

Senate Transportation Committee

March 25, 2014

HB 211

Primary Purpose: To clarify, streamline, and remove duplicate processes:

1. Streamline project delivery by removing duplicate public process.
2. Improve the process of disposing of excess right-of-way (ROW) to adjoining owners.
3. Reduce bureaucracy for managing transportation related materials sites.
4. Sectional Analysis – DNR/DOT relationship & lands for airports, highways & public facilities:
 - a. (§ 1, 6 & 9) Clarifies overlapping authorities regarding existing lands & facilities.
 - b. (§ 2, 4 & 10) Uniform disposal - Make it possible for the public not to go to 2 agencies.
 - c. (§ 3, 5 & 8) New process for transfer of public domain lands from DNR to DOT.
5. DOT has worked diligently to resolve concerns:
 - a. The bill was co-written by DOT & DNR to address agency concerns.
 - b. DOT has responded in writing to questions raised by both House and Senate committees.
 - c. DOT has responded in writing to questions raised in public testimony before the committees.
6. Significant provisions requiring additional presentation:
 - a. New land transfers and the public process (Sections 3, 5, & 8)
 - i. Land transfer for single government purpose does not require multiple use analysis.
 - ii. Bill replaces DNR decision and public notice with DOT determination and public notice.
 - iii. Reasonable necessity based on engineering judgment and public involvement.
 - iv. DOT public involvement process is extensive.
 - b. Uniform land disposals (Sections 2, 4 & 10)
 - i. Overlapping authorities prevent resolution of complex DNR/DOT disposals.
 - ii. Uniform language allows flexibility in disposal of AS 35 excess lands.
 - iii. Uniform language prevents disposal of substandard parcels.
 - c. State-owned material sites (Section 13)
 - i. Reduces administrative burden of both agencies by eliminating restrictions.
 - ii. Proposed CS to restrict use to material sites designated under AS 38.05.550(b).
 - iii. Effect of eliminating current \$0.50/cy administrative fee.
 - iv. Transfer of material from DNR to DOT is not a disposal under the constitution.

1. Uniform land disposals (Sections 2, 4 & 10)

- a. Overlapping authorities prevent resolution of complex DNR/DOT disposals. This language which allows DOT to dispose of land that had required reconveyance to DNR in combination with (§ 1, 6 & 9) that would vest fee title for the surface estate in DOT will allow DOT to resolve currently unresolvable problems such as:
 - i. Glenn Eureka Lodge Example
 - ii. Glenn MP 143 was resolved but required many years.
- b. Proposed language allows flexibility in disposal of AS 35 excess lands.
 - i. Sec. 35.20.070. Vacating of land or rights in land. Upon vacating, **title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking.**
 - ii. Hypothetical cases
 1. Easement v. Fee: can only revert to owner of underlying fee. Bill has no effect.
 2. Partial Fee Acquisition now declared excess to the department's needs.
 - a. Project acquires 20' strip from parcel leaving large remainder.
 - b. Road shifts away 30 years later, 20' strip is now excess to our needs.
 - c. Based on review of title, public notice, decisional document and flexibility allowed under "...according to the terms and conditions established by the commissioner." , the partial must go to adjoiner to prevent landlocking & non-conforming parcel.
 3. Total Fee Acquisition – Total parcel now excess
 - a. Project acquires entire parcel for new project.
 - b. Public use changes at later date and parcel is now excess.
 - c. Under current AS 35 language, can only go to original owner.
 - i. Ft. Yukon Example
 4. Total Fee Acquisition – only a strip of the parcel is now excess.
 - a. An entire parcel is acquired for a new project.
 - b. Public use changes at later date and the strip is now excess.
 - c. Under current AS 35 language, the strip can only go to original owner.
 - i. Disposal should go to adjoiner not original owner.
 - ii. If original owner insists on reconveyance, no disposal can be made.
 5. Existing statutes prevent landlocking resulting from PLO easement disposal.
 - a. AS 9.45.015 Land adjoining highway reservation.
 - b. Conveyance of land presumed to go to centerline.