

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 2, 2006

2:03 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members were present

COMMITTEE CALENDAR

SENATE BILL NO. 273

"An Act relating to a motor vehicle dealer's selling or offering to sell motor vehicles as new or current models or as new or current model motor vehicles having manufacturer's warranties."

MOVED SB 273 OUT OF COMMITTEE

SENATE BILL NO. 303

"An Act amending the Knik Arm Bridge and Toll Authority Act and the powers and authority of the authority to finance construction and maintenance of the Knik Arm Bridge, to set and collect tolls, and to carry out its duties, and making conforming changes to statutes relating to issuance, renewal, or reinstatement of driver's licenses and to levy on permanent fund dividends; and providing for an effective date."

MOVED CSSB 303(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 273

SHORT TITLE: MOTOR VEHICLE SALES

SPONSOR(S): SENATOR(S) COWDERY

02/08/06	(S)	READ THE FIRST TIME - REFERRALS
02/08/06	(S)	TRA, L&C
02/23/06	(H)	TRA AT 1:30 PM CAPITOL 17
02/23/06	(H)	-- Meeting Canceled --

BILL: SB 303

SHORT TITLE: KNIK ARM BRIDGE AND TOLL AUTHORITY
SPONSOR(s): TRANSPORTATION

02/17/06 (S) READ THE FIRST TIME - REFERRALS
02/17/06 (S) TRA, FIN
03/02/06 (S) TRA AT 2:00 PM FAHRENKAMP 203

WITNESS REGISTER

Ed Sniffen, Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on SB 273

George Wuerch, Chairman of the Board
Knik Arm Bridge and Toll Authority

POSITION STATEMENT: Commented on and answered questions regarding SB 303

William Green, Project Counsel
Knik Arm Bridge and Toll Authority

POSITION STATEMENT: Commented on and answered questions regarding SB 303

Tom Boutin, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Commented on and answered questions regarding SB 303

Jim Cantor, Chief Assistant Attorney General
Transportation Section

Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on and answered questions regarding SB 303

Anton Johansen, Partner
Great Northwest Incorporated

POSITION STATEMENT: Testified in opposition to SB 303

Steve Cleary, Executive Director
Alaska Public Interest Research Group

POSITION STATEMENT: Testified in opposition to SB 303

Merle Thompson

POSITION STATEMENT: Testified in opposition to SB 303

Emily Ferry

Alaska Transportation Priorities Project

POSITION STATEMENT: Commented on SB 303

Stephanie Kesler, President

Government Hill Community Council

Anchorage, AK

POSITION STATEMENT: Testified in opposition to SB 303

Colleen James

POSITION STATEMENT: Testified in opposition to SB 303

Robert Wells, Executive Director

MatSu Resource and Development Council

POSITION STATEMENT: Testified in support of SB 303

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Transportation Standing Committee meeting to order at [2:03:50 PM](#). Present were Senators Albert Kookesh, Gene Therriault, John Cowdery, and Chair Charlie Huggins.

SB 273-MOTOR VEHICLE SALES

[2:04:15 PM](#)

CHAIR CHARLIE HUGGINS announced SB 273 to be up for consideration.

ED SNIFFEN, Assistant Attorney General, Department of Law (DOL), testified he has been working on SB 273 for two years to resolve a current problem in Alaska statutes. Currently dealers are prohibited from selling used current model motor vehicles. They are required to hold onto the vehicle until the next model year comes out in order to sell them legally as used. SB 273 would fix the problem by removing current model language from the statute.

[2:06:19 PM](#)

SENATOR JOHN COWDERY commented both new and used car dealers support the bill.

[2:07:00 PM](#)

SENATOR COWDERY moved SB 273 out of committee with individual recommendations and attached fiscal notes. Hearing no objections, the motion carried.

[2:07:32 PM](#)

Senator French joined the committee.

SB 303-KNIK ARM BRIDGE AND TOLL AUTHORITY

[2:09:40 PM](#)

CHAIR CHARLIE HUGGINS announced SB 303 to be up for consideration.

SENATOR JOHN COWDERY moved to adopt version F as the working document before the committee.

GEORGE WUERCH, Chairman of the Board, Knik Arm Bridge And Toll Authority (KABATA), introduced Deputy Commissioner Tom Boutin, John Manly, Jim Cantor, and project counsel, William Green. He stated they were all in support of the committee substitute (CS) for SB 303.

WILLIAM GREEN thanked the legislative staff for the Senate Transportation Standing Committee, particularly Deborah Grundmann, for being so helpful.

[2:13:06 PM](#)

MR. GREEN said the Knik Arm Bridge and Toll Authority (KABATA) was created in 2003 to build a bridge across Knik Arm for the purpose of connecting the Municipality of Anchorage to the Matanuska-Susitna Borough, to improve the transportation systems in upper Cook Inlet and to stimulate and enhance the support for economic development on a statewide basis.

Since 2003 KABATA has been busy with investigative and environmental impact studies and have found that the federal funding will be insufficient to complete the project and so it must look to other public and private financing and funding sources.

In discussions with various experts who have been through the process of raising funds from the private sector and the Federal Highway Administration it has been identified that the KABATA Act be specific in several aspects. For example, the Transportation Infrastructure Finance and Innovation Act (TIFIA) would like the statute to mention them as a source of financing by name.

The purpose of SB 303 is to clarify and make more specific the powers of KABATA and to ensure both the public and the private financing sectors that the Authority has the underlying legislative authority to allow them to form partnerships.

[2:17:55 PM](#)

MR. GREEN continued explaining SB 303 provides exclusive authority to KABATA for setting bridge tolls, provides explicit authority to enter into public-private partnerships and other financing arrangements. It authorizes obtaining loans from the TIFIA, it sets the dollar amount of revenue bonds that the authority may issue, and it provides several different means for collection of tolls and other obligations owing to the Authority that need to be collected.

[2:19:13 PM](#)

The CS eliminates redundancies, clarifies language, and corrects technical errors. He said none of the changes in the CS are of a significant substantive nature. He offered to answer questions.

[2:20:26 PM](#)

SENATOR COWDERY asked Mr. Green whether KABATA has come up with a toll figure.

MR. GREEN deferred the question to Mr. Wuerch.

MR. WUERCH informed committee members they have no final number yet but data collected suggests between three and five dollars. They also recommended that once set, the toll not be changed for ten years. A tollgate on the bridge will not be necessary. An electronic card could be installed in the vehicle and a beam would be used to tally the passage to an established account. He said a strenuous financial analysis would be made before any investor would be approached.

SENATOR COWDERY commented the Whittier Tunnel sustains more traffic than what early surveys estimated. He expressed support for the bill. He asked whether it would be possible to add a railroad to the bridge.

MR. WUERCH said a railroad bridge could be built alongside but a highway bridge would not be able to support a railroad.

[2:25:11 PM](#)

SENATOR FRENCH noted the CS gives the toll-setting authority to KABATA. He asked whether that was the case in the original bill.

MR. WUERCH responded it was in the original bill but the language made it unclear.

SENATOR FRENCH asked the entity that sets the toll for the Whittier Tunnel.

MR. WUERCH did not know. He noted the Whittier Tunnel was an operational toll collected by the Department of Transportation (DOT), not one that requires bond paybacks.

2:27:16 PM

SENATOR FRENCH expressed concern over the high toll rate anticipated for the Knik Arm Bridge. He said initial data on the Whittier Tunnel suggested the toll would be one dollar and fifty cents but is actually twelve dollars. He expressed unease that the Knik Arm Bridge could become comparable.

MR. WUERCH agreed and said the federal money that was originally set aside for the Knik Arm Bridge has shrunk from \$230 million to \$93 million dollars. The state match is not on the table yet so that is a "wait and see." He compared the deal to buying a house and said if you have a good down payment the mortgage is easy to find.

2:29:32 PM

SENATOR FRENCH asked Mr. Green whether there was something about the non-recourse bonds that required more explicit language in the bill.

MR. GREEN said yes. The original legislation did set up the authority to issue revenue bonds but it also said the Authority had to come back to the Legislature to get approval for the aggregate amount of the bonds.

SENATOR FRENCH asked the process of how the bonds would be sold. He questioned the relationship between TIFIA and the United States Department of Transportation.

MR. GREEN responded technically there is no relationship from a legal perspective but from a financial perspective they are both funding sources. The state would have no obligation on the bonds.

2:33:19 PM

SENATOR FRENCH noted the primary mechanism is to sell the bonds on Wall Street and then the federal government notes a multiplier effect.

MR. GREEN explained the purpose of the TIFIA loan program is to provide subordinated debt to fill gaps in the funding stream. It is a layered financing mechanism that has to be coordinated but not necessarily dependant on one another.

SENATOR FRENCH clarified that they all ultimately look to the toll as the source of repayment.

MR. GREEN agreed.

[2:34:50 PM](#)

SENATOR KOOKESH asked whether they are confident they have the money to build the bridge.

MR. WUERCH responded they have a work plan that phases the project and they hope to get some work done in summer of 2006. There is also a governor's bill, which includes paving the Port McKenzie Road. Initially that was a large cost associated with building the bridge but it is now proposed as a separate funding item in the supplemental. KABATA is working closely with the Port of Anchorage to share as many costs as possible. After the pre-built pieces are done, then they intend to sit down with private investors and look for partnerships to finish up the project. The idea of phasing allows the project to move ahead.

[2:36:27 PM](#)

SENATOR COWDERY expressed support for the paving project on the Port McKenzie Road.

MR. WUERCH agreed.

[2:38:28 PM](#)

CHAIR HUGGINS noted the Anchorage Parking Authority is allowed to access a person's permanent fund dividend to collect on fees owed and said there are provisions in SB 303 which allow that as well.

MR. GREEN agreed. He said the financial advisors and others like the language of the bill.

[2:41:42 PM](#)

CHAIR HUGGINS said SB 303 seems to be directed more toward the Senate Finance Standing Committee than the Senate Transportation Standing Committee.

MR. GREEN added the CS takes things a step further, which would allow the Authority to build the bridge in phases without 100 percent financing. He said the bill places a ceiling on the total amount of revenue bonds that could be issued by the Authority. The State Bond Council, the attorney general's office, and the Department of Revenue reviewed the bill and the suggestions made have been incorporated in the CS. He made note of a typographical error that needs correcting.

[2:47:50 PM](#)

SENATOR FRENCH noted the cost of steel is rising each year. He asked Mr. Wuerch whether the funds for the project would cover the true costs of steel.

MR. WUERCH admitted KABATA was concerned as well and commissioned their engineering firm to look at commodity pricing. There are two concepts for bridge construction, reinforced concrete or all steel trust. Both options would still be estimated at \$600 million or less taking into consideration the increased price of steel. KABATA built a contingency in the initial cost so the commodity increase has been accommodated.

SENATOR FRENCH said fiscal conservatives worry that proponents of a project typically over-estimate benefits and under-estimate costs. He said his gut feeling was that the KABATA estimates were lower than what they are actually going to be. He expressed concern that the outcome would be a toll so high that nobody could use the bridge.

[2:51:26 PM](#)

ANTON JOHANSEN commented on the bill. He said the traffic on the Whittier Tunnel is lower than was projected and the state now takes \$2 million a year out of the Statewide Transportation Improvement Program (STIP) to fund the operational costs. He said he heard there was lobbying to take more from the STIP. He expressed concern over the funding of the Knik Arm Bridge and said they could destroy state transportation funding. He stated concern that the roads could be built up to the bridge and the bridge might never get built, which would be a case of roads leading to nowhere.

[2:53:27 PM](#)

CHAIR HUGGINS asked Mr. Johansen his affiliation.

MR. JOHANSEN identified himself as a highway contractor and partner with Great Northwest Incorporated.

2:54:01 PM

STEVE CLEARY, executive director, Alaska Public Interest Research Group (AKPIRG), shared concerns over the relationship with KABATA and the State of Alaska. He said he interprets the bill to read such that KABATA would have eminent domain power, which should be reserved for government agencies. He wondered whether the state would have to consume the debt were KABATA to fail and go bankrupt. He said the bill also gives KABATA the power to sell land and to receive land from the state, which appears like a land grant. He suggested they put a higher limit on the bonds.

2:56:08 PM

MR. CLEARY added there were bills out in the current Legislature limiting the powers of eminent domain and he questioned whether other toll authorities receive it. Finally, he said it appears there could be conflict of interest between KABATA and the land ownership status on either side of the bridge. If a staff or board member owns land but was also deciding on eminent domain of that land it would appear to be a conflict of interest. He looked up the State Bond Committee and said it encompasses the commissioners of the Departments of Community and Economic Development, Administration, and Revenue and that the commissioner of Revenue is a board member of KABATA.

2:58:00 PM

CHAIR HUGGINS asked Mr. Cleary whether he supported the Knik Arm crossing.

MR. CLEARY said his group was not in support of the Knik Arm crossing. They believe it will be a financial burden to the state and that the state will end up stuck with both the construction and operational cost of the bridge.

JIM CANTOR, Chief Assistant Attorney General, Transportation Section, Department of Law (DOL), announced that he was available to answer questions. As far as eminent domain authority, the Alaska Railroad has that, he said.

CHAIR HUGGINS asked Mr. Cantor about the authority to own and manage the land.

MR. CANTOR said currently the Department of Natural Resources (DNR) and the Department of Transportation (DOT) manage the land.

CHAIR HUGGINS asked Mr. Cantor whether there was a conflict of interest with the Commissioner of the Department of Revenue being on both boards.

MR. CANTOR said not from a legal perspective. The Attorney General wants a bill that would meet KABATA's requirements but also make sure that nothing halts the ability of the state to issue the bonds and that it would be a revenue bond.

3:01:13 PM

TOM BOUTIN, Deputy Commissioner, Department of Revenue (DOR), testified that the DOR has a seat on each of the boards that issues debts and he is the person delegated to those seats. SB 303 sets up the ability to issue stand-alone revenue bonds and those bonds would not impact the State of Alaska credit. Some state agencies have the authority to issue a variety of credits. The Student Loan Corporation, for instance, is authorized by the Legislature to issue state moral obligation debt and they are revenue bonds backed by student loan receipts. There are revenue bonds that carry the moral obligation to the state, which carry a higher level of credit and a higher level of commitment than is in SB 303.

3:02:35 PM

A small amount of the debt of Alaska Housing Finance Corporation is moral obligation debt and some is state guaranteed debt, which was authorized by the Legislature and by the voters. Some of Alaska Industrial Development Export Authority (AIDEA) debt carries a moral obligation, which has to be authorized by the Legislature but most of their debt issuing programs are stand-alone revenue bonds. The international airport system is a stand-alone revenue bond, relying entirely upon the rates and fees of the airport system.

CHAIR HUGGINS asked Mr. Boutin whether he felt there was a conflict of interest with an employee from the DOR sitting on the KABATA board.

MR. BOUTIN said no. The Department of Revenue is secretary to the State Bond Committee and has a seat on each of the boards that issue debt. Those boards issue debts that have different levels of credit security and commitment by the state. SB 303 authorizes stand-alone revenue bonds and the bondholder's

recourse would be limited to the rates and fees and the value of the structures and any revenues and reserve funds that have been pledged by KABATA to repay the debt.

3:04:50 PM

MERLE THOMPSON testified against SB 305. Initially he was in favor of the bill but has attended many meetings on the project and now questions whether it is a good idea. He mentioned dangerous stretches of road close to the proposed bridge that need improvement and suggested that should be a priority.

3:07:51 PM

MR. THOMPSON felt that most people would not use the bridge because it does not save much time and the cost seems prohibitive. He said business owners in Wasilla have expressed concern that a bypass road would affect their businesses.

3:10:02 PM

CHAIR HUGGINS asked Mr. Thompson whether he would be in support of the bridge if the government earmark were intact.

MR. THOMPSON said he would feel better if the state had the federal monies. He described himself as a fiscal conservative and said SB 303 does not seem fiscally responsible.

STEPHANIE KESLER, President, Government Hill Community Council, testified with concern over KABATA's power of eminent domain. She said the KABATA board is very small and only requires a quorum of three who would be able to exercise eminent domain. Three private individuals would have the power of eminent domain and could take property if they so desire. She said their experience with KABATA during the EIS process has been a less than positive experience. She challenged the will of KABATA to follow an open process in good faith.

3:14:17 PM

SENATOR COWDERY noted that many legislative committees operate with a quorum of three.

STEPHANIE KESLER countered that legislative proceedings are run by elected officials who represent the people. She re-stated her concern that the KABATA board is comprised of private individuals who could benefit from their votes.

3:15:12 PM

EMILY FERRY testified she works with Alaska Transportation Priorities Project, a statewide watchdog group advocating for

safe, reliable, efficient and fiscally responsible transportation within Alaska. She brought the 2005 annual report from KABATA to the committee's attention and advised that, according to their budget; about 256 million dollars are still without an identified funding source. She expressed concern that the project would take away from the other roads in Alaska that are in need of repair.

[3:16:38 PM](#)

MS. FERRY added the second concern was the conflict of interest issue. One of the KABATA board members is Mike Barton, Commissioner of the Department of Transportation, who oversees the STIP process whereby transportation projects are prioritized. Because of that conflict, the Commissioner's position should be removed from the KABATA board. She said her organization was pleased to see the contract tightened and that the state's credit would not be affected.

SENATOR KOOKESH asked Ms. Ferry the process of how Commissioner Barton got appointed to the KABATA board.

MS. FERRY explained it is in the authorizing legislation that the Legislature drafted.

SENATOR COWDERY asked whether her group was affiliated with any other political or watchdog group.

MS. FERRY said they work with other organizations but are essentially a stand-alone organization. They have an advisory board of retired DOT engineers and people within the state. Their funding comes from a variety of foundations.

SENATOR COWDERY asked whether her testimony was a conflict of interest.

MS. FERRY said no. The Alaska Transportation Priorities Project is pretty consistent in their message that Alaska should spend transportation dollars on existing infrastructure first and foremost by improving existing roadways, ferries, airports, ports and harbors.

[3:19:54 PM](#)

COLLEEN JAMES testified in opposition to SB 303. She said the transportation money should be spent on more critical projects.

ROBERT WELLS, Executive Director, MatSu Resource Conservation and Development, testified in support of SB 303. He said the

bridge would be a vital contribution to the future of the MatSu and Wasilla area.

MR. GREEN came back to the table to advise the committee of a technical error in the CS. Page 8 line 24, the sentence should read, "The bond resolution shall fix the aggregate principle amount and..." So after the word "shall" insert "fix the", after the word aggregate, strike the word "the" and strike the second "fix."

CHAIR HUGGINS advised he would transfer the CS back to the drafters. He said he preferred to move the bill today since it really was more of an issue for the Senate Finance Standing Committee.

[3:24:53 PM](#)

SENATOR COWDERY moved CSSB 303(TRA) from committee with individual recommendations and attached fiscal notes.

There being no further business to come before the committee, Chair Huggins adjourned the meeting at [3:25:55 PM](#).