

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 18, 2003

1:32 p.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gene Therriault
Senator Georgianna Lincoln
Senator Donny Olson

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

SENATE BILL NO. 31

"An Act relating to a railroad utility corridor for extension of the Alaska Railroad to Canada and to extension of the Alaska Railroad to connect with the North American railroad system."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 40

"An Act relating to construction of highways by the Department of Transportation and Public Facilities."

MOVED SB 40 OUT OF COMMITTEE

SENATE BILL NO. 103

"An Act increasing certain motor vehicle registration fees; and providing for an effective date."

HEARD AND HELD

PREVIOUS ACTION

SB 40 - See Transportation minutes dated 2/18/03.

SB 103 - See Transportation minutes dated 3/11/03.

WITNESS REGISTER

Mr. Mark O'Brien
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Answered questions about SB 40

Mr. Kevin Jardell
Assistant Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Answered questions about SB 103

ACTION NARRATIVE

TAPE 03-9, SIDE A

CHAIR JOHN COWDERY called the Senate Transportation Standing Committee meeting to order at 1:32 p.m. Senators Wagoner, Olson and Chair Cowdery were present and Senators Therriault and Lincoln arrived shortly thereafter. He informed members he would not bring up SB 31 because he was still waiting for suggested language for a committee substitute. SB 40 was the first order of business.

SB 40-CONSTRUCTION OF HIGHWAYS BY DOTPF

MR. MARK O'BRIEN, Chief Contracts Officer for Department of Transportation and Public Facilities (DOTPF), told members the effect of SB 40 would be to prohibit DOTPF and agencies that it transfers projects to from using their own employees when the project costs exceeded \$250,000, but by statute DOTPF may exercise the use of a force account in two instances. One is for community and boardwalk projects where an agency such as the Bureau of Indian Affairs (BIA) has a project and DOTPF is providing access to that project. DOTPF may transfer [funds] to the BIA to accomplish that project. In many cases, a transfer is in the interest of all agencies and is cost effective. SB 40 would also affect municipalities and cities because they would be prohibited from asking for and receiving transfer of a project if the cost exceeded \$250,000.

MR. O'BRIEN said the second instance under which DOTPF could exercise a force account is when they use their own maintenance staff to accomplish capital projects. DOTPF has been addressing close to \$200 million in deferred maintenance by using federal aid funds and state maintenance staff to perform those projects during the summer. The types of maintenance projects that are eligible include cracked ceilings, bridge repair, chip seal road surfacing, and others. The program benefits DOTPF in a number of ways. It provides the ability to transfer costs of the winter

maintenance program to a federal aid project, thereby preserving general fund dollars for severe winter events. DOTPF can then retain year-round skilled, knowledgeable employees. It also allows DOTPF to fund a portion of its equipment costs and defray some of the state costs of maintaining equipment by charging those costs to the federal aid projects, which further stretches the dollars for deferred maintenance.

MR. O'BRIEN said another key factor is the size of the program. DOTPF's summer maintenance program represents less than three percent of the federal aid program. More than half of that three percent is contracted out to the private sector now. He said the impetus for this legislation was the St. Mary's project.

CHAIR COWDERY remarked the St. Mary's project did stir things up a bit but he knows that DOTPF did a 35 mile chip seal project on the Old Seward Highway a few years ago and referred to it as a maintenance project. He said other states use different standards for maintenance and construction. He has no problem with DOTPF doing maintenance work, but he believes construction projects should go out to competitive bid. He said some states consider any project that costs over \$50,000 to be a construction project rather than a maintenance project.

He pointed out that before the state came into its oil wealth, the state got a non-construction rate from the unions during the winter and hired equipment operators from the union halls to plow the snow. He said those are some of the reasons he introduced this legislation. He placed a \$250,000 limit in the bill because DOTPF said some projects cost less than \$100,000. He said he believes the competitive process is a good one and that everyone should be entitled to the same Davis-Bacon wages in both rural and urban Alaska.

1:40 p.m.

SENATOR OLSON said the St. Mary's project is in his district. He clarified that project was completed ahead of schedule and under budget. He pointed out that it looks like there will be a request for a significant amount of money to complete the Anchorage International Airport, which he finds appalling. He then asked Mr. O'Brien if he had a breakdown of the source of funds used for force account projects, specifically federal and general fund money.

MR. O'BRIEN said almost all of the funds used for the force account programs are federal aid funds. DOTPF receives very little in terms of general funds.

SENATOR OLSON asked how many DOTPF employees would be affected by the passage of SB 40.

MR. O'BRIEN said he hadn't done that calculation but one of two things would happen. Without the ability to use the federal aid to subsidize the general fund, DOTPF would either have to reduce its summer employment or it would not be able to respond to severe winter events with overtime hire. He said management would have to decide which alternative to take and either alternative would result in a different number of employees that would be affected.

SENATOR OLSON asked what kind of effect this legislation would have on future supplemental budgets.

MR. O'BRIEN said in order to respond to severe winter events, DOTPF managers would have to make some tough choices. Either additional funding would have to be provided to pay for overtime work to address such an event or DOTPF would have to reduce summer employment. He said a budget increase would be necessary to maintain a consistent work force throughout the year and respond to winter events.

SENATOR OLSON asked how much of DOTPF's capital budget would be affected by this bill.

MR. O'BRIEN said since nearly all of the force account work is done with federal funds, SB 40 would affect all projects that cost over \$250,000.

SENATOR OLSON said he was asking for a definitive number.

MR. O'BRIEN said he has not computed the numbers in that manner.

CHAIR COWDERY referred to Senator Olson's comment on the St. Mary's project being completed under budget and said there is nothing to compare that cost to because it was not put out to competitive bid. He said he believes an audit is being done on that project now and added that DOTPF has been very supportive of the concept of day labor contracts, which would assure that local people get the work.

SENATOR OLSON said the numbers that were forwarded to his office show that DOTPF budgeted over \$3 million for the St. Mary's project while total expenditures were about \$2.7 million.

CHAIR COWDERY said his point was that a private contractor might have bid that project at \$1.7 million. He said there is no way to know what the private sector might have estimated the cost to be.

SENATOR LINCOLN said her questions about Administrative Order 199 (AO 199) hadn't been answered and although she doesn't know its status, she believes it plays into SB 40. She pointed out that as a resident of Rampart she has seen what happens when an outside contractor comes in and doesn't believe in the day labor contract concept. She has seen outside contractors bring in all of their own food, manpower, equipment, some housing and even furniture. Her community pushed for the runway project and had to be very vocal to get just two local people hired. She said the letter from Mr. James of the Tununak IRA Council shows that such jobs are the lifeblood of many small communities and SB 40 would have a devastating impact. She urged to look at what is in the best interest of the entire state and repeated she is very uncomfortable that her questions about AO 199 have gone unanswered.

CHAIR COWDERY asked if the equipment was available in Rampart to do the runway job.

SENATOR LINCOLN replied some equipment was available.

CHAIR COWDERY said he worked on a number of projects in rural Alaska and needed to import a lot of things. He hired and rented locally as much as possible. He said the day labor contract concept is pretty much tailored to the local people.

SENATOR WAGONER commented that he understands the concerns of rural communities but he also understands the position of the contractors. A woman from Nome recently testified that her company would bid on any size project in rural Alaska. He said he sees the need for force accounting but believes it should be limited. He asked how many projects Mr. O'Brien foresees using a force account on during the next year that would cost in excess of \$250,000.

MR. O'BRIEN said using the year 2000 as a baseline for the number of projects, two were below \$250,000 and the rest were more. He said, "... just looking back through the lists, a price

tag of \$1 million would probably take care of 60 to 70 percent of them - allow them to be done. A price tag of half that would probably let 15 to 20 percent of them through."

SENATOR THERRIAULT asked whether any communities formed construction companies to bid projects or were they are barred from doing so. He pointed out those communities should be able to underbid other contractors because they would not have to mobilize anyone.

MR. O'BRIEN said, in order to do a construction project in excess of \$100,000 in Alaska, an entity must be bonded. In addition, that entity must meet the requirements set for a licensed and bonded contractor. A surety company looks at expertise, past performance, equipment capability and capacity before it agrees to bond an entity. He said he is not aware of any consortiums or groups that have been created to respond to state bids in rural Alaska.

SENATOR THERRIAULT commented those hurdles are not insurmountable. He questioned whether those requirements should be waived.

MR. O'BRIEN said there may a way to assist those entities. DOTPF is restricted by statute to doing business with certain entities. He said if that barrier is broken down, an entity could bid a project on a competitive basis.

CHAIR COWDERY said the Native corporations have the ability to bond small groups.

MR. O'BRIEN said if there is no licensed surety within the state, there is an option under the bonding for individual sureties to bond construction companies. It requires two individual sureties to provide identical bonding at the full amount.

CHAIR COWDERY asked if the purpose of bonding is to assure that all employees get paid and to guarantee performance.

MR. O'BRIEN said that is correct.

SENATOR LINCOLN responded to Senator Therriault's question about why a village could not compete for a bid and said what usually happens with a force account project is that a particular village does a particular project, but they aren't ongoing. She said the Doyon Corporation did get involved in construction for

a very brief time, but none of the 38 village corporations in the Interior have a construction company because it is cost prohibitive for small villages.

SENATOR WAGONER said in his area just about all of the oil field contract work has been taken over by Native corporations. He said they hire both Native and non-Native employees. He said he believes strongly in bidding out any project and using force accounting when no bids are received.

SENATOR THERRIAULT moved SB 40 from committee with individual recommendations with its zero fiscal note.

SENATOR LINCOLN objected because the only other committee of referral was the Senate Finance Committee and this committee didn't even know how many projects would be affected by this legislation or what is happening with AO 199. She said there are too many unanswered questions to pass this legislation from the one and only committee that would scrutinize it.

SENATOR OLSON stated his objection as well saying this legislation is less palatable than the version introduced last year because the limit has been reduced from \$1 million to \$250,000.

CHAIR COWDERY called for a roll call vote.

The motion to move SB 40 and its attached zero fiscal note from committee carried with Senators Therriault, Wagoner and Cowdery voting in favor and Senators Lincoln and Olson opposed.

SB 103-MOTOR VEHICLE REGISTRATION FEES

CHAIR COWDERY announced the committee would take up SB 103 and asked an administration representative to come forward.

MR. KEVIN JARDELL, Assistant Commissioner of the Department of Administration (DOA), reminded members that Duane Bannock provided the committee with an overview of the bill at the last hearing and that he was available to answer questions.

CHAIR COWDERY said he held this bill in committee for the purpose of giving members and the public time to voice objections. He heard none.

SENATOR LINCOLN asked if public testimony had been taken and noted the bill was only introduced on March 6.

MR. JARDELL replied the bill was heard in committee last week and was announced to the public at that time just as it was today.

SENATOR LINCOLN asked what DOA did to publicize the legislation.

CHAIR COWDERY remarked the committee noticed the bill in the same way it does every other bill. He said from the number of inquiries he received, he believes people are aware of the bill.

SENATOR LINCOLN apologized for her absence at the previous hearing and asked for an explanation of the need to increase registration fees.

MR. JARDELL explained that user fees within DOA were reviewed to determine when they were increased last, the value of the fee to the state at that time, and whether the state is receiving that value today. With regard to vehicle registration fees, DOA determined the value had decreased significantly. Staff then looked at other states to see how Alaska's fees compared and determined that the increase provided in SB 103 would still keep Alaska's registration fees below the national average. He acknowledged that determination was made in-house and that it was difficult to compare vehicle registration fees from state to state because each state uses a different methodology. For example, some states impose taxes in addition to the vehicle registration fee; some calculate the value of the car in the registration fee formula. SB 103 updates the fees to better reflect the intent of the original legislation.

SENATOR LINCOLN asked for the average registration fee in the nation.

MR. JARDELL said the national average is about \$118. He said he would provide her with the formula DOA used.

SENATOR LINCOLN asked if DOA staff determined an average fee for each category of vehicle.

MR. JARDELL said they did not. They did a baseline calculation to see if SB 103 would treat Alaska citizens in a disparate manner from the other states. He said it would be too onerous to make that comparison for every category.

SENATOR LINCOLN asked how DOA came up with a taxicab registration fee of \$160.

MR. JARDELL said in general, the fees were raised \$10 per year so the biannual registrations would increase \$20. However, the passenger vehicle registration fee increase is \$30. That was a streamlining decision. Years ago, passenger vehicles were charged different rates than SUVs or trucks. It does not make sense to do that today so passenger vans and pick-up trucks were combined into one category. By increasing the passenger vehicle fee \$30, the fee would be the same for both categories. He explained the extra \$2 stems from the time when the Legislature instituted biannual registrations and decided it didn't want to simply double the annual fee so they doubled the fee and subtracted \$2. DOA decided to simplify and raise the fee an additional \$2 because it's easier to collect \$100 than \$98.

SENATOR LINCOLN asked if school buses would be exempt.

MR. JARDELL said school buses would be treated in the same way they are today and it is his understanding that school buses for a non-profit organization are exempt under the non-profit category. School buses for other entities would pay registration fees.

SENATOR LINCOLN asked if the fee is \$300 for a school bus.

MR. JARDELL said he believes the fee amount is the same as the amount charged for a commercial vehicle, which depends on the weight of the vehicle. He offered to get back to Senator Lincoln to verify that information. He said Section 1(4) applies to tour buses only. That is one area in which DOA made a policy call on the increase. In the past, tour buses used for out-of-state tourists were in a special category with a fee lower than the normal commercial rate. That rate was increased.

SENATOR OLSON asked Mr. Jardell if the bill distinguishes between school buses owned by school districts versus those owned by the private sector.

MR. JARDELL said he believes a distinction is made for non-profit entities. He offered to get back to the committee with more information on school buses. He repeated that SB 103 does not change the current method of charging registration fee for school buses; it only increases the fee.

SENATOR WAGONER noted some districts own their school buses while others contract with private owners.

TAPE 03-09, SIDE B

MR. JARDELL said it is his understanding that a school district that owns its buses pays a registration fee.

SENATOR WAGONER asked why the fee is the same for a passenger vehicle and a motor home.

MR. JARDELL said that was a previous policy call that DOA did not change. The idea behind it was that a motor home in Alaska is not used for more than a couple of months per year. The same logic applies to registration fee for motorcycles.

SENATOR WAGONER said he thinks motor home owners are getting a free ride because many of the motor home owners use those vehicles from April through October. He said there is a tremendous amount of motor home traffic on the roads between Anchorage and the Kenai Peninsula and Seward. He said he believes that fee is very low for a person driving a \$500,000 motor home.

CHAIR COWDERY said trailer and motor home registration in other states is a lot more.

SENATOR WAGONER pointed out they also pay a special licensing fee to the county.

CHAIR COWDERY asked if the boroughs in Alaska charge a separate fee.

MR. JARDELL replied they do not.

SENATOR THERRIAULT asked if local governments have that option.

MR. JARDELL said he did not know.

CHAIR COWDERY thought they do have that option.

SENATOR OLSON said although the fees for motor homes and motorcycles are tied to usage, it is his understanding that the majority of the fees collected are used for road maintenance. He said the wear and tear on a road caused by a motorcycle is far different from that of a motor home. He said he would consider the weight of a vehicle.

MR. JARDELL said the fee charged for a motor home is more than the fee charged for a motorcycle because of road damage. He said

motorcycle fee isn't the same as passenger vehicle fee because motorcycles are used for a limited time during the year.

SENATOR OLSON asked when fees were last increased.

MR. JARDELL offered to get back to Senator Olson with an answer to that question. He said he believes the last overall increase was in 1978 and the disparity between trucks and cars was changed in 1986. The Legislature decided on the biannual registration at that time.

SENATOR OLSON asked if the registration fees only apply to vehicles used on state roads.

MR. JARDELL said they apply to vehicles used on state and borough roads.

SENATOR OLSON asked if it applies to vehicles that are driven on the beach.

MR. JARDELL said SB 103 does not change current practice.

SENATOR OLSON asked if there are three categories of school buses: those owned by school districts; those owned by private contractors; and private buses owned by private schools.

MR. JARDELL could not verify that.

SENATOR OLSON asked how the fees for those three categories compare with each other.

MR. JARDELL replied that a non-profit agency would seek a registration under its non-profit status. Other agencies or school bus owners would seek registration for a general commercial vehicle. He repeated that he would verify that information for committee members.

SENATOR LINCOLN said she like the committee to hold this legislation until it gets that information. She asked if most road damage is done during the months from May to September, the same time motor homes are used.

CHAIR COWDERY thought most damage is done during the winter months when studded snow tires are used.

SENATOR LINCOLN said she was thinking about vehicle weight and noted the Legislature separated fees for passenger vehicles and

trucks in 1986 because of a disparity. Now they would be charged the same amount. She asked Mr. Jardell to provide her with the formula DOA used to determine the comparison to the national average and information about registration fees for school buses.

MR. JARDELL said he would provide the information, but wanted committee members to understand that SB 103 increases the fees and not the methodology.

SENATOR LINCOLN said she still wants to know who would fall under that non-profit status.

SENATOR THERRIAULT asked Mr. Jardell if he wrote down committee members' questions.

MR. JARDELL said he would provide answers to the questions about the local option, how school buses will be charged, and the formula used to determine the national average.

SENATOR THERRIAULT asked Mr. Jardell to provide the answers quickly because he would like to see them before the bill is taken up in another committee.

MR. JARDELL said he would do so.

CHAIR COWDERY announced he would hold SB 103 until the next Senate Transportation Committee hearing.

SENATOR WAGONER noted his intent to offer an amendment to SB 103 to increase the motor home registration fee to \$150. He said he also believes that motor homes for hire should be categorized under Section 1(4) and that fee should be increased to \$300. He said about 25 to 30 percent of the motor homes on the road are rentals.

SENATOR OLSON suggested decreasing the fee for passenger vehicles rather than increasing the fee for motor homes.

There being no further business to come before the committee, CHAIR COWDERY adjourned the meeting at 2:37 p.m.