

**ALASKA STATE LEGISLATURE**  
**SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 23, 2010

3:33 p.m.

**MEMBERS PRESENT**

Senator Donald Olson, Chair  
Senator Joe Thomas, Vice Chair  
Senator Hollis French  
Senator Linda Menard

**MEMBERS ABSENT**

Senator Albert Kookesh

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 276(CRA)  
"An Act amending the description of parcels within the Fort  
Rousseau Causeway State Historical Park; and providing for an  
effective date."

- MOVED CSHB 276(CRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 276

SHORT TITLE: FORT ROUSSEAU CAUSEWAY HIST PARK

SPONSOR(S): REPRESENTATIVE(S) P.WILSON

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	CRA
02/02/10	(H)	CRA AT 8:00 AM BARNES 124
02/02/10	(H)	Moved CSHB 276(CRA) Out of Committee
02/02/10	(H)	MINUTE(CRA)
02/03/10	(H)	CRA RPT CS(CRA) 2DP 2NR
02/03/10	(H)	DP: KELLER, MUNOZ
02/03/10	(H)	NR: GARDNER, HERRON
02/10/10	(H)	TRANSMITTED TO (S)
02/10/10	(H)	VERSION: CSHB 276(CRA)
02/12/10	(S)	READ THE FIRST TIME - REFERRALS
02/12/10	(S)	CRA
02/23/10	(S)	CRA AT 3:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

REPRESENTATIVE PEGGY WILSON  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HB 276.

REID HARRIS  
Aide to Representative Peggy Wilson  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided information on HB 276.

JIM CULVER  
Aide to Senator Olson  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided information on HB 276.

MARY SIROKY, Special Assistant to the Commissioner  
Department of Transportation and Public Facilities (DOTPF)  
Juneau, AK

**POSITION STATEMENT:** Supported HB 276.

SEAN LYNCH, Attorney  
Department of Law  
Juneau, AK

**POSITION STATEMENT:** Provided information on HB 276.

#### **ACTION NARRATIVE**

[3:33:17 PM](#)

**CHAIR DONALD OLSON** called the Senate Community and Regional Affairs Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators French, Thomas, Menard and Olson.

CHAIR OLSON noted that the committee had been provided with answers to their questions concerning the Fairbanks Annexation Presentation [on January 28, 2010.]

#### **HB 276-FORT ROUSSEAU CAUSEWAY HIST PARK**

[3:34:18 PM](#)

CHAIR OLSON announced the first order of business to come before the committee was HB 276. [CSHB 276(CRA) was before the committee.]

REPRESENTATIVE PEGGY WILSON, sponsor of HB 276, said the bill is a housekeeping bill pertaining to the 2007 legislation turning Fort Rousseau into a state park. The legislation inadvertently included uplands, tidelands and water adjacent to the Sitka airport in the state park designation. Excluding this area from the park will not affect park access. About \$30 million worth of work at the Sitka airport is scheduled over the next couple of years and the Department of Transportation and Public Facilities (DOTPF) needs control over the area or federal grant money may be withheld. For reasons of security and continued funding, she asked the committee to consider passing HB 276.

REID HARRIS, aide to Representative Peggy Wilson, said Fort Rousseau is on the southwest side of Japonski Island which is also the site of the Sitka airport. He explained that Representative Peggy Wilson carried the legislation that formed Fort Rousseau as a state park in 2007 and HB 276 is a boundary fix. HB 276 will restore the land parcel at issue to DOTPF. State Parks and the Department of Natural Resources (DNR) are both ok with DOTPF having control of the parcel again. The area contains navigation aids and some aircraft equipment; the airport needs to have the area for security reasons.

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He explained that a security fence is already in place where Fort Rousseau State Park abuts the land parcel at issue. Exclusion of the land parcel from park boundaries will have no effect on public access, which is intended to be from the water. Sitka Trails and DNR were initially concerned that their access to the park, for maintenance, could be restricted if the airport retakes control of the land parcel. However, a current permitting process for both the Federal Aviation Administration (FAA) and DOTPF is would allow their contractors to cross the runway.

The Airport Improvement Project Grant Funds provide 95 percent of the funding for capital improvements at airports. The FAA has stated that DOTPF must demonstrate adequate property interest in order to receive the funds. Failure to comply could result in the funds being withheld. Sitka is expecting \$30 million in the next two years for runway expansion and further improvements.

CHAIR OLSON asked how much land is in the area that needs to be turned back over to DOTPF.

MR. HARRIS replied 6.5 acres.

CHAIR OLSON asked if the plan is to extend the runway to accommodate larger aircraft.

MR. HARRIS replied he does not think so.

CHAIR OLSON asked what opposition HB 276 has had.

MR. HARRIS reiterated that the local trail group initially expressed concern but is happy with the permitting process in place.

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CHAIR OLSON asked Jim Culver to speak to the proposed committee substitute in front of the committee [SCS CSHB 276(CRA), Version P.]

JIM CULVER, aide to Senator Olson, said the legal description of the land within the park describes the land, not the waters. He explained that the DOTPF wants to claim the portion of the park that is within 1100 feet of and parallel to the runway.

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He said, as a licensed surveyor, a legal description would not normally start with an exception clause, but rather would start with a description of the land, followed by the exception clause. He said he analyzed the land parcel at issue, rewrote the exception clause and moved it to follow the description of the land parcel on page 1, lines 11-14 in Version P. He noted that he worked with another official on this but did not have time to "run it all the way up the food chain in DOT." He noted that a remaining issue is whether or not Lot 89, a tiny island, is within 1100 feet of the center line of the airport. He would add the exception clause to Lot 89 on page 3, line 3, of Version P. He reiterated that he rewrote the exception clause to be more clear, concise and typical from a surveyor's point of view.

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SENATOR MENARD said she is a little troubled by him not running it up through DOTPF.

MR. CULVER said his understanding, from talking to the right of way agent for the Southeast district, was that they had drafted

it with the exception clause at the end, as typical, and were not aware that Legislative Legal had redrafted it. Mr. Culver said he thought he had followed proper protocol and had informed Representative Peggy Wilson that he was working on some possible changes for Chair Olson to consider. At no point was he moving ahead and he did try to keep DOTPF in the loop.

SENATOR MENARD said she would like DOTPF to be involved before a committee substitute is brought forward.

[3:48:54 PM](#)

CHAIR OLSON asked how the bill deals with climate change issues, for example, erosion and changing shoreline contours.

MR. CULVER replied that if the water table goes up, land is lost. He said it is within a tideland survey; these tidelands may be municipally owned or under state ownership.

CHAIR OLSON asked if new legislation would be needed if the contours change.

MR. CULVER answered no because the boundary is the mean high water in coastal properties; the boundary changes with the shoreline.

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MARY SIROKY, Special Assistant to the Commissioner, Department of Transportation and Public Facilities (DOTPF) said DOTPF asked Representative Peggy Wilson to carry this legislation and prefers Version S.

SEAN LYNCH, Attorney, Department of Law, said he works with DOTPF and HB 276 has been assigned to him.

[3:52:59 PM](#)

CHAIR OLSON called an at ease from 3:52 p.m. to 3:54 p.m.

[3:54:04 PM](#)

CHAIR OLSON asked Mr. Lynch to comment on CSHB 276(CRA), Version S.

MR. LYNCH said Version S sets up an exclusion of all property within 1100 feet from the center line of the airport. He explained that the language was intentionally drafted to capture any changes that may happen in the future such as shoreline accretion of Lot 89, a manmade dock or renumbering the lots. The

purpose of setting the exclusion up front was to draw the 1100 foot line and say everything [beyond that] is park property.

CHAIR OLSON asked if Lot 89 is completely outside the 1100 foot line.

MR. LYNCH replied that is correct.

CHAIR OLSON asked if land is rising in the Sitka area.

MR. LYNCH replied yes, glacial rebound does affect the Sitka lands.

CHAIR OLSON said he would like to hear what DOTPF thought of the proposed committee substitute [Version P].

[3:56:49 PM](#)

MS. SIROKY said DOTPF prefers [Version S] because the exclusion gives DOTPF the control needed to maintain and operate an airport that meets FAA requirements.

CHAIR OLSON asked if new legislation would be required for DOTPF to maintain authority over the area if the land contours change due to glacial rebound.

MS. SIROKY answered that she understood new legislation would be needed.

MR. LYNCH confirmed that according to Version P, new legislation would be needed. He explained if Lot 89 enlarged, crossing the line within 1100 feet of the airport's center line, an amendment would be needed to include that portion of Lot 89 in the exclusion.

SENATOR THOMAS asked if the Department of Law initially accepted all of the land that was north and easterly of the 1100 foot mark and then went through, parcel by parcel, and identified it as being part of the state park.

MR. LYNCH said that when the park was created, lot numbers were specified and transferred from the airport to DNR jurisdiction. By mistake, the 1100 foot line was not put in the original legislation that created the park even though a fence has always been at 1100 feet.

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CHAIR OLSON asked Representative Peggy Wilson for a brief conclusion.

REPRESENTATIVE PEGGY WILSON replied that she would like to have Version S passed. She reiterated that Version S would not require any further legislation if the land changes; anything within 1100 feet of the center line of the airport is excluded from the park.

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SENATOR THOMAS moved to report CSHB 276(CRA), referred to as Version S, from committee with individual recommendations and accompanying fiscal notes. There being no objection, it was so ordered.

[4:02:10 PM](#)

CHAIR OLSON, seeing no further business to come before the committee, adjourned the meeting at 4:02 p.m.