

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 1, 2005

1:33 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator John Cowdery, Vice Chair
Senator Gene Therriault
Senator Albert Kookesh
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 40

"An Act relating to the establishment of the Kuskokwim Port Authority; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 115(TRA)

"An Act relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state; and providing for an effective date."

MOVED SCS CSHB 115(TRA) OUT OF COMMITTEE

SENATE BILL NO. 92

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

SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 42

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

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 40

SHORT TITLE: KUSKOKWIM PORT AUTHORITY
SPONSOR(s): SENATOR(s) COWDERY, HOFFMAN

01/11/05 (S) PREFILE RELEASED 1/07/05
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) TRA, FIN
02/03/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/03/05 (S) <Bill Hearing Postponed to 02/08/05>
02/08/05 (H) TRA AT 1:30 PM CAPITOL 17
02/08/05 (S) Heard & Held
02/08/05 (S) MINUTE (TRA)
02/15/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/15/05 (S) Scheduled But Not Heard
02/17/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/17/05 (S) Heard & Held
02/17/05 (S) MINUTE (TRA)
03/01/05 (S) TRA AT 1:30 PM BUTROVICH 205

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
02/08/05 (H) Moved CSHB 115(TRA) Out of Committee
02/08/05 (H) MINUTE (TRA)
02/09/05 (H) TRA RPT CS (TRA) NT 4DP 1NR
02/09/05 (H) DP: THOMAS, NEUMAN, GATTO, ELKINS;
02/09/05 (H) NR: SALMON
02/14/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/14/05 (H) Moved CSHB 115(TRA) Out of Committee
02/14/05 (H) MINUTE (FIN)
02/16/05 (H) FIN RPT CS (TRA) NT 7DP 3NR
02/16/05 (H) DP: HAWKER, CROFT, KELLY, FOSTER,
WEYHRAUCH, MEYER, CHENAULT;
02/16/05 (H) NR: STOLTZE, JOULE, HOLM
02/24/05 (H) TRANSMITTED TO (S)
02/24/05 (H) VERSION: CSHB 115(TRA)
02/24/05 (S) TRA AT 1:30 PM BUTROVICH 205
02/24/05 (S) <Pending Referral>
02/28/05 (S) READ THE FIRST TIME - REFERRALS
02/28/05 (S) TRA, FIN
03/01/05 (S) TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

Mr. Paul Fuhs, Lobbyist
Kuskokwim Corporation
1635 Sitka St. STE 301
Anchorage, AK 99501

POSITION STATEMENT: Commented on SB 40

Ms. Kathleen Hoffman
Kuskokwim Corporation
1635 Sitka St. STE 301
Anchorage, AK 99501

POSITION STATEMENT: Commented on SB 40

Ms. Anna Hoffman, Chief Operating Officer
Bethel Native Corporation
Box 719
Bethel, Alaska 99559

POSITION STATEMENT: Testified in opposition of SB 40

Mr. Dario Notti
Georgetown, Alaska

POSITION STATEMENT: Testified in opposition of SB 40

Mr. Eric Middlebrook

POSITION STATEMENT: Testified in opposition of SB 40

Mr. Josh Applebee, Legislative Aide
Staff to Representative Tom Anderson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced HB 115

Mr. Mark Pfeffer, Business owner
Venture Development Group

POSITION STATEMENT: Commented on HB 115

Mr. Kip Knudson
Department of Transportation & Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Commented on HB 115

Mr. John Steiner
Attorney General's office
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on HB 115

Ms. Sheryl Sutton, Legislative Aide
Staff to Senator Ben Stevens
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HB 115

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Transportation Standing Committee meeting to order at [1:33:31 PM](#). Present were Senators Hollis French, Gene Therriault, John Cowdery and Chair Charlie Huggins. Chair Huggins advised the committee the first hour of the meeting would be reserved for hearing testimony on SB 40.

SB 40-KUSKOKWIM PORT AUTHORITY

[1:34:29 PM](#)

CHARLIE HUGGINS announced SB 40 to be up for consideration.

MS. KATHLEEN HOFFMAN, board of directors, Kuskokwim Corporation, testified the Corporation is in support of development of the Donlin Creek Mine. Their number one goal is to see that their shareholders get jobs and benefit from the mine. Although they have made it clear that they are ready to meet the initiators of SB 40, the sponsors have yet to meet with them.

She expressed concern regarding the make up of the proposed port authority board. The Kuskokwim Corporation would prefer development of a borough with elected representation of the region. Kuskokwim Corporation will hold a borough formation summit in the spring of 2005. Testimony from the Department of Commerce and Community Development indicates preference for borough formation also. According to the Department of Transportation & Public Facilities (DOTPF), Placer Dome intends to develop the port and the road privately.

[1:37:04 PM](#)

MS. HOFFMAN added the Alaska Industrial Development and Export Authority (AIDEA) has advised they could provide financing for the mine as they did with the Red Dog Mine if requested. While Kuskokwim does not support SB 40 at this time, they would like to suggest amendments. First would be an amendment which would prohibit the authority from receiving land which has been condemned by the State of Alaska. Secondly, if the legislation moves forward it should include an amendment, which would turn

over operations of the authority to an organized borough in the area when it is formed.

[1:38:46 PM](#)

SENATOR JOHN COWDERY commented board members would be the Governor's choice.

[1:39:09 PM](#)

Senator Albert Kookesh joined the committee.

SENATOR COWDERY noted Placer Dome is neutral on SB 40.

CHAIR HUGGINS asked Ms. Hoffman to explain her comment regarding condemned lands.

MR. PAUL FUHS, Kuskokwim Corporation, answered the question. Condemned land is when the State of Alaska comes in to build a road and seizes the land by imminent domain. Currently the authority does not have the power of imminent domain but they could ask the state to do it for them and then transfer the land.

SENATOR GENE THERRIAULT stated borough formation would run up against the same problem.

MR. FUHS agreed but it would be a locally elected body representative of the people from the area.

[1:41:21 PM](#)

CHAIR HUGGINS asked Ms. Hoffman her interpretation of a timeline for formation of the borough.

MS. HOFFMAN said it would be similar to that of the Red Dog Mine. The Kuskokwim Board is concerned that the borough and the mine come together at the same time for the best interest of the shareholders.

MR. FUHS added around the state nearby boroughs are reaching out to grab mining properties. That is an added concern worthy of local borough formation.

CHAIR HUGGINS said the intent of the committee is to make SB 40 happen. He challenged everyone to work together to capitalize on the value of the region.

[1:44:32 PM](#)

SENATOR THERRIAULT referred to a letter sent by Kuskokwim Corporation last year indicating support of an interior rivers port authority. He asked Mr. Fuhs the difference.

MR. FUHS advised SB 40 legislation is more expansive in terms of the area. There is also the added concern over the make up of the board. Much of the concern could be facilitated if the initiators of the bill would sit down and meet with the community.

SENATOR THERRIAULT asked whether last years bill covered Donlin Creek.

MR. FUHS said yes but Placer Dome did not have development plans in place and they determined they do not want to use public financing for the project because of the effect it would have on their EIS. The DOTPF completely pulled out of the project because Placer Dome told them they wanted to do it all as one EIS as a private development. They also said the cost of the port and the road are not cost prohibitive to developing the mine and that they would even pre-position equipment there in advance of the EIS being granted. The speed of doing it meant more to them than the two or three percent points of tax exempt financing.

[1:48:06 PM](#)

SENATOR THERRIAULT asked whether the state providing conduit financing triggers the heightened EIS.

MR. FUHS said yes and it also triggers the Davis-Bacon wages and the issue of doing the entire project under one EIS - the mine and the road and the port.

SENATOR THERRIAULT voiced uncertainty that the Legislature could trust the community to move on formation of a borough.

MR. FUHS agreed and said that is why the community is holding the summit. He asked the committee to consider the proposed amendments.

[1:50:41 PM](#)

CHAIR HUGGINS promised a member of the committee would meet with the community in the summer.

MS. HOFFMAN agreed they would be prepared. She advised the community has tried many times to communicate with the bill sponsor.

[1:53:32 PM](#)

MS. BEVERLY HOFFMAN, shareholder, Calista Corporation and owner of Kuskokwim Wilderness Adventures, introduced herself. She expressed concern regarding the power that SB 40 would give to the port authority without local consideration. She added concern for the environmental impact on the fish and wildlife.

[1:56:53 PM](#)

MS. HOFFMAN added she was offended by a comment by Senator Cowdery last week regarding how community members in the area don't speak English and live in their own world.

[2:01:35 PM](#)

MS. ANNA HOFFMAN, chief operating officer, Bethel Native Corporation (BNC), expressed concern over SB 40. BNC prefers the bill have language that recognizes current private land ownership within the proposed operating area. BNC opposes language regarding the make up of the board and would require board members include those in the community. BNC does not support the proposed operating area as presented. BNC opposes the collection of rates, fees, rents and other charges for the execution of duties since the proposed duties are not limited to port related functions. The villages are under budgeted and would not have the means to pay charges imposed by SB 40.

[2:04:30 PM](#)

SENATOR COWDERY asked Ms. Hoffman whether the BNC was supportive of development of the Donlin Creek Mine.

MS. HOFFMAN said they have environmental concerns regarding development.

CHAIR HUGGINS asked whether the BNC supports a borough formation.

MS. HOFFMAN advised they oppose it at this time.

CHAIR HUGGINS asked whether they support a port authority.

MS. HOFFMAN said they would like to research other options, such as the enterprise and advisory boards in Valdez.

SENATOR HOLLIS FRENCH asked Ms. Hoffman whether the BNC would be more supportive if they knew meetings would take place within the community.

MS. HOFFMAN said yes.

SENATOR FRENCH asked Senator Cowdery whether he could support that.

SENATOR COWDERY agreed with Chair Huggins that would be a goal.

SENATOR FRENCH offered to draft an amendment to add that language.

[2:07:27 PM](#)

CHAIR HUGGINS invited Ms. Hoffman to take part in a planning group to carry the initiative forward.

MS. HOFFMAN advised they would participate in any meetings, information gathering, and research. She would not commit to helping move the bill forward. She noted the effective date of SB 40 was July 1, 2005 and asked when the committee would meet with the community.

[2:09:48 PM](#)

CHAIR HUGGINS advised her to disregard the effective date.

[2:11:12 PM](#)

MR. ERIC MIDDLEBROOK, local resident, testified SB 40 legislation was going too fast. Area residents have not had time to digest the bill and the magnitude of it. The bill has the potential to keep community representation out and invites outsiders to development the area. Other authorities in the state have clear limitations of their power but SB 40 does not address that. Imminent domain is a major concern. He feels the mine should be solely responsible for its own waste. He does not agree with borough formation because they have the power to levy taxes that could be funneled to support the operation of the mine. The proposed area the port authority would cover appears to be unchecked development as a way to funnel public monies to private enterprises.

[2:15:03 PM](#)

CHAIR HUGGINS challenged Mr. Middlebrook to work toward solutions.

MR. MIDDLEBROOK said a borough costs too much money and SB 40 would railroad the community leaving them stuck with liability.

[2:18:53 PM](#)

MR. DARIO NOTTI, Calista shareholder, Kuskokwim Corporation member and Georgetown member, asked questions on the bill. He wanted to know who would be responsible for the waste disposal and expressed concerns regarding toxic waste. Both Calista and Placer Dome have a history of leaving others responsible with large debt. He expressed concern over the board members of the proposed port authority.

[2:27:31 PM](#)

SENATOR THERRIAULT asked Mr. Notti whether he saw no benefit from a regional waste disposal or regional power generation.

MR. NOTTI admitted there was potential for a benefit but the bill does not clarify who would be responsible for those things.

[2:31:22 PM](#)

CHAIR HUGGINS held SB 40 in committee.

[2:34:37 PM](#) < Recess > [2:42:15 PM](#)

HB 115-AIRPORT CUSTOMER FACILITY CHARGES

[2:42:15 PM](#)

CHAIR HUGGINS announced HB 115 to be up for consideration. The committee would consider Version \I.

MR. JOSH APPLEBEE, staff to Representative Tom Anderson, advised the committee substitute for HB 115 is the same as SB 92, which has already been through a full hearing in the Senate.

SENATOR COWDERY asked whether there were any differences in the two bills.

MS. SHERYL SUTTON, staff to Senator Ben Stevens, testified there is no difference between the bills.

[2:45:01 PM](#)

SENATOR THERRIAULT asked Ms. Sutton for clarification of changes to Section 1.

MS. SUTTON stated there were no substantive changes other than word housekeeping and an effective date.

SENATOR THERRIAULT noted "uniform customer facility charge" was controversial wording initially but is now being deleted. He asked whether it was moved to a different section.

MS. SUTTON said yes. The customer facility charge was already in place in statute and there is a new charge added, which is a maintenance charge.

[2:46:46 PM](#)

SENATOR THERRIAULT asked whether it was specifically for a car rental space.

MS. SUTTON advised it deals with the car rental facility and the maintenance aspects within.

[2:48:56 PM](#)

MR. APPLEBEE summarized in 2001 the Legislature passed Chapter 99 SLE 2001 authorizing the use of the customer facility charges to fund improvements to airport facilities state owned land. Language needed to be tightened up for security of bonding.

SENATOR THERRIAULT asked Mr. Applebee whether a person could avoid the charge by going off site.

MR. APPLEBEE said yes.

[2:51:44 PM](#)

SENATOR THERRIAULT asked the reason for taking state action to raise the revenue to pay for the bond.

MR. APPLEBEE said when selling bonds for construction there needs to be security.

MR. MARK PFEFFER, Venture Development Group, said the companies are prohibited from setting charges to do a project of this type on their own because of anti trust laws.

MR. KIP KNUDSON, Department of Transportation and Public Facilities (DOTPF), informed there have been a great deal of investment in legal counsel and economic analysis and the DOTPF is in support of the bill.

MR. JOHN STEINER, attorney general's office, clarified HB 115 is not limited the rental car parking facility.

[2:57:45 PM](#)

CHAIR HUGGINS reiterated there is a process for new rental car companies to become part of the vendor process.

[2:59:28 PM](#)

SENATOR COWDERY moved SCS CSHB 115(TRA) from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried. There being no further business to come before the committee, Chair Huggins adjourned the meeting at [3:00:28 PM](#).