

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

April 23, 2024

1:05 p.m.

MEMBERS PRESENT

Representative Kevin McCabe, Chair
Representative Sarah Vance, Vice Chair
Representative Tom McKay
Representative Craig Johnson
Representative Jesse Sumner (via teleconference)
Representative Louise Stutes
Representative Genevieve Mina

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 217

"An Act relating to commercial passenger vessel environmental compliance; relating to commercial passenger vessel fees; establishing the wastewater infrastructure grant fund; repealing the authority for citizens' suits relating to commercial passenger vessel environmental compliance; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 332

"An Act relating to the sale of the Alaska Railroad; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 233

"An Act relating to rates and time allowances for motor vehicle warranty work."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 217

SHORT TITLE: COMM PSSG VESSEL ENVIRONMENTAL COMPLIANCE

SPONSOR(s) : RULES BY REQUEST OF THE GOVERNOR

01/16/24 (H) READ THE FIRST TIME - REFERRALS
01/16/24 (H) TRA, RES
04/23/24 (H) TRA AT 1:00 PM BARNES 124

BILL: HB 332

SHORT TITLE: SALE OF ALASKA RAILROAD

SPONSOR(s) : SUMNER

02/20/24 (H) READ THE FIRST TIME - REFERRALS
02/20/24 (H) TRA, FIN
03/07/24 (H) TRA AT 1:00 PM BARNES 124
03/07/24 (H) <Bill Hearing Canceled>
03/21/24 (H) TRA AT 1:00 PM BARNES 124
03/21/24 (H) Heard & Held
03/21/24 (H) MINUTE(TRA)
04/23/24 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

EMMA POKON, Commissioner-Designee
Alaska Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Introduced HB 217 on behalf of the bill sponsor, House Rules by request of the governor.

GENE MCCABE, Acting Director
Division of Water
Alaska Department of Environmental Conservation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 217 on behalf of the bill sponsor, House Rules by request of the governor.

BILL O'LEARY, President & CEO
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 332.

MEGHAN CLEMENS, Director
External Affairs
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 332.

ACTION NARRATIVE

[1:05:36 PM](#)

CHAIR KEVIN MCCABE called the House Transportation Standing Committee meeting to order at 1:05 p.m. Representatives McKay, Vance, Stutes, Mina, Sumner (via teleconference), and McCabe were present at the call to order. Representative C. Johnson arrived as the meeting was in progress.

HB 217-COMM PSSG VESSEL ENVIRONMENTAL COMPLIANCE

[1:07:03 PM](#)

CHAIR MCCABE announced that the first order of business would be HOUSE BILL NO. 217, "An Act relating to commercial passenger vessel environmental compliance; relating to commercial passenger vessel fees; establishing the wastewater infrastructure grant fund; repealing the authority for citizens' suits relating to commercial passenger vessel environmental compliance; and providing for an effective date."

[1:07:26 PM](#)

EMMA POKON, Commissioner-Designee, Department of Environmental Conservation (DEC), introduced HB 217 on behalf of the bill sponsor, House Rules by request of the governor. She noted the good conversations and feedback that took place regarding the bill during the interim, and that she had heard residents' concerns about compliance and the need for a credible regulatory program. She briefly summarized DEC's efforts that are currently underway. She reminded the public that the report submitted to the legislature is available online. She opined that there are advantages to DEC's approach that include the direct interaction of DEC's compliance enforcement staff with vessel officials. She noted the different types of training that took place in various areas. From a financial perspective, she explained that there is money accrued that could be used for the benefit of port communities in connection with the vessels. She said she supported the potentials and infrastructure proposals and noted possible modifications.

[1:13:27 PM](#)

REPRESENTATIVE STUTES asked who provided the training.

COMMISSIONER-DESIGNEE POKON replied that much of the training is provided in-house at DEC or through attending conferences.

REPRESENTATIVE STUTES inquired what the anticipated timeframe is for the training.

COMMISSIONER-DESIGNEE POKON noted that she had a training schedule from her staff that outlined a number of items and occurs over the course of a year. She offered to defer the question to the division director.

REPRESENTATIVE STUTES observed it [the training] was quite extensive.

[1:15:10 PM](#)

REPRESENTATIVE VANCE brought up a fee of \$5 per berth and asked what the current fee was.

COMMISSIONER-DESIGNEE POKON stated that the berth fee is a simplification of a fee matrix and currently DEC receives a \$4 per berth fee for ocean rangers, and the size of other vessels comes into play as well which averages to \$5.

REPRESENTATIVE VANCE referred to Section 10 of the bill and sought an understanding of the current passenger vessel fees presented in the bill related to the small commercial passenger vessels and how often the fees are assessed.

COMMISSIONER-DESIGNEE POKON responded that a small vessel is 249 passenger berths or smaller, and the fee inquiry may be better addressed by Gene McCabe.

[1:17:28 PM](#)

GENE MCCABE, Acting Director, Division of Water, Department of Environmental Conservation, replied that the fees are assessed as per voyage, and the fee is simplified and rolled into \$5 per berth, per voyage.

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COMMISSIONER-DESIGNEE POKON pointed out Section 19 in the bill, and that the provision in Section 10 would be repealed with a delayed effective date.

REPRESENTATIVE VANCE referred to Section 11 which stated that the commissioner may jointly set a fee on all commercial passenger vessels operated by the state, and she offered her assumption it is under regulation. She asked for an idea of what it is going to look like.

COMMISSIONER-DESIGNEE POKON replied that the concept is in current statute and this a "clean up" of the current language. The fees set up on ferries have long been negotiated between DEC and the Department of Transportation and Public Facilities (DOT&PF) and there is no intent to change that practice.

1:20:50 PM

CHAIR MCCABE asked for clarification there are currently both ocean rangers and inspectors.

COMMISSIONER-DESIGNEE POKON stated that DEC was only implementing inspectors.

CHAIR MCCABE asked for a description of how the inspectors work.

COMMISSIONER-DESIGNEE POKON replied that the current practice included large vessels and only import inspections.

CHAIR MCCABE pointed out that most of the big cruise ships are containing their sewage and he questioned how many big ships would start to create a concern.

COMMISSIONER-DESIGNEE POKON answered that the large vessels do not discharge while in port and some vessels do not discharge in state water at all.

CHAIR MCCABE remarked that the discharge means that it is "treated" and not raw waste.

COMMISSIONER-DESIGNEE POKON confirmed that was correct.

1:24:40 PM

REPRESENTATIVE VANCE inquired about the wastewater infrastructure grant fund and where the startup money was coming from.

COMMISSIONER-DESIGNEE POKON replied that there was approximately \$11 million accrued in the Ocean Ranger fund that had not been appropriated, and that she expected the modified program would

be less expensive and since the bill was brought forward, there are proposals to use the funds as direct appropriation.

REPRESENTATIVE VANCE asked whether it was the intent to have the \$11 million fund the inspector positions.

COMMISSIONER-DESIGNEE POKON affirmed that was correct and that the fund is in excess of what is needed to implement the inspector program.

REPRESENTATIVE VANCE commented on the grants available for municipalities trying to do preventative maintenance and address wastewater issues, and she asked whether there have been conversations with municipalities about their needs.

COMMISSIONER-DESIGNEE POKON replied that it depended on the community, as they have different challenges.

REPRESENTATIVE VANCE mentioned some communities have very old infrastructures, and she questioned what the need was within the department to fairly administer grants to prevent lawsuits and to keep grants ongoing as the cruise ship industry advanced.

[1:30:11 PM](#)

COMMISSIONER-DESIGNEE POKON replied that grants and loans are something that DEC had in their portfolio for their facilities program, and she offered her opinion that the amount of money would not be an entire solution for all the communities that need upgrades.

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CHAIR MCCABE announced that HB 217 was held over.

[1:32:06 PM](#)

The committee took an at-ease from 1:32 p.m. to 1:33 p.m.

HB 332-SALE OF ALASKA RAILROAD

[1:33:29 PM](#)

CHAIR MCCABE announced that the final order of business would be HOUSE BILL NO. 332, "An Act relating to the sale of the Alaska Railroad; and providing for an effective date."

[1:33:55 PM](#)

REPRESENTATIVE SUMNER, as prime sponsor, introduced HB 332. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

This legislation represents a critical turning point for our state, unlocking economic potential while ensuring protections for the interests of Alaskans. For years, the Alaska Railroad has served our communities, but it has not reached its full potential. Operating under state ownership, the railroad has faced limitations in terms of investment, innovation, and strategic expansion. This bill initiates a careful, responsible process to transfer the Alaska Railroad to a private buyer committed to the railroad's success.

This legislation protects Alaska's interests in several ways. The potential buyer must agree to operate the railroad for at least 50 years and assume existing contracts, providing continuity for our communities and businesses. The purchase price must exceed the fair market value or the state's total investment in the railroad, ensuring taxpayers receive a fair return. The legislature retains the ultimate authority to approve or reject a sale agreement, safeguarding public interest. By establishing a resource development agreement, this bill positions the Alaska Railroad to be a key catalyst for unlocking responsible, sustainable expansion of our state's vast resources.

Additionally, this process will streamline governance and inject much-needed private sector expertise into the railroad's operations. The bill recognizes the potential for modernization, expansion, and the creation of new Alaskan jobs through this strategic sale. I recognize that any change in the Alaska Railroad's status raises questions and concerns. This bill addresses those with care, through a transparent process focused on obtaining the best long-term outcome for our state. I urge my colleagues to join me in voting in favor of this legislation, allowing us to write the next successful chapter in the Alaska Railroad's history.

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CHAIR MCCABE invited questions from committee members.

[1:36:08 PM](#)

BILL O'LEARY, President & CEO, Alaska Railroad Corporation, answered questions during the hearing on HB 332. He followed a slideshow [not provided on BASIS], titled "Alaska Railroad Corporation Act." He noted a letter sent to the committee on March 28, 2024, after the initial hearing on HB 332, that the Alaska Railroad Corporation (ARRC) was unable to participate in, and he offered his belief that the bill is "deeply impactful." The letter provided good background and updates, he said, and the bill could provoke a healthy discussion. It is also beneficial for the state to review a portfolio of assets, and the bill triggers this discussion, he said. He said he appreciated that this is a public policy decision and his goal today is to ensure that the committee is aware of a series of impacts that could have far-reaching implications to the railroad operations, its customers, communities, and stakeholders. He summarized how the railroad is currently structured.

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MR. O'LEARY continued speaking while a slide titled "HB 332" was shown. He spoke to real estate being important to the railroad, and without federal funding and real estate revenue, the maintenance of the infrastructure would be difficult to achieve. He provided information on 2023 bringing high net earnings and not long ago, he noted, net losses had occurred. He stressed the importance of real estate being one of the railroad's three business lines and that it buffers the business cycles that occur on the freight and passenger side and has been a consistent performer. He noted that an advantage of the railroad being under public ownership is that it is exempt from state and local taxes and that would not be the case if it were privately owned. He said that since 1996, over a billion dollars has flowed to the railroad. He further noted the differences of what could occur if the railroad were privately owned.

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REPRESENTATIVE STUTES asked how much new track was put down with the monies.

MR. O'LEARY replied that those monies have been used for projects to maintain the existing infrastructure.

REPRESENTATIVE STUTES inquired about the maintenance of equipment and making sure the rail cars have been in good shape over the last 40 years.

MR. O'LEARY said he would not characterize it as being a status quo situation and the condition that the railroad was almost in disrepair when the state received it. He said the federal government was unaware of the maintenance of the railroad, and it had not been maintained at an appropriate level. He explained there had been a significant effort over the past 40 years to "get out of this hole" and address the deferred maintenance backlog; therefore, the monies have been used for maintenance more so than expansion.

REPRESENTATIVE STUTES asked what had been extended or increased in regard to new rail.

MR. O'LEARY replied that he did not have the specifics.

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REPRESENTATIVE MCKAY offered more definition on the expansions that have been done beyond laying track.

MR. O'LEARY added that \$188 million was invested between federal money and state general fund money in creating the longest bridge in Alaska over the Tanana River.

[1:51:12 PM](#)

REPRESENTATIVE SUMNER commented that he did not want monies to be mischaracterized.

[1:51:44 PM](#)

REPRESENTATIVE MINA asked whether privately owned railroads qualify for any local or federal subsidies when they conduct deferred maintenance.

MR. O'LEARY pointed out that ARRC is the only railroad in the U.S. that has both passenger and freight service. The funding is different in freight versus the passenger side, he said, and

on the freight side, most funding is internal but on the passenger side, it is state authorities.

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REPRESENTATIVE STUTES asked when the railroad was purchased.

MR. O'LEARY responded January 1985.

REPRESENTATIVE STUTES referred to a previous comment that since 1996, a billion and a half federal dollars have been received. She stated she does not see where the railroad is moving in a forward direction.

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CHAIR MCCABE asked what kind of grade Mr. O'Leary would give the railroad in reference to being charged with supporting economic development.

MR. O'LEARY replied that ARRC has done a good job of supporting economic development in the state, being that the state is bereft of basic infrastructure and the railroad is still safe, efficient, and well-maintained.

CHAIR MCCABE asked whether the railroad had taken advantage of Alaska Industrial Development and Export Authority (AIDEA) loans.

MR. O'LEARY replied that the railroad had spoken with representatives of AIDEA on many occasions but had not utilized AIDEA's abilities.

CHAIR MCCABE requested for Mr. O'Leary to describe how the railroad made money in real estate.

MR. O'LEARY said the money comes in a number of different fashions, such as to lease or permit the land to the private sector.

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CHAIR MCCABE inquired about the railroad's success with other grants. He further inquired about the hold up on the commuter rail that he presumed had something to do with Joint Base Elmendorf - Richardson (JBER).

MR. O'LEARY replied that grants would be discussed further along. In response to a follow-up question, he said the primary issue was financial and that it would be a highly subsidized route.

[2:02:51 PM](#)

REPRESENTATIVE STUTES spoke to the commuter train in the last 25 years and what strides have been made in connectivity between Alaska and the Lower 48.

MR. O'LEARY stated that the railroad is connected to the Lower 48 through its rail barge service which is for freight and movement of rail cars between Seattle and Whittier. For the concept of land connection, it is a topic of interest, he said, and there must be talks and partnerships. He provided examples of previous interest from different entities that eventually dissipated.

[2:05:56 PM](#)

REPRESENTATIVE MCKAY commented that the railroad had helped build the North Slope oil fields, and the notion that the railroad is limited in resource development is inaccurate, he opined. He recited passages from the bill, and asked Mr. O'Leary what he would do to accomplish those objectives if he owned the railroad himself.

MR. O'LEARY replied that his priority would be the same as what ARRC is doing now, which is going after federal infrastructure grants and partnering with others that see the benefit of having this infrastructure in Alaska.

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MR. O'LEARY further commented that the idea of the federal grants approach matched by monies from customers, users, or state investment makes the level of sense to move these projects forward.

REPRESENTATIVE MCKAY said that he tried to visualize what the bill promised.

[2:11:52 PM](#)

CHAIR MCCABE related examples of a rail line that went to the North Slope or Canada and how that would create positive economic impacts.

[2:13:25 PM](#)

MR. O'LEARY noted that if private enterprises purchased the railroad, steps would have to be taken to achieve a net income as the current dollars would go away. They would have to sell off assets, reduce non-profitable business lines such as the passenger side, and rates would increase. He opined that these changes would be negative for the state. He accentuated that the railroad's mission was different from that of a fully private enterprise as it is not there to maximize shareholder wealth but be self-sustaining and provide a service to Alaska.

[2:16:28 PM](#)

MEGHAN CLEMENS, Director, External Affairs, Alaska Railroad Corporation, joined the presentation on a slide, titled "Rail Extensions: ARRC Strengths," and she said the railroad was well positioned for these efforts. She restated some of Mr. O'Leary's discussion and said ARRC would love to see expansion to new parts of the state and reach out to partnering with others. She noted the various ways ARRC attempted to engage in creating partnerships.

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MS. CLEMENS said that ARRC, as a state-owned corporation, had access to funding opportunities that would not be available to a privately owned railroad. The corporation is always open to conversations with customers, and bond authorizations are a great tax-exempt tool, but it requires finding a customer, she explained. She noted that Royal Caribbean Group was a partner.

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CHAIR MCCABE asked whether ARRC approached Royal Caribbean or vice versa. He noted people wanting to go into Port MacKenzie if there was a rail and questioned why the "freight side of things" did not work out.

MR. O'LEARY acknowledged that he understood and wanted to expand partnerships. The barriers to entry [to Port MacKenzie] are significant and are large dollars; therefore, there needs to be a business case there. He noted that in the 2014-2015 timeframe

before funding dried up, there was greater interest from potential customers as it seemed like more of a reality.

CHAIR MCCABE said the military had been to Port MacKenzie about 20 times in the last six months, and he related attending a big function including military officials. He stressed that the railroad should have been there. He emphasized that all options must be explored and opined that the Northern Rail Extension would be a perfect economic corridor.

[2:27:50 PM](#)

REPRESENTATIVE VANCE asked whether ARRC put together a report that showed how much revenue is needed to make the rail extensions economically viable. She stressed the need for a state match to the federal grants.

MS. CLEMENS responded that as a component to federal grant applications, there is a requirement that a benefit/cost analysis (BCA) would be calculated which would prove that the economic and community benefit of the federal investment would exceed the dollar value of the grant.

REPRESENTATIVE VANCE questioned how, without a report, investors would know if it was something in which they may be interested.

MR. O'LEARY added that it would all depend on how the whole thing was funded. He offered a hypothetical situation describing how the costs would average out over 30 years; therefore, the railroad would need revenue in excess of just paying off the debt. There are a number of scenarios where it could be done, he said.

[2:32:12 PM](#)

REPRESENTATIVE VANCE commented that if it is such a simple equation, then perhaps ARRC should put together a report of these different scenarios to offer to potential partners.

CHAIR MCCABE interposed that it sounded like a business plan and how to advance forward if the revenue bond were included. He further noted that the legislature was actively trying to help the railroad help the state, and he opined that the railroad was the key to unlocking many things in Alaska.

[2:34:46 PM](#)

REPRESENTATIVE VANCE referred to the \$55 million pointing to Port MacKenzie, and she questioned how the railroad makes such a request.

MR. O'LEARY replied that it can be done in many different ways including the traditional governor's budget. He summarized how match amounts are a minimum and to be more competitive, greater matches are encouraged. He reiterated that loans require repayment and before someone loaned money to ARRC, they would want to see a business plan that shows that their money would be repaid; that is the struggle.

[2:38:14 PM](#)

CHAIR MCCABE asked how much capital ARRC was sitting on currently.

MR. O'LEARY replied that ARRC had an amount of working capital, and he synopsized the yearly budget focusing on what the earnings are going to be.

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REPRESENTATIVE MINA brought up a point related to passenger lines and how some are subsidized and asked what lines are the most subsidized.

MS. CLEMENS replied that the least profitable line was the Hurricane Turn Flagstop Train, which benefits Alaskans who live off the road system and rely on the rail service. She noted a private owner would continue the service.

REPRESENTATIVE MINA asked whether those living off the grid, who relied on the flagstop line had an alternative.

MS. CLEMENS answered that it depended on how far away they live and what private means of transportation they have. Small ATVs can cross the river, she said, and 4-wheeling access is available to some of the property owners; however, that is not viable to those further down the rail line.

REPRESENTATIVE MINA offered her understanding of the contents of the bill and asked whether a bill was needed to do said things.

MR. O'LEARY replied, "No."

REPRESENTATIVE MINA asked how often different investors have shown interest in purchasing the railroad in the past.

MR. O'LEARY answered that in his 23 years with the railroad, he was aware of one group who contacted ARRC with interest, and after several meetings, it dissolved.

[2:44:02 PM](#)

REPRESENTATIVE MINA pointed to page 1, line 9 of the bill regarding an agreement by the governor to sell the railroad by 2025. She inquired what would occur if there were no interested investor.

REPRESENTATIVE SUMNER replied that there would be no sale.

[2:44:47 PM](#)

MS. CLEMENS proceeded with the discussion and noted that there was an overview available of the spending requests and grants.

MR. O'LEARY added that he had great plans for a "big finish" but reiterated that it is a decision for the legislature and the governor to consider and he hoped the discussion was helpful. The railroad is a key piece of infrastructure in the state, he said, and expansion and realizing its full potential is something ARRC takes seriously. The need for support is clear, he stated.

[2:46:41 PM](#)

REPRESENTATIVE MCKAY commented on the resource development section of the bill and asked, "Why wait for a sale?" He spoke of Prudhoe Bay being announced as a major discovery in the 1960s; the resource was found and the infrastructure was built. It is a "chicken and the egg" situation, he opined.

[2:48:09 PM](#)

CHAIR MCCABE thanked the presenters and reflected on the state struggling with money and stranded resources.

[HB 332 was held over.]

[2:50:27 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:50 p.m.