

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 22, 2005

1:37 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Hollis French

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 16

"An Act relating to the powers and duties of the Department of Transportation and Public Facilities; repealing the requirement for a long-range program for highway construction and maintenance; and repealing a requirement that public facilities comply with energy standards adopted by the Department of Transportation and Public Facilities."

HEARD AND HELD

SENATE BILL NO. 133

"An Act establishing the Aviation Advisory Board; and providing for an effective date."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 16

SHORT TITLE: POWERS/DUTIES DOTPF/TRANSPORTATION PLAN

SPONSOR(s): SENATOR(s) STEVENS G

01/11/05	(S)	PREFILE RELEASED 12/30/04
01/11/05	(S)	READ THE FIRST TIME - REFERRALS
01/11/05	(S)	TRA, FIN
01/14/05	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
01/14/05	(S)	TRA, FIN
03/22/05	(S)	TRA AT 1:30 PM BUTROVICH 205

BILL: SB 133

SHORT TITLE: AVIATION ADVISORY BOARD

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/07/05 (S) READ THE FIRST TIME - REFERRALS
03/07/05 (S) TRA, FIN
03/22/05 (S) TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

Mr. Doug Letch, Legislative Aide
Senator Gary Stephens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SB 16

Mr. Jeff Ottesen, Director
Department of Transportation & Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Testified in support of SB 16

Mr. Jeff Parker, Attorney
Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 16

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Transportation Standing Committee meeting to order at [1:37:12 PM](#). Present were Senators Gene Therriault, John Cowdery, and Chair Charlie Huggins.

CHAIR HUGGINS informed the committee SB 131 would not be heard this day.

SB 16-POWERS/DUTIES DOTPF/TRANSPORTATION PLAN

[1:37:12 PM](#)

CHAIR HUGGINS announced SB 16 to be up for consideration.

SENATOR COWDERY moved to adopt the proposed committee substitute referred to as Version \I as the working document. There being no objection, the motion carried.

[1:38:38 PM](#)

MR. DOUG LETCH, staff to Senator Gary Stevens, presented SB 16 at the request of the Department of Transportation & Public

Facilities (DOT/PF). SB 16 updates obsolete language in statute related to the powers of the DOT/PF. It also removes the requirement for the DOT to conduct a cost/benefit analysis for all of its projects. The passage of SB 16 is desirable to avoid future costly litigation.

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SENATOR COWDERY asked Mr. Letch if a dollar value is considered for a project before a study was required.

MR. LETCH answered cost/benefit studies are required to be done on projects such as repairing road damages and performing emergency repairs.

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MR. JEFF OTTESEN, Director, Program Development, Department of Transportation & Public Facilities (DOTPF), supported SB 16. The core of SB 16 is the provision that speaks to cost/benefit language. The other changes are merely housekeeping measures. He referred to Section 1 and stated the DOT has been issuing grants for several years with no legal authority to do so. Section 3 addresses language that was established in statute by Governor Hammond at the time the DOT was created. To fulfill the requirement of the DOT updating a statewide transportation plan annually, the DOT would have to increase staff and budgets tenfold. The DOT would like to change the annual requirement to a periodic duty.

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MR. OTTESEN said it is difficult to perform a cost/benefit analysis when considering a project that will be done 5-15 years in the future. The data is relatively sparse yet DOT is required to do the expensive study. Currently the DOT is required to perform a cost/benefit analysis for installing a simple stop sign.

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SENATOR COWDERY asked Mr. OTTESEN whether the current system has been abused in order to stop projects.

MR. OTTESEN answered yes. The road between Iliamna and Nondalton is an example. Litigation was used to stop the project and two men died recently crossing the river because the bridge was not built.

MR. OTTESEN added the DOT received a letter from a non-profit agency asking whether a cost/benefit study had been done

regarding the road out of Juneau. He said a strict look at cost/benefit analysis is difficult. Many of the things the DOT builds in Alaska are not cost effective, such as airports in rural areas.

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CHAIR HUGGINS asked Mr. Ottesen how the regulation was used to block the construction of the bridge at Nondalton.

MR. OTTESEN explained the lawsuit was based on the fact the DOT had not conducted a cost/benefit analysis when it selected the project. Work began in 1995 and was well under way when litigation was filed in 2002. The judge ordered the DOT to do a cost/benefit analysis on the project, which cost \$60,000 in consultant costs and another \$30,000 in staff costs to update the plan. January of 2005 they went back to court and the judge dismissed the injunction.

SENATOR COWDERY asked who brought the suit.

MR. OTTESEN replied it was an individual who owns property 14 miles from the bridge. The communities surrounding the area are supportive of the project.

SENATOR COWDERY asked whether it was considered a public interest lawsuit.

MR. OTTESEN replied the two names on the lawsuit were Trout Unlimited and Robert Gillam.

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CHAIR HUGGINS asked Mr. Ottesen the elements of a cost/benefit analysis.

MR. OTTESEN explained they add up all costs, subtract any identified transportation savings and divide that number by the future population of the area, which gives a cost-per-person served figure.

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MR. OTTESEN referred to a map given to committee members and explained the color green represents a true road, blue represents a gravel road and red represents an all-terrain vehicle (ATV) trail.

CHAIR HUGGINS asked Mr. Ottesen to explain the process they are using today.

MR. OTTESEN assured the committee he would provide them with the information. He added the DOT complies with a Federal Rules book when researching projects.

[1:55:10 PM](#)

CHAIR HUGGINS asked Mr. Ottesen to explain grants and awards.

MR. OTTESEN explained the Highway Safety Office has the ability to issue grants. They receive approximately \$7 million each year from the National Highway Transportation Safety Administration. They focus on the behavior side of highway safety. Non-profit groups and elderly programs are eligible to receive money to buy vans and to organize transportation. The DOT has been issuing grants by the authority of the capitol budget process, but they are not authorized in statute. SB 16 will fix the disconnect.

[1:57:34 PM](#)

CHAIR HUGGINS asked him to explain how the DOT/PF issued \$200,000 to the University of Alaska in Fairbanks (UAF) for a paving project.

MR. OTTESEN explained the DOT is allowed to transfer funds to other governmental organizations as a government-to-government transfer. The state procurement code authorizes that as a transfer that does not require procurement. Examples of grants they issue would be those to Catholic Community Services, MADD, and other non-governmental entities.

[1:59:19 PM](#)

SENATOR COWDERY recalled a grant from discretionary funds that was issued by himself to UAF through the DOT.

CHAIR HUGGINS announced SB 16 would not pass out of committee today.

MR. OTTESEN said the DOT/PF feels they are lacking full legal authority to issue grants to non-governmental entities.

SENATOR COWDERY asked whether UAF was considered a government entity.

MR. OTTESEN replied yes. There is a specific exemption in the state procurement code for government-to-government transfer.

Senator Albert Kookesh joined the committee at [2:01:06 PM](#).

CHAIR HUGGINS asked Mr. Ottesen to define the DOT/PF's perception of periodic evaluation.

MR. OTTESEN said there is a constant oversight of programs and they use a check and balance system.

CHAIR HUGGINS suggested there be a recurring date.

MR. OTTESEN agreed every three-five years would be easier to absorb into the budget than annually. He added transportation finance is undergoing a rapid change. The fuel tax on gallons is no longer serving the DOT/PF well. Hybrid and hydrogen cars are part of the reason. The State of Texas has decided to toll their entire highway and freeway system because they recognize that gas taxes are not achieving state financial goals.

[2:04:40 PM](#)

CHAIR HUGGINS asked Mr. Ottesen to explain Section 2, paragraph 13.

MR. OTTESEN answered it was for municipalities with populations of less than 12,000 and for unincorporated communities. The entire funding has lapsed and the DOT/PF no longer has the staff to perform building maintenance and inventories. Other districts have taken over those duties.

[2:06:59 PM](#)

CHAIR HUGGINS asked what buildings were maintained in places such as Nome and Kotzebue.

MR. OTTESEN answered there were many public buildings but they are owned by the cities of Nome and Kotzebue. He added the DOT owns transportation assets, such as buildings that house fire rescue and some airport terminals.

CHAIR HUGGINS asked whether SB 16 would relieve the DOT from the responsibility of maintaining public buildings.

MR. OTTESEN responded the DOT/PF has not been funded or staffed to perform those duties for over a decade.

[2:08:08 PM](#)

CHAIR HUGGINS stated somebody should be responsible.

MR. OTTESEN asserted the state has turned it's back on the responsibility. Local governments will advocate to the Legislature directly when seeking funding.

CHAIR HUGGINS asked Senator Kookesh to comment on government entities other than the DOT/PF maintaining public buildings.

SENATOR KOOKESH replied he is aware of a requirement for schools to maintain a maintenance program.

MR. OTTESEN commented that requirement comes from the Department of Education. SB 16 would not apply to a state owned building located in a small community.

CHAIR HUGGINS asked who owns the buildings that the DOT/PF is trying to lose responsibility of.

MR. OTTESEN replied the local governments or local school districts.

[2:09:42 PM](#)

CHAIR HUGGINS asked whether the Department of Fish and Wildlife were affected.

MR. OTTESEN replied they are in state buildings and the DOT/PF still works with them. Most agencies have their own maintenance programs. Section 2 is about DOT/PF being involved in local governments with populations under 12,000.

[2:12:00 PM](#)

MR. OTTESEN noted Section 4 is about the process by which the DOT develops the list of projects to be constructed in the near term. SB 16 is an attempt to clean up the statute to conform to DOT current practices.

[2:15:16 PM](#)

MR. JEFF PARKER, attorney, testified he represented Trout Unlimited and Robert Gillam in the previously referred to court case. He testified in opposition to SB 16. He offered to work with the committee to make SB 16 acceptable. He disagreed with Mr. Ottesen's testimony and said the DOT cost/benefit analysis requirements applied only to new transportation and facilities. He agreed the current statute is ambiguous and could be improved. Most people would support a provision to establish a monetary level below which a cost/benefit analysis would not be required. He suggested providing a definition for the words "facility" and "periodically".

[2:19:40 PM](#)

MR. PARKER said it was not fair to call the statute obsolete. The consideration of cost/benefit analysis is common sense. The DOT/PF needs only to address those problems that occur on the fringes.

[2:20:50 PM](#)

CHAIR HUGGINS asked Mr. Parker the concerns his clients have.

MR. PARKER answered Trout Unlimited is the nations largest cold water fisheries conservation organization with 700 Alaskan members. They are generally involved in a variety of land use habitat fishery management issues, as well as any transportation issues that may impact fisheries. Their concern with the Iliamna-Nondalton bridge project is the environmental impact to the fishery and its intended connection to the Pebble Beach mine.

[2:22:52 PM](#)

CHAIR HUGGINS asked whether Trout Unlimited was concerned about the mining interest.

MR. PARKER said yes.

[2:24:14 PM](#)

CHAIR HUGGINS held SB 16 in committee.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [2:24:44 PM](#).