

From: [Sen. Anna MacKinnon](#)
To: [Senate Finance Committee](#)
Subject: FW: House Bill 79 – Omnibus Workers' Compensation
Date: Wednesday, April 11, 2018 5:14:56 PM

From: Sam Robert Brice [mailto:SamRobert@bilsta.net]
Sent: Wednesday, April 11, 2018 5:09 PM
To: Sen. Anna MacKinnon <Sen.Anna.MacKinnon@akleg.gov>; Sen. Lyman Hoffman <Sen.Lyman.Hoffman@akleg.gov>
Subject: Re: House Bill 79 – Omnibus Workers' Compensation

April 11, 2018

Senator Anna MacKinnon, Co-Chair
Senator Lyman Hoffman, Co-Chair
Senate Finance Committee
State Capitol, Room 532
Juneau, Alaska 99801-1182

Re: House Bill 79 – Omnibus Workers' Compensation

Dear Senators MacKinnon & Hoffman,

I am writing to offer my comments related to HB 79. My work involves directing and supporting operations of ten Alaska companies. I appreciate the efforts of those involved to recommend changes to the current Alaska Workers Compensation statutes. I would like to take this opportunity to highlight the proposed changes in HB 79 that I agree with as well as those proposed changes I have concerns about.

Overall, I appreciate the suggested changes that aim to reduce the unnecessary administrative burden that adds to the expense of the overall system. This includes the revised wording to Section 19 eliminating the requirement for a party to request a hearing. This is an unnecessary administrative step that should expedite the timely resolution of claims. In addition, I agree with changes to Section 39 removing the requirement for the board to approve attorney's fees if that is the only outstanding issue. I also agree with the process to phase out the second injury fund.

I have concerns over proposed revisions particularly related to two areas. I would urge you to consider carefully the implications to employers in the proposed changes to Section 9 (and associated sections) adding civil penalties to employers for misclassification of employees. In most cases, misclassification by employers is not intentional. I do not think the definition of misclassification found in Section 36 is defined well enough to distinguish when an employer "knowingly" misclassifies an employee. This leaves a lot of power in the eye of the investigator

to determine what is considered a misclassification. I believe this will lead to more administrative costs due to increased investigations over unintentional misclassification as well as administrative time duplicating a premium audit. The premium audit is already part of the insurance process between employers and their insurer.

I also have concerns over Section 23 that eliminates the seven-day grace period for indemnity payments. There are justifiable circumstances that prevent an indemnity payment from being completed within the prescribed time-period. By removing this grace period, you are placing an additional burden on employers with these unfair fines.

There are some changes I do not see reflected in HB 79 that I feel are warranted and support the overall objectives to expedite dispute resolution, reduce the states administrative costs and improve the delivery of medical care to injured workers. I would like to see the state adopt a cap on attorney's fees. Currently, there is no incentive for an attorney to try to resolve the case to their client's benefit as quickly as possible. In fact, they benefit more by dragging out the litigation of the case. In addition, would like to have the Second Independent Medical Exam (SIME) repealed. I do not think this is necessary with the new system in place using evidence based guidelines and utilization review. The SIME process adds a great deal of expense and delay in resolving the case.

Thank you for the opportunity to comment on this proposed legislation and for your time.

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