He pointed to page 5, line 18, [which is where the change in language would occur].

Number 0439

MR. OTTESEN, in response to a question from Chair Weyhrauch, confirmed that the aforementioned court case involves the State of Alaska and Trout Unlimited. He added, "The decision, to date, has been a partial summary judgment decision and also a decision on a preliminary injunction."

[HB 327 was heard and held.]

ADJOURNMENT

Number 0451

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:00 a.m. [For the overview by the Department of Transportation & Public Facilities, see the 8:04 a.m. minutes for this date.]