

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

May 8, 2003

2:03 p.m.

MEMBERS PRESENT

Representative Jim Holm, Co-Chair
Representative Beverly Masek, Co-Chair
Representative Hugh Fate
Representative Vic Kohring
Representative Dan Ogg

MEMBERS ABSENT

Representative Mary Kapsner
Representative Albert Kookesh

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 71(TRA)

"An Act relating to funding for transportation projects; and providing for an effective date."

- MOVED CSSB 71(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 301

"An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date."

- MOVED CSHB 301(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 217

"An Act relating to driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: SB 71

SHORT TITLE:TRANSPORTATION ENHANCEMENT PROJECTS

SPONSOR(S): SENATOR(S) STEVENS B

Jrn-Date	Jrn-Page		Action
02/18/03	0204	(S)	READ THE FIRST TIME - REFERRALS
02/18/03	0204	(S)	TRA, FIN
02/27/03		(S)	TRA AT 1:30 PM BUTROVICH 205
02/27/03		(S)	Moved CSSB 71(TRA) Out of Committee
02/27/03		(S)	MINUTE(TRA)
02/28/03	0295	(S)	TRA RPT CS 3DP 1NR 1AM NEW TITLE
02/28/03	0295	(S)	DP: COWDERY, OLSON, WAGONER;
02/28/03	0295	(S)	NR: THERRIAULT; AM: LINCOLN
02/28/03	0295	(S)	FN1: ZERO(DOT)
03/11/03		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/11/03		(S)	Moved CSSB 71(TRA) Out of Committee
			MINUTE(FIN)
03/12/03	0467	(S)	FIN RPT CS(TRA) 2DP 5NR
03/12/03	0467	(S)	DP: WILKEN, STEVENS B; NR: GREEN,
03/12/03	0467	(S)	TAYLOR, HOFFMAN, OLSON, BUNDE
03/12/03	0467	(S)	FN1: ZERO(DOT)
03/13/03	0491	(S)	RULES TO CALENDAR 3/13/2003
03/13/03	0491	(S)	READ THE SECOND TIME
03/13/03	0492	(S)	TRA CS ADOPTED UNAN CONSENT
03/13/03	0492	(S)	ADVANCE TO 3RD READING FAILED Y12 N7 E1
03/13/03	0492	(S)	ADVANCED TO THIRD READING 3/17 CALENDAR
03/17/03	0519	(S)	READ THE THIRD TIME CSSB 71(TRA)
03/17/03	0519	(S)	PASSED Y11 N7 E2
03/17/03	0519	(S)	EFFECTIVE DATE(S) ADOPTED Y18 N- E2
03/17/03	0519	(S)	LINCOLN NOTICE OF RECONSIDERATION
03/18/03	0539	(S)	RECONSIDERATION NOT TAKEN UP
03/18/03	0539	(S)	TRANSMITTED TO (H)
03/18/03	0539	(S)	VERSION: CSSB 71(TRA)
03/19/03	0576	(H)	READ THE FIRST TIME - REFERRALS
03/19/03	0576	(H)	TRA
03/19/03	0596	(H)	CROSS SPONSOR(S): LYNN
03/20/03	0603	(H)	CROSS SPONSOR(S):ROKEBERG#1, STOLTZE#2
04/01/03		(H)	TRA AT 1:30 PM CAPITOL 17

04/01/03		(H)	Scheduled But Not Heard
04/02/03	0748	(H)	FIN REFERRAL ADDED AFTER TRA
04/03/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/03/03		(H)	Heard & Held MINUTE(TRA)
05/08/03		(H)	TRA AT 1:30 PM CAPITOL 17

BILL: HB 301

SHORT TITLE:KNIK ARM BRIDGE AND TOLL AUTHORITY

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
05/06/03	1354	(H)	READ THE FIRST TIME - REFERRALS
05/06/03	1354	(H)	TRA, FIN
05/06/03	1354	(H)	FN1: (DOT)
05/06/03	1354	(H)	GOVERNOR'S TRANSMITTAL LETTER
05/06/03		(H)	TRA AT 1:30 PM CAPITOL 17
05/06/03		(H)	Scheduled But Not Heard --
05/08/03		(H)	TRA AT 1:30 PM CAPITOL 17

BILL: HB 217

SHORT TITLE:DUI: LOWER BAC IF PREVIOUS CONVICTION

SPONSOR(S): REPRESENTATIVE(S)WEYHRAUCH

Jrn-Date	Jrn-Page		Action
03/26/03	0641	(H)	READ THE FIRST TIME - REFERRALS
03/26/03	0641	(H)	TRA, JUD
03/26/03	0641	(H)	REFERRED TO TRANSPORTATION
04/15/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/15/03		(H)	Scheduled But Not Heard
04/24/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/24/03		(H)	Scheduled But Not Heard --
05/06/03		(H)	TRA AT 1:30 PM CAPITOL 17
05/06/03		(H)	Scheduled But Not Heard --
05/08/03		(H)	TRA AT 1:30 PM CAPITOL 17

WITNESS REGISTER

JOHN MacKINNON, Deputy Commissioner of Highways & Public
Facilities

Department of Transportation & Public Facilities (DOT&PF)

Juneau, Alaska

POSITION STATEMENT: Presented sponsor statement for HB 301.

LINDA SYLVESTER, Staff

to Representative Bruce Weyhrauch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 217 on behalf of the bill's
sponsor, Representative Bruce Weyhrauch.

ACTION NARRATIVE

TAPE 03-21, SIDE A

Number 0001

CO-CHAIR BEVERLY MASEK called the House Transportation Standing
Committee meeting to order at 2:03 p.m. Representatives Masek,
Holm, Fate, and Kohring were present at the call to order.
Representative Ogg arrived as the meeting was in progress.

SB 71-TRANSPORTATION ENHANCEMENT PROJECTS

CO-CHAIR MASEK announced that the first order of business would
be CS FOR SENATE BILL NO. 71(TRA), "An Act relating to funding
for transportation projects; and providing for an effective
date."

Number 0053

CO-CHAIR MASEK noted that the bill would place in statute the 4
percent required [maximum] level of funding for TRAAK [Trails
and Recreation Access for Alaska] programs. She said she felt
this was setting a bad precedent because TRAAK funding is of
benefit to many areas in the state. She stated that there is no
doubt that support is needed in the state where there is no road
or highway access, and TRAAK funding provides good support for
communities with trails and quality-of-life additions. Having
said that, she asked for the wishes of the committee.

Number 0090

CO-CHAIR HOLM moved to report CSSB 71(TRA) out of committee with
individual recommendations and the accompanying fiscal note.
There being no objection, CSSB 71(TRA) was reported from the
House Transportation Standing Committee.

HB 301-KNIK ARM BRIDGE AND TOLL AUTHORITY

Number 0166

CO-CHAIR MASEK announced that the next order of business would be HOUSE BILL NO. 301, "An Act establishing the Knik Arm Bridge and Toll Authority and relating to that authority; and providing for an effective date."

CO-CHAIR MASEK referred to a letter from Mayor Dale Adams of the City of Houston in which he expressed his support of building the bridge over Knik Arm but noted that he couldn't support paying toll without knowing what the cost per trip would be; he also wondered whether yearly passes would be available to commuters.

Number 0183

JOHN MacKINNON, Deputy Commissioner, Highways & Public Facilities, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF), provided the sponsor statement for HB 301 [which was sponsored by the House Rules Standing Committee by request of the governor] and provided the following testimony:

The bill establishes an independent authority to build and operate a toll bridge over Knik Arm. The authority would be able to receive federal money and issue revenue bonds to finance the toll bridge and its appurtenant facilities. The authority would design, construct, and operate the bridge and associate facilities.

It would be a public corporation that, although an instrument of the state within the Department of Transportation & Public Facilities, would have a separate, independent legal existence from the state. The revenue of the authority would not become part of the general fund, and the property of the authority would be exempt from taxation.

MR. MacKINNON continued:

This bill establishes a three-person board to govern the authority. The commissioners of revenue and transportation would serve on the board, along with a member of the public appointed by the governor for a five-year term.

The construction of the Knik Arm Bridge is a cornerstone of the governor's public transportation

development plan. The bridge would unite Anchorage and the Matanuska-Susitna Borough to enable a tremendous amount of growth throughout the area.

MR. MacKINNON responded to the questions posed by the mayor of Houston regarding the cost of the toll and said that because the project is just beginning, it's premature to determine the cost of the toll at this point. Regarding obtaining a yearly pass, a variety of options need to be looked at in order to make that convenient for the public.

CO-CHAIR MASEK asked why there were only three members on the board governing the authority - one commissioner from the [Department of Revenue], one from DOT&PF, and one public member.

MR. MacKINNON responded that it had been determined that involving a fewer number of people would facilitate an efficiently run board due to the ease of the decision-making process. He commented that the legislature has some oversight of the board by virtue of confirming the positions of the commissioners of the Department of Revenue and DOT&PF.

CO-CHAIR MASEK expressed concern over the choice the governor might make in appointing the public member, noting that the project is an important cornerstone for the Matanuska-Susitna ("Mat-Su") Borough; she emphasized her concern for fair representation.

Number 0460

MR. MacKINNON responded that the three-member board limits representation. He reminded the committee that the bridge was one of three major projects that the governor mentioned in his "state of the state" address, and therefore, anything that would speed up the process of getting the project underway and completed would be consistent with the governor's goal. He added that an independent authority helps to achieve that because the focus is on one particular project.

CO-CHAIR HOLM asked, in the context of reflecting upon the financing of the Alaska Railroad, whether there was any provision included that addressed the return of excess revenue, if there was any, back to the state.

MR. MacKINNON replied that he didn't believe there was such a provision. He said he thought the intent of the authority was first to focus on building the project and then to operate the

project. He indicated that the tolls would be used for two things: to pay for any debt that needs to be retired and also to maintain the project. He said his understanding was that the project's focus was not on its being a moneymaking facility.

CO-CHAIR HOLM asked if the intent was for this project to pay for itself.

MR. MacKINNON confirmed that this was so.

REPRESENTATIVE FATE commented on the size of the board, offering his opinion that with a small board composed of two technical members, those two members would probably overpower the knowledge and actions of the one public member. He asked if there had been any discussion of raising the number of members on the board to five instead of three.

MR. MacKINNON offered to take that concern to the administration.

Number 0685

REPRESENTATIVE OGG asked if there was familiarity with other bridge authorities that could serve as models.

MR. MacKINNON said he didn't know if other toll bridges - such as the bridge at Chesapeake Bay or other bridge authorities - had been examined, but told the committee that HB 301 was modeled on a similar bill that had been proposed several years ago. He said that he thought the authority would evolve as needed in order to accomplish the intended goal.

REPRESENTATIVE OGG followed up on Representative Fate's concern regarding the number of members on the board. He said in consideration of the bridge connecting Anchorage and the Mat-Su Borough, perhaps the governor would consider appointing the mayor or the designee from each municipality, as a way of adding a helpful element to the constitution of the board.

CO-CHAIR MASEK said she would entertain a friendly amendment that would increase the membership of the board.

Number 0790

REPRESENTATIVE FATE moved to adopt Conceptual Amendment 1. The amendment refers to page 2, lines 9-12, and would add: "(4) to add two new members, at the discretion of the governor".

REPRESENTATIVE OGG asked if these [two new members] would be public members.

REPRESENTATIVE FATE clarified that Conceptual Amendment 1 would increase the number of members on the board to five members and leaves the determination of those members up to the discretion of the governor. He suggested that a five-member board would not run as great of a risk of collusion as would a three-member board.

CO-CHAIR MASEK asked if Conceptual Amendment 1 was to read [page 2, lines 12 and 13], "three public members, appointed by the governor, who are state residents and United States citizens".

REPRESENTATIVE FATE responded that he wasn't necessarily in favor of having three public members. He said that on a board of three, two of those members would be very knowledgeable; they would either be engineers or people with technical knowledge. He stated that it doesn't make sense to have three nontechnical people on a five-member board. He suggested that rather than specifying three public members, the specifics should be left to the discretion of the governor. He put forth the language: "two more members, appointed at the discretion of the governor". He emphasized that he didn't want to overweigh the board with nontechnical people.

CO-CHAIR HOLM said he thought it was very important that the involved boroughs have representation on the board and, therefore, that the board be composed of membership that was beholden to the people of the Anchorage and Mat-Su areas.

Number 1103

REPRESENTATIVE FATE suggested that this could be [considered as] an amendment to the amendment.

Number 1124

REPRESENTATIVE OGG offered an amendment to the amendment that one member would be the mayor or the designee from the Mat-Su Borough, and another member would be the mayor or designee from Anchorage.

Number 1150

REPRESENTATIVE FATE objected for purposes of discussion, saying that the geographic positioning seemed wise, but offered that he was bothered by the idea of having the board be composed of generalists.

CO-CHAIR HOLM suggested accessing somebody from AMATS [Anchorage Metropolitan Area Transportation Study] to be on the board.

CO-CHAIR MASEK suggested the consideration of the borough manager or delegate.

REPRESENTATIVE FATE concurred that this suggestion was a more likely choice.

REPRESENTATIVE OGG said he didn't have a problem changing the friendly amendment to the amendment so that it would specify the manager or the manager's designee of the Mat-Su Borough; however, he suggested keeping Anchorage's position as the mayor or the mayor's designee. He referred to the language [page 2, lines 9-11] "or the commissioner's designee", saying that he was interested in being consistent with that language.

MR. MacKINNON referred to a discussion of the summary of the Department of Law's (DOL's) draft that determines the make-up of the board. He said that the original draft received by the DOL added two nonvoting, ex-officio members to the board: the mayors of the Municipality of Anchorage and the Mat-Su Borough. The [DOL's] governmental affairs section strongly advocated against this in order to preserve the governor's strong powers of appointment and executive branch control, and to avoid potential problems of the board's future function. In its place, the statute includes a requirement to coordinate with the two mayors.

CO-CHAIR MASEK expressed appreciation of the administration's point of view; however, she said that the committee's concerns regarding the composition of the board were valid as well.

REPRESENTATIVE FATE said this project would be a much bigger project than the Anchorage airport, noting that there was quite an overrun at the airport. He told the committee that without the aforementioned coordination, in addition to there needing to be a very tight board to oversee and discuss the project, there would be too much room for error with only three board members, one of whom would be a public member. He said that a strong liability would be placed on their shoulders to discern how to come to grips with any overruns, should something go wrong. He

said he felt that it was not a good move by the DOL to reduce the board's membership.

REPRESENTATIVE OGG said he felt strongly that the board should contain a community connection and urged members to support the friendly amendment to the amendment.

Number 1444

CO-CHAIR MASEK asked if there was any objection to the amendment to Conceptual Amendment 1. There being none, the amendment to Conceptual Amendment 1 was adopted.

Number 1458

CO-CHAIR MASEK asked if there was any objection to adopting Conceptual Amendment 1, as amended. There being none, it was so ordered.

REPRESENTATIVE FATE said he hoped this would be carried and hoped there would be a rigorous discussion on "this item today," saying that the intent was not to harm the project or the authority, and that it could always be "amended back." He said this was amended in good faith, with some real concerns regarding the size of the board and the outcome of that size.

MR. MacKINNON replied that he would carry this back [to the administration] and reiterated that there had been a five-member board in the original draft and that "what came out of the Department of Law was somewhat different."

CO-CHAIR MASEK asked if anyone else wished to testify, and then closed public testimony.

Number 1546

REPRESENTATIVE KOHRING moved to report HB 301, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 301(TRA) was reported from the House Transportation Standing Committee.

HB 217-DUI: LOWER BAC IF PREVIOUS CONVICTION

CO-CHAIR MASEK announced that the final order of business would be HOUSE BILL NO. 217, "An Act relating to driving while under the influence of an alcoholic beverage, inhalant, or controlled

substance and to presumptions arising from the amount of alcohol in a person's breath or blood; and providing for an effective date."

Number 1582

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, provided the following testimony as the sponsor statement for HB 217 on behalf of Representative Weyhrauch, sponsor:

The bill that is under consideration before you proposes to lower the blood alcohol content for repeat DUI [driving under the influence] offenders from the current level of 0.08 to 0.04. This bill is a priority of Mothers Against Drunk Drivers, and it's an important piece of the criminal justice system's approach to prosecuting drunk drivers and keeping our roads safe. I want to emphasize that this is a small step and it will not overburden the criminal justice system or the courts with an influx of new arrests.

Just an aside: once this legislation was introduced, I got a number of phone calls from the departments, asking what the sponsor's intent of the legislation was. They were concerned that we were hoping that it would do a lot. I emphasized to them that we thought that we consider this legislation to be similar to an aggravating factor in sentencing; it's just something that is a very small step.

Right now, if a police officer pulls someone over, if they have probable cause to consider that this person might be impaired in their driving, they pull him over and then they take a breathalyzer test in the field, again, if they have probable cause. If it's real low, if it's 0.08, for example, the person might be arrested - chances are would be arrested - and then they're taken to the stationhouse and they take another breathalyzer test at the stationhouse. My understanding is, that's the test that is used by the prosecution and the defense in criminal prosecution. If it's marginal, if it's just under or around 0.08, there's a chance that the prosecutor won't take the case because they are necessarily limited by resources and they want to take the winning cases the distance.

With this law enacted, those marginal cases will be better bets for the prosecutor to prosecute.

Number 1681

MS. SYLVESTER testified:

In 1999, Alaska led the nation in highway accidents in which alcohol was a factor. Forty out of seventy-six accidents that year involved alcohol, which is about 53 percent. Statistically, on a nationwide level, approximately one-third of all DUI convictions each year are repeat offenders. A 1994 study found that fatally injured drivers involved in alcohol-related accidents were eight times more likely to have had a prior DUI conviction in the [preceding] five years.

Drivers with DUI convictions whose licenses have been reinstated are six to ten times more likely than drivers the same age and gender to be arrested for a DUI or be involved in a crash the year following their reinstatement. Over and over, the numbers show that there is no doubt, repeat DUI offenders are over represented in alcohol-related fatal crashes.

MS. SYLVESTER testified:

The question that HB 217 poses is, "How many bites of the apple do you give the drinking drivers who are extremely high-risk drivers?" And then the question is, "Does it make sense to hold repeat DUI offenders to the same standards as people who are receiving their original citation for that [offense]?" This bill is not zero tolerance. It's just a simple tool that gives the prosecutors more leeway in prosecuting cases that are borderline. Is it fair? Is it draconian? That's the question that we'll be addressing at table. Before you make that determination, consider that these people are high-risk and that it's the second and the repeat offenders, statistically, that are on the roads that are doing the killing. Incidentally, you'll have a first-time DUI offender in a fatal accident, but statistically it's the repeats, and that's why these people are being targeted.

CO-CHAIR HOLM referred to information included in the committee packet and asked why the lower limit of 0.05 was used by Mothers Against Drunk Drivers (MADD) and the AMA [American Medical Association], whereas the bill refers to the amount of 0.04 percent.

MS. SYLVESTER responded that MADD recommended 0.05 and that there are six states that have a lower BAC [blood alcohol concentration] level for second offenses.

CO-CHAIR HOLM interjected that the data indicates that MADD supports 0.05 as a BAC limit. He asked, "Do you know how much alcohol needs to be consumed - one beer, one drink, whatever - to get to .04?"

MS. SYLVESTER responded that she was similarly intrigued by that question and determined that after drinking 2 1/2 glasses of wine [within an hour, her] BAC level was at 0.04 [percent].

CO-CHAIR HOLM commented that this amount was perhaps indicative of a low metabolic rate, as it was his understanding that 0.08 was reached as the result of drinking two beers. He suggested that additional medical expertise was desirable to provide further information, saying that he was fearful that this was "draconian." He pointed out that it's one issue "if we're to be against alcohol completely, but if we say that it mitigates the ability of somebody at 0.04 to make good judgments driving, I'm certainly not an expert, but I question the number."

Number 1918

REPRESENTATIVE FATE said he had heard the same argument regarding setting the limit at 0.01, 0.08, and now with 0.04. He said he agreed with Co-Chair Holm and didn't question the intent of getting drunk drivers off the road; however, he was concerned with "where social engineering stops and where the real worth of this type of legislation begins." He said that "we are currently on the knife's edge of social engineering" and that he didn't believe that it was his responsibility to do "social engineering in these halls." He stated that he wasn't supportive of HB 217.

MS. SYLVESTER offered background information on the origination of the legislation and told the committee that in the 1980s, Maine had an extremely high rate of DUI deaths. In 1988, the state was the first to institute a rate of 0.05 for second and subsequent offenses. Five years later, the results were that

the death rate for DUI accidents was reduced by 25 percent. During the same time period, the rates in other New England states had increased by 46 percent. In 1995, Maine instituted zero tolerance for convicted offenders. Ms. Sylvester said that HB 217 isn't zero tolerance, but it does have a track record indicative of lives that could be saved.

CO-CHAIR HOLM responded that while "statistics sometimes lie," these statistics would "bear out what you're saying" because times have changed and now, for example, there are designated drivers, which didn't used to exist as such. He said he wasn't sure that the correlation could be drawn that "because we don't tolerate 0.05, therefore it relates directly to a lessening of people dying."

CO-CHAIR HOLM continued that before voting on HB 217, he would want to know the medical truth, for example, of what a 165-pound man, with a normal metabolism, would have to drink to reach levels of 0.04 or 0.05. He opined he didn't want to be onerous to the extent that "somebody goes to a softball game, has a couple of beers, and can't drive home." He pointed out that one issue would be to argue that nobody should ever drink a beer. He noted that he doesn't drink and that teetotalers are fine, but he wasn't supportive of the idea of engineering laws so that this would be determined by the state, adding that this would not be sending an appropriate message.

CO-CHAIR MASEK noted that legislation had previously been passed to comply with the federal level of 0.08. She thought that according to the Department of Public Safety, the program had been doing well and there had been tremendous improvements regarding drinking-and-driving statistics, with the levels at 0.08. She told the committee that she shared the concerns of Co-Chair Holm and Representative Fate of changing the level to 0.04, and that this was "getting intrusive."

Number 2169

CO-CHAIR MASEK ascertained that there was no further testimony on HB 217, and said that in light of the concerns brought up by committee members, HB 217 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:47 p.m.