

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

February 17, 2009

1:10 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Craig Johnson, Vice Chair
Representative Kyle Johansen
Representative Cathy Engstrom Munoz
Representative Mike Doogan
Representative Max Gruenberg

MEMBERS ABSENT

Representative John Harris

COMMITTEE CALENDAR

HOUSE BILL NO. 114

"An Act relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aid during a disaster emergency."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 114

SHORT TITLE: USE STATE TRANS FACILITY FOR DISASTER AID

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/04/09 (H) READ THE FIRST TIME - REFERRALS

02/04/09 (H) TRA, FIN

WITNESS REGISTER

REPRESENTATIVE JAY RAMRAS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions as prime sponsor of HB 114.

DANA STROMMEN, Staff

Representative Jay Ramras

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the prime sponsor of HB 114.

MCHUGH PIERRE, Director of Communications, Legislative Liaison
Office of the Commissioner
Department of Military & Veterans' Affairs (DMVA)
Ft. Richardson, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 114.

MIKE MITCHELL, Senior Assistant Attorney General
Civil Division, Labor and State Affairs Section - Anchorage
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 114.

ACTION NARRATIVE

[1:10:54 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:10 p.m. Representatives Doogan, Johansen, Munoz, and Wilson were present at the call to order. Representatives Gruenberg and Johnson arrived as the meeting was in progress.

HB 114-USE STATE TRANS FACILITY FOR DISASTER AID

[1:11:00 PM](#)

CHAIR WILSON announced that the only order of business would be HOUSE BILL NO. 114, "An Act relating to availability of state transportation facilities and state-owned or state-operated transportation modes for delivering compassionate aid during a disaster emergency."

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REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, prime sponsor of HB 114, stated that he would be available to answer questions, but his staff, Dana Strommen, will present the bill.

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DANA STROMMEN, Staff, Representative Jay Ramras, Alaska State Legislature, testified on behalf of the prime sponsor, Representative Ramras of HB 114. She explained the reason to add "compassionate aid" by state-owned or state-operated transportation modes during a disaster emergency. She related that during the initial week of the legislative session, the village of Emmonak circulated a plea for help since very high food and fuel costs forced some to make a choice between purchasing food and heating fuel. She offered that some churches such as Zion Lutheran Church and other nonprofits collected over 1,000 pounds of food for the village in Western Alaska. However, an issue arose with transportation costs which meant about 30 to 40 percent of the cash donations raised would be needed to transport food to the village. She remarked that a can of Crisco shortening cost \$18 in the village. Ms. Strommen reiterated that the organizations would have to sacrifice some funds for transportation costs.

MS. STROMMEN received overwhelming support from an outpouring of private donations and relief nationwide. Thus, Representative Ramras spearheaded raising over 4,000 pounds for Kotlik, a village northeast of Emmonak. Subsequently, donations have been collected for 11 villages facing similar circumstances. These villages are targeted since the tribal councils specifically wrote to the Department of Commerce, Community, & Economic Development (DCCED) to request recognition for an "economic disaster" which is still pending. Currently, many private and faith-based organizations in Fairbanks and Anchorage are working to provide food for 11 villages. The purpose of HB 114 is to allow the state to aid in transportation through agencies such as the Department of Public Safety (DPS), which assisted in transporting over 4,000 pounds of food to Kotlik in the past several weeks.

MS. STROMMEN reiterated that this bill will allow nonprofit organizations to donate the entire amount of the relief to those who need it. This bill also addresses the issue of the necessity for declaring a disaster, since many transportation modes could be used to reach out a helping hand to make donations during times of imminent economic disaster.

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REPRESENTATIVE JOHNSON recalled an article in an Anchorage paper during the 1980s in which villagers could not hunt since the caribou migration was significantly delayed. He further

recalled that the state flew in the meat. He inquired as to whether this bill is needed or what has changed since 1980.

MS. STROMMEN responded that the DCCED sends people to assess situations prior to declaring an economic disaster. This bill could work in tandem with the DCCED to provide a means to initially help people prior to the protocol steps being taken to declare a disaster.

REPRESENTATIVE JOHNSON maintained his concern that the bill may not be necessary since the state previously used Alaska State Trooper aircraft to fly meat between villages.

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The committee took an at-ease from 1:19 p.m. to 1:20 p.m.

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REPRESENTATIVE RAMRAS answered that he cannot explain why the state is not addressing the need in Western Alaska. He opined that it troubles him deeply. He related that he and a member from the other body flew to Western Alaska. He said, "It saddens me greatly." He explained he has personally been involved in anti-hunger relief in his community for 12 to 15 years, raising one million pounds of food for the Fairbanks Community Food Bank.

REPRESENTATIVE RAMRAS related that he considers hunger as the lowest common denominator next to personal safety. He related that no one can afford to buy the food in the villages. He opined that is the same reason that food banks are located in urban areas. He related that the working poor, or in this instance a large cross section of the community cannot afford to purchase food. He remarked that a three pound can of Crisco, which sells for \$5 in Juneau sells for \$9 in Nome and \$18 in rural Alaska. He stated that eggs cost \$25 a dozen and other staple items such as flour and milk are not affordable. He said that this goes right to the dignity of people in rural Alaska. He questioned how strong our society is if rural Alaskans are not treated with the same measure of dignity that is afforded in our urban districts.

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REPRESENTATIVE JOHNSON applauded the work that Representative Ramras has done to address hunger. He inquired as to whether he could explain what has changed in the past 20 years.

REPRESENTATIVE RAMRAS related his understanding that the legislature tightened up the parameters for declaring disasters. He recalled that the parameter for declaring a disaster is currently related to the federal level of income, which was set at \$24,000. He indicated that the average per capita income in Western Alaska is \$35,000 per person. However, he emphasized that when a household is paying \$600 for electricity, with heating costs for a 1,000 square foot home in excess of \$1,000 per month, but sell salmon to generate income, that it is difficult to survive. He said, "It's hard out there." He related that Lynden, Alaska Airlines, and DPS collectively transported 4,465 pounds of food from Fairbanks grocery stores to Kotlik. He mentioned that of 30 members who greeted Representative Ramras and their senator during a recent visit, that everyone acknowledged that they received the food. He said, "It was humbling."

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REPRESENTATIVE JOHANSEN referred to the bill title which includes the language, "during a disaster emergency." He inquired as to whether the governor has declared this a disaster emergency.

REPRESENTATIVE RAMRAS answered no, that the governor has not declared the area a disaster.

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REPRESENTATIVE JOHANSEN also commended Representative Ramras's work to provide food for the hungry. He referred to on page 2, paragraph (12), to the new language in the bill. He inquired as to whether the new language in the bill is still not available if an emergency is not declared by the governor.

REPRESENTATIVE RAMRAS said that raises an excellent issue and stated that his goal was to provide a lesser remedy that does not "waterfall cash assets into a community" but instead triggers assets of state transportation. He indicated that without the new provision to AS 26.23.020 (12), that the only remedy left to the governor is to provide a half a million dollars of economic aid into a community. He reiterated his

goal was to provide a lesser degree of aid to communities that would not require that a disaster be declared.

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CHAIR WILSON advised that Mr. Mitchell from the Department of Law is available on line.

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REPRESENTATIVE JOHANSEN referred to page 1, lines 13-14, which states a governor may use all available resources of the state government, which he said he assumed includes state transportation. He acknowledged the high cost of transportation, but inquired as to whether augmenting funds, is redundant.

REPRESENTATIVE RAMRAS offered his belief that a declaration could have been declared. However, this bill would address a narrower provision of AS 26.23.020, to allow a governor to call for a declaration of disaster.

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REPRESENTATIVE DOOGAN related his understanding the reason for zero fiscal note is that emergency funds could be used.

MCHUGH PIERRE, Director of Communications; Legislative Liaison, Office of the Commissioner, Department of Military & Veterans' Affairs (DMVA), answered that the language gives the DMVA an emphasis and direction on how to proceed when the department responds to emergencies. He explained that the change would not impact the DMVA's operating budget. He offered that the Disaster Relief Fund is funded by the legislature. When the fund reaches a certain threshold cost, which he said he believes is between \$500,000 and \$1 million, depending on the situation, the DMVA requests additional funds to accomplish the mission and rescue Alaskans. He referred to page 1, lines 13-14, which reads "use all available resources ..." is encompassed in the Disaster Relief Fund.

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MR. PIERRE, in response to Representative Johnson, answered that a disaster declaration does trigger and mobilize the Alaska National Guard, which is a component of the U.S. National Guard. Thus, the assets used are not state assets, but federal assets.

Until a disaster is declared, the DMVA cannot use material, training, and manpower unless it reimburses the federal government. Once a disaster is declared, those resources are available, he stated.

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REPRESENTATIVE GRUENBERG referred to AS 26.23.020, and related his understanding that normally, the governor must declare a disaster, which is defined in AS 26.23.900(2), as basically natural disasters, but would not include economic disaster, which is specifically not included. He indicated that AS 26.23.020 (h) uses the term "incident" instead of disaster. However, he said the term "incident" is not defined. He pointed out that some members have questions whether the bill is necessary since it may have been solved in practice in 1980 or may be covered. He opined that the term "economic emergency" is not mentioned. He surmised that defining "incident" could include a reference to economic emergencies.

MR. PIERRE responded by initially confirming that the DMVA and the administration support HB 114. He related that the administration views the bill as an opportunity to add statutory references that could help people in times of emergency other than "throwing money at it" or using only state assets for relief. He stated that people in the community are willing to provide assistance to others during an emergency. He offered support for the language in the bill and the sponsor's efforts.

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MIKE MITCHELL, Senior Assistant Attorney General, Civil Division, Labor and State Affairs Section - Anchorage, Department of Law (DOL), explained that he represents the DMVA during disasters and that he has held his position since mid-2000. He pointed out the way the bill is written is that it would add to the list of extraordinary gubernatorial powers that apply in the event of a declared disaster. He reviewed several powers, including that it would allow the governor to use private property. He offered his belief that the power is probably subsumed in existing subsection (g) paragraph (2) which allows the governor to use all available resources in the event of a declared disaster.

MR. MITCHELL said that he agrees with prior speakers, that this applies only in the event of a declared disaster. He indicated that the problem with the Emmonak situation is that a purely

economic disaster does not meet the definition of disaster in AS 26.23.900. He remarked that he has recently reviewed the legislative history of changes to that definition in 1999 and 2000. He opined that the legislature provided a clear legislative history that the legislature intended to restrict the governor's powers to use extraordinary disaster powers and funding in the event of a purely economic disaster. That led to changes in the definition which resulted in the list of specific incidents in which a disaster declaration can be issued. He reiterated that the definition creates the limitation that has arisen with respect to a response in Western Alaska. He offered his belief that adding paragraph (12) to the list would not give governor authority to utilize the transportation resources unless a disaster can be declared under AS 26.23.900.

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CHAIR WILSON recalled the City and Borough of Juneau (CBJ) had an energy crisis and that the CBJ Mayor asked to have a disaster declared. She further recalled that did not happen. She inquired as to whether the decision was based on economics or for another reason.

MR. MITCHELL said he did not know. He related that the problem was due to an avalanche, which is within the list that could be used to declare a disaster.

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REPRESENTATIVE GRUENBERG related his understanding that Alaska could benefit with the ability to declare an economic emergency. He inquired as to whether language should be added to define economic emergency.

MR. MITCHELL agreed that he would be available to assist the Legislative Council, since that committee was involved in the 1999 and 2000 changes.

REPRESENTATIVE GRUENBERG offered his services to assist in drafting a definition, if the committee agreed that it would be useful to add a definition. He opined that several circumstances and communities that could have benefitted from a definition, such as last year's avalanche in Juneau.

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REPRESENTATIVE JOHANSEN pointed out that he is a cosponsor of the bill. He inquired as to whether the prime sponsor is interested in adding a definition to the bill.

REPRESENTATIVE RAMRAS agreed that it would be an enhancement to the HB 114 to include a definition for "incident" which he said he believes will address a weakness in the bill. He further noted that doing so could create a wedge without "water falling" cash into communities. He reiterated the bill's purpose, which is to enhance the ability of nonprofits and individuals statewide to assist communities without incurring the high cost of transportation. He related that in 1980, a mechanism was triggered that helped the villagers in rural Alaska. He indicated that three departments, DPS, DCCED, and MVA could only detail future lists, but could not provide acute relief to the "hungry people" in 11 communities. He emphasized his frustration and promised to articulate this appropriately.

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REPRESENTATIVE JOHANSEN inquired as to whether Representative Ramras would work on this matter in a non-partisan effort.

REPRESENTATIVE DOOGAN inquired as to whether the drafters could consider changes that would shorten the bill and not necessitate listing the detail.

REPRESENTATIVE GRUENBERG suggested that they could confer on the matter.

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REPRESENTATIVE JOHNSON inquired as to whether a condition exists that would allow funds to be used for transportation without the governor issuing a declaration of emergency. He summarized his goal would be to provide transportation solutions but not to use any other state expenditures.

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REPRESENTATIVE GRUENBERG inquired as to whether making transportation funding available to nonprofits would increase the state's potential for liability, relating that his goal would be to provide assistance but not increase the state's exposure.

MR. MITCHELL agreed that could be a definite concern. He suggested the committee could work with the Torts and Workers' Compensation Section to consider any liability.

REPRESENTATIVE DOOGAN recalled that unless a disaster is declared that Alaska National Guard funding cannot be used. He offered his belief that transportation would be limited to state aircraft such as the AST aircraft.

MR. PIERRE agreed. He indicated that the DMVA is bound by federal and state law to use Alaska National Guard assets only once a disaster has been declared. However, he noted that other equipment is available such as Department of Transportation & Public Facilities (DOT&PF), and AST ranging from boats to airplanes.

MR. PIERRE, in response to Representative Johnson, explained that the ANGDA Operation Santa Claus is a federally sanctioned mission through the U.S. Department of Defense. He offered that the operation is a goodwill mission to villages, which he said is also used as a recruiting tool.

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REPRESENTATIVE JOHNSON expressed concern and his belief that it is difficult to justify that Operation Santa Claus is elevated above hunger. He said he appreciated that the program is nationally sanctioned and acknowledged his participation by wrapping gifts and obtaining donations.

MR. PIERRE said he did not agree that the operation "trumps hunger" but reiterated that due to state and federal law, the DMVA is prohibited from using equipment unless a disaster declaration has been signed.

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MR. MITCHELL, in response to Chair Wilson, responded that it would not necessarily have an effect on federal law, with respect to the Alaska National Guard assets. He explained that he is researching at the federal level whether ANGDA assets can be used for an "incident", in instances in which a governor issued a proclamation for something less than declaring a disaster. He said, "The long and short is that what the state can do within its constitutional powers cannot trump federal law."

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CHAIR WILSON clarified that she was speaking to the many planes throughout the state that would be available.

MR. MITCHELL agreed that it would be within the governor's authority to use state assets in an emergency, provided that sufficient statutory authority exists. He opined that AS 26.23 needs to be reviewed to determine if sufficient authority exists.

CHAIR WILSON inquired as to whether the governor currently has that power.

MR. MITCHELL agreed that the governor has the authority but only during a declared disaster.

CHAIR WILSON emphasized that the committee will need Mr. Mitchell's assistance to ensure that that the bill is appropriately crafted to comply with the state and federal constitutions.

MR. MITCHELL agreed he could assist. However, he opined that the authority does not exist under current law short of a declared disaster.

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CHAIR WILSON recalled that the economic disaster in the 1980s happened since the caribou not yet migrated. She inquired as to whether the villagers could hunt.

REPRESENTATIVE RAMRAS described the situation in the 11 Western Alaska villages. He indicated that the fish runs were not satisfactory. He explained that he held discussions with an elder from the community of Unalukleet who suggested that the problem stems from a narrowing of fish run from 120,000 to 20,000 during the past decade. He emphasized that in the past, the state responded and people found a way to obtain transportation resources. He offered his frustration stems from the compilation of lists and inventories instead of addressing the acute need. He said, "We seem to be bound by a larger bureaucratic Gordian knot." He opined he is trying to unravel the knot, but that Alaska is now part of a global village. He observed that people might be sick but wait until they need to emergency airlifts simply because people cannot afford preventative health care services. He further emphasized that

fuel cost \$10 per gallon. He related a scenario during which residents of Kotlik could not afford to travel to a potlatch held in Emmonak, 30 air miles away, but is 60 to 70 miles along a winding river. Thus, it could cost \$60 to \$70 to visit. He recalled a recent editorial that discusses these cultures have survived 10,000 years, yet are currently undergoing difficulties.

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CHAIR WILSON assigned HB 114 to a subcommittee consisting of Representatives Munoz, chair, Gruenberg, and Johnson. She recapped that the subcommittee would work with Mr. Marsh, and will report back to the committee.

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ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:04 p.m.