

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

April 14, 2009

2:56 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

CS FOR SENATE BILL NO. 148(JUD)

"An Act relating to limitation of state liability on certain federal highway programs; and providing for an effective date."

- MOVED HCSCSSB 148(TRA) OUT OF COMMITTEE

CS FOR SENATE BILL NO. 59(TRA) am

"An Act relating to the operation of low-speed vehicles."

- MOVED HCSCSSB 59(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 148

SHORT TITLE: LIABILITY FOR TRIBAL ROAD CONSTRUCTION

SPONSOR(s): TRANSPORTATION BY REQUEST

03/13/09	(S)	READ THE FIRST TIME - REFERRALS
03/13/09	(S)	TRA, JUD
03/24/09	(S)	TRA AT 1:00 PM BUTROVICH 205
03/24/09	(S)	Moved SB 148 Out of Committee
03/24/09	(S)	MINUTE(TRA)
03/25/09	(S)	TRA RPT 4DP 1NR
03/25/09	(S)	DP: KOOKESH, MENARD, DAVIS, MEYER
03/25/09	(S)	NR: PASKVAN
03/30/09	(S)	JUD AT 1:30 PM BELTZ 211
03/30/09	(S)	Heard & Held

03/30/09 (S) MINUTE(JUD)
 04/06/09 (S) JUD AT 1:30 PM BELTZ 211
 04/06/09 (S) Moved CSSB 148(JUD) Out of Committee
 04/06/09 (S) MINUTE(JUD)
 04/07/09 (S) JUD RPT CS 1DP 3NR SAME TITLE
 04/07/09 (S) DP: FRENCH
 04/07/09 (S) NR: THERRIAULT, WIELECHOWSKI, MCGUIRE
 04/09/09 (S) TRANSMITTED TO (H)
 04/09/09 (S) VERSION: CSSB 148(JUD)
 04/10/09 (H) READ THE FIRST TIME - REFERRALS
 04/10/09 (H) TRA, JUD
 04/14/09 (H) TRA AT 1:00 PM CAPITOL 17

BILL: SB 59

SHORT TITLE: LOW-SPEED MOTOR VEHICLES

SPONSOR(s): SENATOR(s) STEDMAN

01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) TRA, JUD
 01/21/09 (S) PREFILE RELEASED 1/16/09
 02/17/09 (S) TRA AT 1:00 PM BUTROVICH 205
 02/17/09 (S) Heard & Held
 02/17/09 (S) MINUTE(TRA)
 02/24/09 (S) TRA AT 1:00 PM BUTROVICH 205
 02/24/09 (S) Heard & Held
 02/24/09 (S) MINUTE(TRA)
 03/03/09 (S) TRA AT 1:00 PM BUTROVICH 205
 03/03/09 (S) Moved CSSB 59(TRA) Out of Committee
 03/03/09 (S) MINUTE(TRA)
 03/05/09 (S) DP: KOOKESH, MEYER, DAVIS, PASKVAN
 03/05/09 (S) TRA RPT CS 4DP SAME TITLE
 03/18/09 (S) JUD AT 1:30 PM BELTZ 211
 03/18/09 (S) Heard & Held
 03/18/09 (S) MINUTE(JUD)
 04/10/09 (S) JUD AT 1:30 PM BELTZ 211
 04/10/09 (S) Moved CSSB 59(TRA) Out of Committee
 04/10/09 (S) MINUTE(JUD)
 04/11/09 (S) JUD RPT CS(TRA) 1DP 3NR
 04/11/09 (S) DP: THERRIAULT
 04/11/09 (S) NR: FRENCH, WIELECHOWSKI, MCGUIRE
 04/13/09 (S) VERSION: CSSB 59(TRA) AM
 04/13/09 (S) TRANSMITTED TO (H)
 04/14/09 (H) TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

DOROTHY SHOCKLEY, Staff

SENATOR ALBERT KOOKESH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 148 on behalf of the prime sponsor, the Senate Transportation Committee.

MARY SIROKY, Legislative Liaison
Office of the Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 148.

WESTON EILER, Staff
Senator Bert Stedman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 59 on behalf of the prime sponsor, Senator Bert Stedman.

MEGAN PASTERNAK
Sitka, Alaska

POSITION STATEMENT: Testified in support of SB 59.

ACTION NARRATIVE

[2:56:27 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 2:56 p.m. Representatives Doogan, Munoz, Gruenberg, and Wilson were present at the call to order. Representatives Johansen and Johnson arrived as the meeting was in progress.

[2:56:52 PM](#)

SB 148-LIABILITY FOR TRIBAL ROAD CONSTRUCTION

[2:57:03 PM](#)

CHAIR WILSON announced that the first order of business would be CS FOR SENATE BILL NO. 148(JUD), "An Act relating to limitation of state liability on certain federal highway programs; and providing for an effective date."

[2:57:14 PM](#)

DOROTHY SHOCKLEY, Staff, Senator Albert Kookesh, Alaska State Legislature, stated that SB 148 would resolve the issue of liability to the state or employees of the state when partnering with federally recognized tribes under the Indian Reservations Road Program. This bill will assist by leading to long-term improvements in the state's overall transportation infrastructure. As DOT&PF prepares for the next State Transportation Improvement Plan (STIP), for the first time Indian tribes can bring forth matching and maintenance funds. She referred to packet materials including two lists, one showing allocation, and the other detailing the shares per mile and per population. She related that DOT&PF prepared an overview of funding and road inventory funding. She noted that the roads in question are owned by the state and local governments. She highlighted the IRR funding for Alaska tribes and stipulations for IRR funding, which allows up to 25 percent for road maintenance, matching funds, and design and construction. She explained that the economic stimulus funding is estimated at \$35 million. She concluded by stating that the bill will resolve the state's liability issue.

[3:00:41 PM](#)

CHAIR WILSON recapped that SB 148 is basically to address Indian tribe road issues. She stated that this could allow for additional jobs on DOT&PF projects, and limits the state's liability.

[3:01:34 PM](#)

MARY SIROKY, Legislative Liaison, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF), explained that the Department of Transportation & Public Facilities supports the bill. She related that the DOT&PF asked Senator Kookesh to carry the bill. The bill will assist DOT&PF to partner with tribes and will make it much easier for tribal personnel to build technical skills to maintain their own roads.

[3:02:25 PM](#)

CHAIR WILSON, after first determining no one else wished to testify, closed public testimony on SB 148.

[3:02:43 PM](#)

REPRESENTATIVE JOHNSON asked whether the bill will waive the state's liability if someone is working on the roads.

MS. SIROKY answered that SB 148 clearly identifies when an Indian tribe is working on a road using Indian Reservation Road (IRR) funds, the state remains liable for the underlying design. Thus, if a vehicle has an accident due to a design flaw, the state is still liable.

[3:03:42 PM](#)

REPRESENTATIVE JOHNSON asked whether the state is compensated for the design work for the federal government.

MS. SIROKY offered an example in which a road was built and an accident occurred while the Indian tribe was performing maintenance. If a lawsuit was filed due to the curb being too sharp, the state would be held liable. However, in the event that the road is not properly maintained and an accident is caused due to icy roads, the Indian tribe would be held liable.

REPRESENTATIVE JOHNSON asked how SB 148 would benefit the state.

MS. SIROKY answered this bill would allow the DOT&PF to access millions of federal dollars specifically allocated to Indian tribes. She related that \$38 million has been allocated in the economic stimulus funds alone. She offered that the goal would be for Indian tribes to take over road maintenance. Additionally, the DOT&PF would have opportunities to partner with Indian tribes on projects using IRR funding. She reiterated that SB 148 will offer opportunities for the DOT&PF to partner on projects.

[3:06:03 PM](#)

REPRESENTATIVE GRUENBERG related his understanding that the state's liability is governed by existing statutes already. This bill would not affect those statutes nor will it affect people's ability to seek compensation for negligence caused by the Indian tribe. In those instances the person would proceed under the Federal Tort Claims Act (FTCA).

MS. SIROKY agreed. She noted that the DOT&PF attorney is available for more details.

[3:07:07 PM](#)

REPRESENTATIVE MUNOZ related her understanding that the DOT&PF is currently working on a Memorandum of Understanding for the Indian tribes to determine the responsibilities and any opportunities to partner.

MS. SIROKY agreed. She stated the state's liability issue was always the biggest hindrance. She opined that SB 148 will resolve the matter in statute.

[3:07:47 PM](#)

REPRESENTATIVE MUNOZ made a motion to adopt Amendment 1, labeled 26-G-1, (4/8/2009), (1:27 PM), which read [original punctuation provided]:

Page 1, line 14:
Delete "due to"

REPRESENTATIVE MUNOZ explained the language deletion in Amendment 1 was brought to her attention by Senator Kookesh. She related that with the amendment the sentence flows better and ambiguity is reduced.

REPRESENTATIVE JOHANSEN objected.

[3:08:56 PM](#)

MS. SHOCKLEY advised members that Senator Kookesh supports Amendment 1.

REPRESENTATIVE JOHANSEN removed his objection.

There being no further objection, Amendment 1 was adopted.

[3:09:14 PM](#)

REPRESENTATIVE MUNOZ moved to report the House committee substitute (HCS) CSSB 148(JUD), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 148(TRA) was reported from the House Transportation Standing Committee.

[3:09:58 PM](#)

SB 59-LOW-SPEED MOTOR VEHICLES

[3:10:06 PM](#)

CHAIR WILSON announced that the final order of business would be CS FOR SENATE BILL NO. 59(TRA) am, "An Act relating to the operation of low-speed vehicles." She mentioned that the committee also heard the companion bill on April 8, 2009.

[3:10:12 PM](#)

WESTON EILER, Staff, Senator Bert Stedman, Alaska State Legislature, stated on behalf of the prime sponsor of SB 59, Senator Bert Stedman, that SB 59 was amended on the floor of the Senate.

REPRESENTATIVE GRUENBERG made a motion to adopt the proposed House committee substitute (HCS) for CSSB 59(TRA) am, labeled 26-LS0280\N, Luckhaupt, 4/14/09. There being no objection, Version N was before the committee.

MR. EILER stated Version N would incorporate changes to address many of the issues that the Department of Transportation & Public Facilities (DOT&PF) had with the bill. He offered that the bill had several committee hearings in the other body. He referred to language in Version N that incorporates many of the concerns members had on the companion bill, HB 55. He specifically referred to page 1, line 11 of Version N, which adds a provision limiting low-speed vehicles to municipalities with a population of less than 35,000 and to the last provision on page 2. He opined that SB 59 largely mirrors the companion bill.

REPRESENTATIVE JOHNSON asked for an explanation of the differences between SB 59 and Version N.

MR. EILER explained the final version of SB 59 included an amendment that would allow municipalities to pass an ordinance allowing low-speed vehicles to be operated in urban situations. He offered the DOT&PF expressed concern that congestion and safety could be an issue in some urban situations. An earlier version of the bill allowed low-speed vehicles to be operated in municipalities with a population of 25,000 or less that passed an ordinance so long as the municipality was not connected by road to Anchorage or Fairbanks. Thus, compromise language contained in Version N would limit the low-speed vehicles to communities of 35,000 or less.

[3:13:33 PM](#)

CHAIR WILSON related her understanding the DOT&PF was concerned that operating the low-speed vehicles would not be safe due to merging with faster traffic.

MR. EILER agreed. He highlighted that currently low-speed vehicles that top out at 25 miles per hour (mph) are allowed to travel statewide on roads with a speed limit of 35 mph. This bill would recognize the burgeoning use of these vehicles and allow them to travel on roadways posted at 45 mph. However, that disparate speed, a 20 mph difference, raised concern with DOT&PF. Thus, the expansion was limited to areas off the main road system or to smaller communities of 35,000 or less.

[3:14:26 PM](#)

REPRESENTATIVE JOHANSEN related his understanding Version N puts in language that was removed by the other body during floor action.

MR. EILER answered yes.

[3:14:54 PM](#)

REPRESENTATIVE JOHNSON stated he would like the DOT&PF to be on the record with their support. He also said he assumes that the bill sponsor is in total agreement with Version N language.

MR. EILER answered yes.

[3:15:16 PM](#)

REPRESENTATIVE JOHNSON stated he was not sure if it appropriate to ask, but he asked for the floor vote.

CHAIR WILSON answered that it is not appropriate and ruled Representative Johnson out of order.

[3:15:39 PM](#)

REPRESENTATIVE JOHNSON expressed concern that SB 59 has a great deal of value, but if Version N is adopted and the Senate does not concur, the bill would die.

[3:16:11 PM](#)

CHAIR WILSON informed members she did not want to move a bill from committee that the DOT&PF is definitely against. She related that Version N was developed by the sponsor.

REPRESENTATIVE JOHNSON offered his support for the language in the companion bill. He related that the sponsor and the department may support Version N, but the department support should not dictate the vote of the committee. He acknowledged the position, but asked to discuss the action. He recognized the vote in the other body was relevant.

[3:17:24 PM](#)

CHAIR WILSON recognized his concern and said she would allow the discussion.

MR. EILER offered to check the record. He offered his belief the Senate amendment was widely supported and that SB 59 passed unanimously.

[3:17:58 PM](#)

REPRESENTATIVE JOHANSEN offered support for the sponsor's strategy.

[3:18:13 PM](#)

REPRESENTATIVE GRUENBERG pointed out in order to qualify under subparagraph (A) that a municipality must do all three things listed in sub-subparagraph (i), (ii), and (iii). Thus, in order to qualify to operate a vehicle on a highway with a maximum speed limit of 45 mph a highway must be located within a municipality that has a population under 35,000, must not be connected by road to Anchorage or Fairbanks, and the municipality must have passed an ordinance to allow the operation of a low-speed vehicle as provided for in subparagraph (b). He suggested that to make the provision clear, perhaps a friendly amendment could be made. He related that on page 1, after line 13, to add an "and" after the ";" and on page 2, line 1, to add an "or" after ";".

MR. EILER explained that subsection (b) would allow low-speed vehicles to be operated in areas such as Prince of Wales Island that are not connected to the road system. He reiterated that some areas are not connected to the road system.

[3:19:57 PM](#)

REPRESENTATIVE GRUENBERG explained that the purpose of his "friendly" amendment would be to make that allowance perfectly clear. Representative Gruenberg made a motion to adopt Conceptual Amendment 1, as follows:

Page 1, line 13, following ";"
Insert "and"
Page 2, line 1 following ";"
Insert "or"

[3:20:29 PM](#)

CHAIR WILSON objected for purpose of discussion. She asked if an additional word should also be inserted on page 1, line 11.

REPRESENTATIVE GRUENBERG answered no. He stated additional language would not be necessary.

[3:21:26 PM](#)

REPRESENTATIVE DOOGAN related his understanding the only substantive difference between the two versions of SB 59, the Senate committee substitute and Version N, is that Version N contains the provision, "has a population of less than 35,000".

[3:21:57 PM](#)

MR. EILER pointed out one other change incorporated in Version N is a technical amendment. He referred to page 2, line 7, which removes the word "authorized".

REPRESENTATIVE DOOGAN maintained the only substantive change contained in SB 59, Version N is that the bill is limited to municipalities with a population of less than 35,000.

MR. EILER noted his agreement.

[3:23:01 PM](#)

REPRESENTATIVE JOHNSON emphasized that he does not support using low-speed vehicles in cities. He asked if the committee should consider reverting back to the original version of the bill.

[3:23:47 PM](#)

REPRESENTATIVE JOHNSON said he did not wish to hold the bill up.

CHAIR WILSON removed her objection. There being no further objection, Conceptual Amendment 1 was adopted.

[3:24:31 PM](#)

MEGAN PASTERNAK stated that she owns and drives an electric vehicle. She opined that it would be great if this bill could get passed this session. She referred to her earlier testimony which presented her views on this bill. She further opined that low-speed vehicles should be allowed in larger communities since they still have 35 mph "pockets" where low-speed vehicles could be driven. Additionally, some municipalities are connected to the larger communities. She recalled some people's concerns that low-speed vehicle owners will not pay their share of highway maintenance fees. She offered her belief that her 1200 pound car causes little damage to roadways compared to other vehicles or heavy trucks. She expressed her willingness to pay fees. She stated that she would love to put her vehicle on the ferry and drive it around Juneau, but it is not possible to drive from the ferry to downtown Juneau since the highway that connects the terminal to downtown has a speed limit in excess of 45 mph.

CHAIR WILSON remarked that people can drive on 35 mph roads anywhere in state.

[3:27:21 PM](#)

CHAIR WILSON, after first determining no one else wished to testify, closed public testimony on SB 59.

REPRESENTATIVE MUNOZ moved to report the House committee substitute (HCS) for CSSB 59(TRA) am, labeled 26-LS0280\N, Luckhaupt, 4/14/09, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the HCS CSSB 59(TRA) was reported from the House Transportation Standing Committee.

[3:28:23 PM](#)

REPRESENTATIVE MUNOZ thanked Chair Wilson for providing members with a great process this legislative session.

[3:28:48 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:28 p.m.