

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 8, 2005

1:36 p.m.

MEMBERS PRESENT

Representative Jim Elkins, Co-Chair
Representative Carl Gatto, Co-Chair
Representative Mark Neuman
Representative Bill Thomas
Representative Woodie Salmon

MEMBERS ABSENT

Representative Vic Kohring
Representative Mary Kapsner

COMMITTEE CALENDAR

HOUSE BILL NO. 42

"An Act naming the Joe Williams, Sr., Coastal Trail."

- MOVED HB 42 OUT OF COMMITTEE

HOUSE BILL NO. 115

"An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state."

- MOVED CSHB 115(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 42

SHORT TITLE: JOE WILLIAMS, SR., COASTAL TRAIL

SPONSOR(S): REPRESENTATIVE(S) ELKINS

01/10/05	(H)	PREFILE RELEASED 12/30/04
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	CRA, TRA
01/20/05	(H)	CRA AT 8:00 AM CAPITOL 124
01/20/05	(H)	Moved Out of Committee
01/20/05	(H)	MINUTE(CRA)
01/21/05	(H)	CRA RPT 5DP
01/21/05	(H)	DP: SALMON, LEDOUX, NEUMAN, OLSON, THOMAS

01/21/05 (H) FIN REFERRAL ADDED AFTER TRA
02/08/05 (H) TRA AT 1:30 PM CAPITOL 17

BILL: HB 115

SHORT TITLE: AIRPORT CUSTOMER FACILITY CHARGES

SPONSOR(S): LABOR & COMMERCE

01/26/05 (H) READ THE FIRST TIME - REFERRALS
01/26/05 (H) TRA, FIN
02/08/05 (H) TRA AT 1:30 PM CAPITOL 17

WITNESS REGISTER

JOS GOVAARS, Staff
to Representative Jim Elkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 42 on behalf of Representative Elkins, sponsor.

REPRESENTATIVE TOM ANDERSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As chair of the House Labor and Commerce Standing Committee, sponsor of HB 115, presented the bill.

MARK PFEFFER, Co-Owner
Venture Development Group
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 115 and responded to questions.

JOHN STEINER, Assistant Attorney General
Transportation Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Recommended changes to HB 115.

ACTION NARRATIVE

CO-CHAIR GATTO called the House Transportation Standing Committee meeting to order at 1:37:09 PM. Representatives Elkins, Gatto, Thomas, Salmon, and Neuman were present at the call to order.

HB 42 - JOE WILLIAMS, SR., COASTAL TRAIL

CO-CHAIR GATTO announced that the first order of business would be HOUSE BILL NO. 42 "An Act naming the Joe Williams, Sr., Coastal Trail."

JOS GOVAARS, Staff to Representative Jim Elkins, Alaska State Legislature, sponsor, said on behalf of Representative Elkins:

[House Bill 42] will name three miles of trail alongside the South Tongass Highway between Ketchikan and Saxman, the "Joe Williams Sr., Coastal Trial." Joe was an advocate for the construction of a trail because residents for many years, without the means of transportation, commonly walked the three miles between Saxman and Ketchikan with often-tragic results. When the trail was completed, it quickly became a favorite walking and bicycling path used by many visitors as well as locals. Set between the ocean and the highway, the Joe Williams Sr. Coastal Trail will be a scenic and historically important trail for the people of Southeast Alaska. This legislation will honor the memory of a highly respected person in the Native community in Southeast, and included in the committee packet are letters of support from the City of Ketchikan, City of Saxman, and the Ketchikan Gateway Borough. In addition, a new zero fiscal note has been introduced because the Department of Transportation has agreed to eat the \$2,000 it will cost for making and posting the signs.

REPRESENTATIVE NEUMAN stated that he has heard support from people from the community, and it is a "very fine thing that we do this."

REPRESENTATIVE THOMAS moved to report HB 42 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 42 was reported from the House Transportation Standing Committee.

HB 115 - AIRPORT CUSTOMER FACILITY CHARGES

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CO-CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 115 "An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state."

REPRESENTATIVE TOM ANDERSON, Alaska State Legislature, speaking as the chair of the House Labor and Commerce Standing Committee, sponsor of HB 115, said that HB 115 would implement a valuable private-market tool to construct improvements to Alaska airports, specifically a new rental car facility at the Ted Stevens Anchorage International Airport, without the expenditures of public funds. "It's somewhat of a novel approach," he added. He said it will improve the amenities provided to the traveling public. The bill provides a mechanism called Customer Facility Charge (CFC), to improve airport facilities without the expenditure of state funds, and the most common project that CFCs are used for are rental car facilities, he stated. The bill will also provide a revenue stream to maintain and operate such a facility, he stated, and this would not require an increase in the airport operating budget. In 2001 the legislature authorized the imposition of this CFC to fund improvements on airport properties.

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REPRESENTATIVE ANDERSON said a private bond market has developed that is willing to rely solely on the revenue provided by CFCs collected from rental car users to issue bonds used to construct a new rental car facility at the Ted Stevens Anchorage International Airport. He said it is important that it is a private bond and not attached to state credit. He noted that the CFC process has been "really successful" in Dallas and Denver. He said that a private industry initiated this legislation, and it is sponsored by the Anchorage rental car companies. He explained the purpose for HB 115:

During negotiations with the state over the implementation of the project, the bond council identified certain issues with the language set forth by Chapter 99, SLA 2001, which they felt should be clarified to ensure that the bonds would be marketable, hence this legislation. Those issues essentially revolve around clarifying that the new revenue stream generated by this CFC would not be considered revenue of the state when the bond is a private initiative, and ensuring that the bond trustee, not the state, takes custody of the funds. Without that clarification, which is in this bill, the bond council was concerned that the 2001 language did not adequately clarify that the CFCs were not revenues

of the state. So this just clarifies this so that we can have a strong bond at a higher rating.

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REPRESENTATIVE ANDERSON said that because the facility will revert to the state at the end of the term, it was also decided to implement a customer facility maintenance charge to ensure that the facility is well maintained. He said that will avoid any impact on the airport's operating budget. He added that he is making some procedural adjustments so the rental car dealers can build the facility and then add a fee which is somewhat dedicated to this facility. "Alamo" and "National Car Rental" sent the committee a "fairly detailed" analysis of the bill, and there is a letter of support from Hertz, he said. He noted that patrons will benefit.

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MARK PFEFFER, Co-Owner, Venture Development Group, said that in 2000, his company was approached by the rental car companies that operated out of the Ted Stevens Anchorage International Airport. He stated that the airport had a master plan to build a consolidated rental car facility in designated wetlands three quarters of a mile away from the airport, and the rental car industry wanted a facility closer to the airport that was built with private money to control costs. Mr. Pfeffer said that [the terrorist attacks of September 11, 2001] put the discussions on hold, but it is now moving ahead. In the last eight months, he added, the companies have been working with airport staff and the Office of the Attorney General to assess how a facility could be built using the CFC.

MR. PFEFFER mentioned that immediately upon completion of construction, the facility ownership transfers to the state, and the lessor will maintain the facility for thirty years. He added that when the lease is up, the state will have a fully funded facility in good shape.

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MR. PFEFFER stated that the purpose of this legislation is "to clarify the flow of the CFCs so that the bond holders have a greater assurance that they are going to continue during the life of the bonds," and to "allow for the inclusion of the maintenance and operation costs of the facility over the life of the bonds." He said the facility will be constructed at the Ted

Stevens Anchorage International Airport between the Alaska Railroad depot and the Federal Aviation Administration (FAA) tower, and customers will be able to walk from baggage claim, through an extended tunnel, and up into a car rental lobby. There will be a covered, well-lit, safe place to pick up rental cars, he said. He added that when the cars are returned, they will be cleaned and put right back into service, whereas now car rental employees have to take the cars to an offsite facility, which adds to traffic congestion.

REPRESENTATIVE NEUMAN asked if the facility will be on the property already used by the rental car companies.

MR. PFEFFER responded in the affirmative.

REPRESENTATIVE NEUMAN asked if other parking areas will be affected.

MR. PFEFFER said that a few parking spaces will be taken by the new facility, namely the under-utilized spaces for over-sized vehicles, like campers. He said there will be 85 spaces left for over-sized vehicles.

REPRESENTATIVE NEUMAN asked if the fee would be added on to the daily rental car fee.

MR. PFEFFER said, "Yes, it's a customer facility charge."

REPRESENTATIVE SALMON asked if the legislation affects the entire state.

MR. PFEFFER said that the legislation would allow other locations to pursue a similar project, but the only project that that he is working on is the one at the Ted Stevens Anchorage International Airport.

CO-CHAIR ELKINS said he was confused because he thought Mr. Pfeffer said the area was a wetlands, "and now you're saying it's a parking lot."

MR. PFEFFER said that an earlier airport master plan study suggested that one possible location for a rental car facility was three quarters of a mile away, and it would have impacted 25 acres of wetlands. The industry did not like that idea, so they petitioned the airport to allow them to offer a proposal, he said, and the proposal is the one that is being discussed today, which is to put the facility at the airport.

REPRESENTATIVE ANDERSON said the legislation could be applied to other communities, but he expressed doubt whether rural communities were large enough to benefit. He said he thinks this fund would be "sub-sectioned out" to go only to the Anchorage facility, "but all communities in the state, if they have enough people to pay the fees, could do the same thing, which is exciting."

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REPRESENTATIVE ANDERSON stated that the project would have to go through all zoning and established procedures for construction, and that this language just helps establish the fee system.

MR. PFEFFER added that there will be a standard ground lease application, and then there will be regular building permit process.

REPRESENTATIVE ANDERSON said that even if this facility does not get built, the ability to do it will be in place for any future efforts.

CO-CHAIR GATTO asked what Mr. Pfeffer's role is.

MR. PFEFFER answered that the Venture Development Group is a real estate development company that provides financing and construction expertise to help projects through the necessary steps to get them built. "The true drivers of this are the rental car companies," he said. He added that under the terms of the rental car concession agreement with the airport, if two thirds of the companies want a CFC imposed on their customers, the airport can choose to impose it. He said that in this case a vast majority of the market share of the companies have said they want to do this. Mr. Pfeffer added that the rental car companies don't have the expertise to manage the project, so they hired him. Upon completion of his role, he said, the building reverts to the ownership of the state, and a single service entity will step in to maintain the facility, which will be owned by the state, and the use of it will be under the airport concession agreement.

CO-CHAIR GATTO asked about the other rental car companies that operate at the Ted Stevens Anchorage International Airport.

MR. PFEFFER said he has signed agreements with all companies except Payless. Payless has "been kept in the loop of the

process," but has chosen not to participate in the discussions. "Dollar, Budget, Thrifty, Avis, National, Alamo, Hertz, and Enterprise have all signed on in support of this project," he concluded.

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JOHN STEINER, Assistant Attorney General, Transportation Section, Civil Division (Anchorage), Department of Law (DOL), said he is the primary council to the Ted Stevens Anchorage International Airport and the Fairbanks International Airport, and in that capacity he has "been a participant in discussions and negotiations concerning this proposed rental car facility, and helping to set up documentation in a manner that is consistent with the needs of the [Department of Transportation & Public Facilities (DOT&PF)], the state law, and our commitments under various bond resolutions." He said that upon thorough review of the bill, he has noted a number a things that the DOL will recommend modifying. He added that the DOL is comfortable with the concept, but that it needs technical changes, which he does not want to go through today. He said the DOL's intent is to make sure the bill is clear regarding the relationship between the charges and the obligation under existing bond covenants that support airport projects separate from this. With regard to the customer facility maintenance charge, he said, the DOL will suggest clarifying language. He said that the DOT&PF has been working with the project proponents, and the DOL has not had a chance to discuss its technical changes with the two groups, which he said the DOL would like to do before presenting the changes to the legislature. He added that the DOL has no objection to the House Transportation Standing Committee moving the bill forward as is.

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CO-CHAIR GATTO asked if the minor issues Mr. Steiner mentioned would be minor to the members of committee.

MR. STEINER said he thinks the issues are technical and not substantive. He said he is not requesting that the committee withhold the bill, because there are time constraints with the project. He said that the DOL would like a language change to make sure the bill says what it intends, and the primary concern is to make a clearer distinction between the CFC and the customer facility maintenance charge.

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REPRESENTATIVE NEUMAN said a recent news article reported that the fee would be no more than \$4 a day, so he asked if it will stay at \$4 even if there are cost overruns.

MR. PFEFFER said, "Yes sir, part of the contract that we will provide as part of our management of the project will be a guaranteed maximum price contract with a guaranteed schedule fully bonded and backed by a reputable contractor and bonding. In addition to that we've built reserves into the project so there is plenty of room there. We don't have any hesitation whatsoever to provide that guarantee that will come in on time and on budget."

REPRESENTATIVE NEUMAN asked if the CFC might be lower than \$4 if all the reserves are used up.

MR. PFEFFER answered in the affirmative.

REPRESENTATIVE THOMAS asked what would happen in the event of a default.

MR. PFEFFER responded that the bond insurers would be liable, and he added that "bond underwriters, according to the language, the way it's set up, they can look only to that customer facility charge, and in general those number of rental transaction days have trended upward over the past ten, twenty years, three, four percent per year." He said there is a fairly detailed study of those predictions. But, he said, "At the end of the day, the bond holders can only look to those customer facility charges."

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REPRESENTATIVE THOMAS expressed that the high tax on rental cars is a disincentive to rent, and he takes a cab. He asked if there is an effective date.

MR. PFEFFER said he thought the bill should be amended to add an immediate effective date, because the industry wants to begin the project this summer.

REPRESENTATIVE ANDERSON suggested that the committee could consider a conceptual amendment [to add an immediate effective date].

CO-CHAIR ELKINS said it sounds like there would be two charges, customer charges and facility charges, and he asked if the combined charge would not exceed \$4.

MR. PFEFFER said, "Correct."

CO-CHAIR GATTO listed the current taxes imposed on car rentals, which total 29 percent.

MR. PFEFFER said the \$4 would be in addition to those.

CO-CHAIR GATTO stated that if there is a problem like a decrease in use of the facility, customers would have to pay more than \$4. He asked what the worst-case scenario might be.

MR. PFEFFER said that a terrorist attack that "tanks the industry," would be the worst-case scenario, but he said the underwriters have planned for that with the reserves and the way they structured the insurance. He added that Co-Chair Gatto is correct that "if people quit using the facility, then there is less transactions, and that CFC can be adjusted so if the number of transactions go down but the debt service stays flat the cost per transaction could go up." He said that there might be some users who won't want to pay the extra fee, and there are provisions for customers to use an off-airport rental or take a cab, and those calculations are figured in. But he said it is reasonably certain that the \$4 charge should cover it, and he thinks it will decrease as the demand goes up. The industry fought the local and state taxes, he said, but it supports this one.

CO-CHAIR GATTO asked if the current taxes have resulted in decreased rental car use.

MR. PFEFFER said it has not, and that he thinks, "They had a very strong year this year, so demand has gone up."

REPRESENTATIVE ANDERSON said that he was not supportive of the rental tax, but this has a benefit and is not just a pure tax. There has been no default in the other airports that have done this, and the fees haven't been raised in Dallas and Denver, he said. He offered his belief that the governor is supportive and acknowledges the time constraints.

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REPRESENTATIVE ANDERSON recommended that the bill be amended to [add an immediate] effective date and then be moved out of committee, with the intention of addressing the DOL's concerns in the Finance Committee.

[Although no formal motion was made to adopt the aforementioned change as a conceptual amendment, the bill was later treated as having been amended.]

REPRESENTATIVE ANDERSON asked Mr. Steiner if the DOL could submit its recommended changes by the end of the week.

MR. STEINER said he thinks that is possible, but it is important to "bounce it off the underwriters for the project," to make sure there will be no problems. He added that one of the legal provisions in the contract between the Ted Stevens Anchorage International Airport and the rental car companies is that all on-site concessionaires will be required to use the facility and to charge the fees. "If one wants to rent at the airport at all, one would have to go through this facility" and thus pay the fee, he said.

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CO-CHAIR GATTO asked if people could decide to rent elsewhere to avoid the fee.

MR. STEINER responded that there are other companies with no relationship with the airport. He said that if travelers rent from a company that picks them up at the airport, there is an 8 percent fee. He added that many of the downtown rental car companies are also located at the Ted Stevens Anchorage International Airport, and they are not permitted to divert business to downtown. He said savvy people who are willing to inconvenience themselves have options to avoid the fee.

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CO-CHAIR GATTO asked if other Alaska airports can use provisions in the legislation without further changes.

MR. PFEFFER said that he thinks that is correct.

MR. STEINER stated that the portion of the legislation that deals with the international airport revenue fund deals only with Anchorage and Fairbanks. Other parts of the bill deal only with state-operated airports, which includes all of Alaska's

rural airports. So it "probably would make this concept available also at rural airports," he said, but municipal airports, like those in Kenai and Juneau, would be excluded.

REPRESENTATIVE NEUMAN said "as stated earlier, the fee would be no more than \$4," and he asked if there was anywhere in the legislation that reduces the customer fee if that amount isn't necessary to cover the costs. He also asked if "that \$4 or \$3.50 would defer to other airports around the state that would want to use this legislation."

MR. PFEFFER responded that the way the customer service charge will be determined will be by an estimate of the number of transaction days for the first year. He said the interest rate is not known until the bonds are sold, so there is no way to determine the debt service at this time. But when the debt service is known, it will be divided by the number of estimated transaction days, and that will set the customer facility charge, he said. He added, "The \$4 was the conceptual limit that the car rental industry put on themselves." If the calculation comes out over \$4 per transaction day, the rental car companies will decide whether to go through with the plan or not, he said. The fee can be adjusted at the end of the year. There won't be extra funds to go to other locations because the charge will be specific to what the costs are, he said.

REPRESENTATIVE NEUMAN said "So, there is nothing in this legislation that says it's going to be under \$4?"

MR. PFEFFER said that he doesn't believe so.

REPRESENTATIVE ANDERSON said that fee changes must go through a notification process with public comment. He asked Mr. Steiner if that was correct, and if that requirement is already in place without HB 115 changing it.

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MR. STEINER said that is correct with one adjustment: the commissioner will be required to set the fee at a sufficient level to pay the obligation. If transaction days go down, the fee would go up, and it is possible that the commissioner would be obligated to raise the fee above \$4, he added, but it would go through a public notice and comment process.

REPRESENTATIVE NEUMAN asked if the fee could be more than \$4 per day.

MR. STEINER said that could happen if there were cost overruns or if there were fewer transaction days than anticipated. But, he said, "Mr. Pfeffer could address the guaranteed maximum price contracting procedures that are anticipated and should provide some reasonable assurance that at least it will not happen because of cost overruns."

REPRESENTATIVE NEUMAN said, "I believe Mr. Pfeffer testified that it would not be more than \$4."

MR. PFEFFER responded:

I think what my testimony was, is that we're going to provide a guaranteed maximum price contract so that at the time the bonds are sold we will be guaranteeing the development cost of the project, and so if at the time the bonds are ready to be sold, for instance, the cost divided by the transaction days into the debt service worked out to be \$4.50 per square foot, that would be a choice that would be made primarily by the industry and the commissioner. They would all have to say, "OK we still want to go forward," but there would be nothing that we would do subsequent to getting started that would cause cost increases. So right now the projection is actually that the CFC would be \$3.82 including all facility maintenance and operation charges based on interest rates of six or seven days ago. The CFC will be set at whatever it is at the time the bonds are sold.

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REPRESENTATIVE NEUMAN asked if the fee would be "locked in at the beginning of operations, if you did have cost overruns it still would have to be locked in."

MR. PFEFFER replied: "Cost overruns are going to be on my side. I am providing the guarantee that there won't be cost overruns contractually and backing that up with a fully bonded contract from a contractor." He added that his company's most recent project under a similar format was a \$35 million project that finished early without any cost overruns. "We're very good at this," he stated.

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REPRESENTATIVE SALMON asked if construction will go out to a normal bid.

MR. PFEFFER responded that the general contractor will with a negotiated contract with (indisc.) construction, and all of the subcontracts will be bid.

CO-CHAIR GATTO said he disagreed with a comment he read in his packet that the Ted Stevens Anchorage International Airport had the worst customer-friendly rental car facility in the country.

MR. PFEFFER said that it wasn't his comment, but he has heard both neutral and negative comments from people recently.

CO-CHAIR GATTO asked if the facility will be entirely covered.

MR. PFEFFER said it would be. He added that currently the rental car companies can't offer their "preferred customer" service, but with the proposed facility they will be able to do so.

CO-CHAIR GATTO asked what will happen to the existing facility.

MR. PFEFFER said there are just car rental counters, and the airport will put them to some other use.

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REPRESENTATIVE NEUMAN asked what it costs to rent a car in Anchorage.

MR. PFEFFER said he didn't know but estimated it at \$45 plus fees per day for an economy model.

CO-CHAIR GATTO clarified that the \$4 CFC is per day, not per transaction.

REPRESENTATIVE ANDERSON said he rented a sport utility vehicle from the Ted Stevens Anchorage International Airport, and with a discount card he paid \$45 per day including fees. He added that if the airport has this new facility, there will be more public parking. In conclusion, he said, the modernization will be on par with some of the largest airports in the county. He also said "we're looking at job creation, construction ...; there's a partnership between government and private sector, which I think all of us believe in." Representative Anderson said that there

is statewide potential, and that the benefits outweigh any negatives.

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CO-CHAIR GATTO closed public testimony.

CO-CHAIR ELKIN moved to report HB 115, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 115(TRA) was moved out of the House Transportation Standing Committee.

ADJOURNMENT

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There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:38 p.m.