

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

April 24, 2007

1:36 p.m.

MEMBERS PRESENT

Senator Albert Kookesh, Chair
Senator John Cowdery, Vice Chair
Senator Donny Olson
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Gary Wilken

OTHER LEGISLATORS PRESENT

Senator Joe Thomas

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 136

"An Act relating to certain municipal service areas that provide road services."

HEARD AND HELD

SENATE BILL NO. 158

"An Act designating the bridge on the George Parks Highway directly north of the Alaska Native Veterans' Honor Bridge as the Shirley Demientieff Memorial Bridge."

MOVED SB 158 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 136

SHORT TITLE: MUNICIPAL ROAD SERVICE AREAS

SPONSOR(S): SENATOR(S) THOMAS

| | | |
|----------|-----|---|
| 03/23/07 | (S) | READ THE FIRST TIME - REFERRALS |
| 03/23/07 | (S) | CRA, TRA |
| 04/05/07 | (S) | CRA AT 3:30 PM BELTZ 211 |
| 04/05/07 | (S) | -- MEETING CANCELED -- |
| 04/10/07 | (S) | CRA AT 3:30 PM BELTZ 211 |
| 04/10/07 | (S) | -- MEETING CANCELED -- |
| 04/13/07 | (S) | SPONSOR SUBSTITUTE INTRODUCED-REFERRALS |
| 04/13/07 | (S) | CRA, TRA |

04/17/07 (S) CRA AT 3:30 PM BELTZ 211
04/17/07 (S) Moved SSSB 136 Out of Committee
04/17/07 (S) MINUTE(CRA)
04/18/07 (S) CRA RPT 3DP 1NR
04/18/07 (S) DP: OLSON, THOMAS, WAGONER
04/18/07 (S) NR: KOOKESH
04/24/07 (S) TRA AT 1:30 PM BUTROVICH 205

BILL: SB 158

SHORT TITLE: SHIRLEY DEMIENTIEFF MEMORIAL BRIDGE
SPONSOR(S): SENATOR(S) KOOKESH

04/18/07 (S) READ THE FIRST TIME - REFERRALS
04/18/07 (S) TRA
04/24/07 (S) TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

Senator Joe Thomas
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SSSB 136.

Grier Hopkins
Staff to Senator Thomas
Juneau, AK

POSITION STATEMENT: Available for questions on SSSB 136.

Renee Broker, attorney
Fairbanks North Star Borough Legal Department
Fairbanks, AK

POSITION STATEMENT: Available for questions on SSSB 136.

Tim Beck
Fairbanks North Star Borough Assembly
Fairbanks, AK

POSITION STATEMENT: Available for questions on SSSB 136.

Tammy Wilson, representing herself
Fairbanks, AK

POSITION STATEMENT: Against SB 136

Ed Mahoney, representing himself
Kodiak, AK

POSITION STATEMENT: Supported SSSB 136 with the deletion of section(4).

Dorothy Shockley
Staff to Chair Kookesh
Juneau, AK

POSITION STATEMENT: Presented SB 158 for the sponsor.

Scott Fisher, representing himself
Fairbanks, AK

POSITION STATEMENT: Supported SB 158.

William Lord, Commander
Alaska Native Veterans Association
Nenana, AK

POSITION STATEMENT: Supported SB 158.

Tim Wallis
Doyon Properties
Fairbanks, AK

POSITION STATEMENT: Supported SB 158.

Harry Fields, Vice President
Alaska Native Veterans Association
Fairbanks, AK

POSITION STATEMENT: Supported SB 158.

Benno Cleveland, President
Alaska Native Veterans Association
Fairbanks, AK

POSITION STATEMENT: Supported SB 158.

ACTION NARRATIVE

CHAIR ALBERT KOOKESH called the Senate Transportation Standing Committee meeting to order at [1:36:11 PM](#). Senators Cowdery, Olson, Wielechowski, and Chair Kookesh were present at the call to order.

SSSB 136-MUNICIPAL ROAD SERVICE AREAS

CHAIR KOOKESH announced SSSB 136 to be under consideration, and added that the bill would not be moved out of committee that day by request of the sponsor.

SENATOR THOMAS, sponsor of SSSB 136, said that the bill allows someone who is not using their service district's road as primary access to opt out of the district, and for people to be incorporated into a district if they use that district's access road frequently.

[1:38:37 PM](#)

GRIER HOPKINS, staff to Senator Joe Thomas, said that the main intent of the bill is to allow for more fairness within the tax structure for road service areas in Fairbanks. A person can be relocated to a service area that he uses more than his own. Also, he said it gives the borough assembly the power to move a person from one road service area to another as needed. He referenced a diagram showing how the bill would affect roads in the Fairbanks North Star Borough.

[1:39:53 PM](#)

SENATOR COWDERY asked how many people are needed to create a service area.

MR. HOPKINS replied that he would find that information for the committee.

SENATOR COWDERY commented that a service area with a small number of people is often used by people outside a service area, and they shouldn't be forced to join.

[1:41:29 PM](#)

SENATOR THOMAS noted that the attorney for the Fairbanks North Star Borough was available for questions, and asked if Senator Cowdery was talking about a public road that services both.

SENATOR COWDERY replied that all the roads are public whether they are in a service area or not.

SENATOR THOMAS responded that these roads are considered more private for purposes of maintenance funding.

[1:42:53 PM](#)

SENATOR WIELECHOWSKI asked for clarification on changes in new sections 3 and 4.

SENATOR THOMAS explained that section 3 will require approval by the voters in a subdivision proposed to be added to a road service area if the roads provide the only access to the subdivision. It also addresses moving people into a district whose roads they use.

Section 4 addresses removing people from a district that they don't use. The bill was inspired by situations where people were using roads that were not in their own district.

[1:45:25 PM](#)

SENATOR WIELECHOWSKI asked if the current problem is that some people aren't in service districts. "What is the practical problem?"

SENATOR THOMAS replied the problem is two-fold; people aren't using the roads they're supposed to, and they're using others instead.

SENATOR WIELECHOWSKI asked if the issue is a matter of people wanting to be let in or out of districts.

SENATOR THOMAS replied that the bill is about accommodating peoples' and the service district's wishes.

SENATOR WIELECHOWSKI asked if anyone opposed the bill.

SENATOR THOMAS replied that there has been opposition from one person, who was available online for testimony.

[1:47:07 PM](#)

SENATOR COWDERY asked if the mil rate is determined by the square lot footage or frontage area of a district.

[1:47:57 PM](#)

RENEE BROKER, attorney for the Fairbanks North Star Borough, replied that in the borough there is no minimum number of lots necessary to create a service area. The assessment policy uses the property tax system; service areas come up with a budget, and the mil rate is determined based on those costs.

SENATOR COWDERY commented that the Anchorage assessment is two mils.

MS. BROKER replied that different service areas have different budgets.

SENATOR COWDERY asked who collects the funding.

MS. BROKER replied that the service mil rate is put into each area's account and they spend it accordingly. The mil rate is according to assessed value.

SENATOR COWDERY commented that in Anchorage the rate is calculated by lot frontage.

[1:50:57 PM](#)

MS. BROKER clarified that Senator Cowdery was talking about a special assessment, and she was referring to property taxing.

She remarked that there is a road service committee which unanimously voted to support the bill, as did the assembly. It establishes a fair standard for determining a property's service area. Some service areas are struggling to tax themselves sufficiently for maintenance when a lot of non-service area users are causing most of the damage. For example, gravel-hauling businesses not based in the service areas contribute significantly to road degradation.

[1:53:39 PM](#)

SENATOR WIELECHOWSKI asked if Ms. Broker had any concerns about the constitutionality of the bill.

MS. BROKER replied she did not have constitutional concerns.

SENATOR WIELECHOWSKI asked if the re-districting decision will be made by the voters, and if that would affect her analysis of constitutionality.

MS. BROKER replied that the assembly should and will be the entity making the decision; no separate vote will be required other than the assembly's.

[1:55:40 PM](#)

SENATOR WIELECHOWSKI referred to page 2, lines 1 and 2, that say, "This subsection does not apply to or require approval by voters presiding in a subdivision or parcel."

MS. BROKER explained that this language is starting from the premise that every alteration requires a vote of the property being put in and a vote of the service area it's going into. It's eliminating the required vote of the property being put in; it maintains the vote for the service area it is going into.

[1:56:25 PM](#)

SENATOR COWDERY asked if the restrictions apply to homeowners who have concrete or topsoil hauled to their property.

MS. BROKER replied that this bill doesn't intend to address that issue; it's trying to say if you're a property owner and using roads for whatever purpose, you ought to contribute to the cost of maintaining it.

[1:57:44 PM](#)

TIM BECK, Fairbanks North Star Borough Assembly, said that he fully supported the bill. It's a matter of parity; people shouldn't be allowed to use roads at no cost and shouldn't have to pay taxes for roads to which they don't have access.

[1:59:13 PM](#)

SENATOR COWDERY referenced Senator Wielechowski's comment and said the use of the road has nothing to do with the assessment. He said fuel trucks use all the roads in Fairbanks for instance.

MR. BECK responded this doesn't preclude that from happening; it only ensures that if properties beyond the border of the road service area are using the roads as their primary access, they will be come a paying participant in helping to maintain those roads.

[2:00:25 PM](#)

SENATOR WIELECHOWSKI asked if a particular gravel company was using a road and not paying into the service area, and if it was part of the service area.

MR. BECK replied no; it was developed after the service area had been formed. Currently, if the service area would choose to add those folks in, each respective side would vote. The question is if you had a property in the area and knew you could just say no to paying a tax, what incentive is there to say yes.

SENATOR WIELECHOWSKI asked if this particular company could use another local road to access its gravel pit.

MR. BECK replied in this situation, no.

SENATOR WIELECHOWSKI replied that this is the constitutional issue - a new service shall not be established if the new service can be provided by an existing service area or by incorporation as a city or by annexation to the city.

MR. BECK replied that's what this would allow. It would allow an existing service area to encapsulate the party that is not in an existing road service area.

[2:02:32 PM](#)

TAMMY WILSON, representing herself, said she lives in the North Star Borough and that she understands the reasoning behind the bill. She said these problems could have been handled through the planning and zoning or platting process. She asked that an amendment be added to define the difference between public and

private roads. Last fall she was forced into a road service area, but she still has to maintain her quarter-mile road. She went to the borough assembly and asked that her private section be taken out, but was denied. Since then she has been told she should have never been put in it because private roads cannot be put into road service areas. However, because she cannot find any definition of a private road; she can find a public road definition saying it has to be given up as a public road.

2:05:01 PM

SENATOR WIELECHOWSKI asked Ms. Wilson if her private road is on her private property.

MS. WILSON replied no. She explained that she owns property on both sides of the road and the deed says they cannot block it. Title 17 of the borough counts it as a private road.

SENATOR WIELECHOWSKI asked who owns the road.

MS. WILSON replied that no one owns the road; she and the neighbors own property on each side of the road.

SENATOR WIELECHOWSKI asked if the road is a borough easement.

MS. WILSON replied that it was originally an easement given to the original owner of the property. She had her own access to it until a subdivision came in and blocked it. Now they have to go through the subdivision.

SENATOR WIELECHOWSKI said if it is truly a private road on her private property, he didn't think it could be put into a service area. If it was a borough road, it could.

2:06:30 PM

MS. WILSON said the problem is that there is no definition of what a private road is and there have been previous attempts to put the road into a service area.

SENATOR WIELECHOWSKI asked for the legal description of the land that is being defined as a private road.

MS. WILSON replied that her deed says that it is a rural road.

SENATOR WIELECHOWSKI asked if the road is a borough road.

MS. WILSON replied no.

SENATOR WIELECHOWSKI asked what it says on the legal description.

MS. WILSON responded that "the area that's been designated is Canoro Road and cannot be blocked by any homeowner." The borough attorney also told her it's a private road.

[2:07:26 PM](#)

SENATOR COWDERY asked what the difference is for easements of an alley and a road.

MS. WILSON said she assumed that an alley is a road behind a house in a city; her road is outside the City of Fairbanks.

SENATOR COWDERY said that in Anchorage a certain amount of footage is required for a road.

MS. WILSON said that the area used to be a homestead.

SENATOR COWDERY asked how wide her road is.

MS. WILSON replied 30 feet wide on a good day.

[2:08:38 PM](#)

ED MAHONEY said he is a service district chairman in Kodiak and is representing himself. He said he appreciated the idea of the bill but this is not a one-size-fits-all issue. He supported SB 136, but opposed (4) because it could potentially remove a substantial tax base that service districts now depend on and further burden others.

MR. MAHONEY said the only access to some properties in Kodiak is through city streets - that are maintained by the city. This bill would remove those properties from his area's tax base. He didn't know how this could be modified and suggested just deleting (4).

He also didn't think the mil levy provided fairness, because someone with a half-million dollar home pays way more and probably drives the same as someone who has a \$200,000-home.

MR. MAHONEY also asked what caused them to change the language in 2001 to what it is now and opined that it might have something to do with Article 10 of the State Constitution.

[2:12:44 PM](#)

He also felt that new legislation shouldn't be handed off to local governments; it could just as easily be at the state level, which would lessen the opportunities for lawsuits at the local level. He asked if this bill became law, would subdivisions and parcels that now enjoy the benefit of using service district roads without cost be grandfathered or would they have to come into compliance. Also, if the borough takes over area-wide road powers, would there be exceptions for the subdivisions and parcels that don't use borough roads for their access. Since language in this bill refers to "road service area" he assumed the relief some believe this bill would bring would disappear under the area-wide scenario.

[2:13:58 PM](#)

SENATOR COWDERY asked if Mr. Mahoney was saying that the bill will affect the whole state.

MR. MAHONEY replied that as he understands it, the bill will be effective statewide. While it may work well for big communities, smaller ones could be adversely affected.

SENATOR WIELECHOWSKI said that removing the section (4) could take away the right to vote on certain issues and asked if the access in a certain part of Kodiak is only by city access.

MR. MAHONEY replied yes.

SENATOR WIELECHOWSKI asked why the city streets were in a service area to begin with.

MR. MAHONEY related the history of the service districts in relation to sewer and water service.

SENATOR WIELECHOWSKI said that the people in an area serviced by city roads shouldn't pay maintenance fees for a special service area.

MR. MAHONEY said that no one would maintain the roads otherwise, because they're not in the city limits.

SENATOR WIELECHOWSKI asked if the roads are therefore not city access roads.

MR. MAHONEY replied that they are city access roads and referenced the map he provided to the committee.

[2:16:58 PM](#)

SENATOR WIELECHOWSKI asked if the area is a road service area.

MR. MAHONEY replied yes.

SENATOR WIELECHOWSKI asked who pays for the road maintenance.

MR. MAHONEY replied that the service district maintains the roads accessed through the city.

SENATOR WIELECHOWSKI replied that he's not sure section (4) has the impact Mr. Mahoney thinks it will because a city area won't be included in a road service area to begin with.

MR. MAHONEY said that the subdivision he pointed out is accessed through city roads and, as the bill language stands, the subdivision wouldn't have to pay maintenance fees.

[2:18:47 PM](#)

SENATOR WIELECHOWSKI asked if the sponsor had any thoughts on the matter.

SENATOR THOMAS replied that in his understanding a city road supplies access to an area, and section (4) would allow those people to remain outside the service area. If it's a sewer and water system area, that's a different matter.

[2:20:20 PM](#)

SENATOR WIELECHOWSKI said that the members of the subdivision should be taken out of the district because the road is already being paid for.

MR. MAHONEY asked who would maintain the roads otherwise.

SENATOR WIELECHOWSKI replied that the city or borough would.

MR. MAHONEY said that the city or borough would not do so.

CHAIR KOOKESH said that the intention of the committee was not to move the bill, and that the sponsor would be examining the companion bill moving through the other body.

[2:21:25 PM](#)

SENATOR THOMAS said that he eventually intends to merge the bill with its companion and informed them that the rules for city and rural roads may be different for different districts.

[2:22:43 PM](#)

CHAIR KOOKESH asked the sponsor to consider an amendment defining the difference between a private and public road.

MR. MAHONEY said that the effect of the bill on small communities should be considered.

SSSB 136 was held for further consideration.

SB 158-SHIRLEY DEMIENTIEFF MEMORIAL BRIDGE

[2:23:41 PM](#)

CHAIR KOOKESH announced SB 158 to be up for consideration.

DOROTHY SHOCKLEY, aide to Chair Kookesh, sponsor of SB 158, explained that Ms. Shirley Demientieff was a community activist and leader and the bill will name a bridge near Fairbanks after her. She referenced a photo provided to the committee.

CHAIR KOOKESH explained the photo to the committee.

[2:26:04 PM](#)

SENATOR OLSON asked for the current name of the bridge.

MS. SHOCKLEY replied that it doesn't have one.

[2:26:27 PM](#)

REVEREND SCOTT FISHER, Rector at St. Matthews, Fairbanks, representing himself, said that he was a friend of Ms. Demientieff's for 30 years and had suggested a statue of her originally, but her compassion for those who were in need or hurting makes the idea of naming a bridge after her is ideal.

[2:29:45 PM](#)

WILLIAM LORD, commander of the Alaska Native Veteran's Association, Nenana, applauded the idea of naming the bridge after Ms. Demientieff. He said she was connected to the Alaska Native veterans through her work with the Alaska Natives Veterans Honor Bridge and he thought it would be appropriate to have that small bridge connected to the Alaska Native Veterans Bridge.

[2:30:57 PM](#)

SENATOR OLSON asked if Mr. Lord was the only testifier from Nenana.

MR. LORD replied yes.

SENATOR OLSON asked for the sentiment of the community regarding the bill.

MR. LORD said that many people are in support of the bill.

[2:31:44 PM](#)

TIM WALLIS, Doyon Properties, said he supported SB 158 and complimented Ms. Demientieff's character.

[2:32:37 PM](#)

HARRY FIELDS, Vice President, Alaska Native Veterans Association, said that he supported the bill and talked about his relationship with Ms. Demientieff.

[2:33:54 PM](#)

BENNO CLEVELAND, President, Alaska Native Veterans Association, said that he supported the bill and that Ms. Demientieff was very supportive of the association; he spoke about his admiration for her.

[2:37:10 PM](#)

SENATOR WIELECHOWSKI moved to report SB 158 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

There being no further business to come before the committee, Chair Kookesh then adjourned the meeting at [2:37:37 PM](#).