



Workers' Compensation Committee of Alaska

PO BOX 200361 ANCHORAGE, ALASKA 99520

January 19, 2012

Dear Senators Hoffman, Olson, Egan, Thomas, Ellis and McGuire

RE: SB 103 and HB 232

I understand SB 103 is being heard tomorrow by the Senate Finance Committee. The Workers' Compensation Committee of Alaska, an employer advocacy group, strongly opposes SB 103 and HB 232.

Under the Alaska Workers' Compensation Act, all employees of the State of Alaska have enjoyed a presumption that, in the absence of substantial evidence to the contrary, a workers' compensation claim comes with the provisions of the Alaska Workers' Compensation Act and is thus compensable. (See, AS 23.30.120.) In 2008, however, the legislature passed AS 23.30.121, which created another presumption that eight types of cancer as well as respiratory disease and "cardiovascular events" were compensable if contracted by a firefighter who had undergone a medical examination at the time of hire and in each of the subsequent seven years that did not show evidence of the disease. The statute was to apply to "claims made on or after the [August 19, 2008] effective date." Section 2, ch. 26, SLA 2008. According to a recent decision from the Alaska Workers' Compensation Board, contrary medical evidence is insufficient to rebut this presumption. As such, the presumption is arguably irrebuttable and hence unconstitutional.

The program developed under the new statute was not supposed to be "mandatory" (HL&C 4/27/07 and 4/30/07; House Judiciary 5/4/07; SL&C 5/4/07; SL&C 2/5/08), was advanced as likely to have "no [financial] impact" (SL&C 4/12/07; HB 200 Sponsor Statement), and therefore was "not an unfunded mandate." (SL&C 5/3/07.)

Additionally, much testimony was taken from Firefighters and union management in 2007 and 2008 declaring that medical science conclusively established Firefighters were at greater risk than the general population for all of the cancers listed in AS 23.30.121. (See legislative history, HB 200, SB 117.) The record, however, is utterly devoid of any research. No: one research article was presented. The only testimony in the record was not from medical experts but rather from firefighters and their union lobbyists and officials claiming a link existed.

The reason the record lacks such "research" is obvious: credible and substantive scientific evidence simply does not exist linking the cancers to the occupation of Firefighting. (See April 2009 study "Assessing State Firefighter Cancer Presumption Laws and Current Firefighter Cancer Research" available at nlc.org) Of the thousands of cancer studies conducted between 1995 and 2008, only 17 studies looked at firefighting as a possible risk factor in contracting

**SHELBY L. NUENKE-DAVISON, PRESIDENT; DAISY SAFFIR, VICE PRESIDENT;
TERRY SHURTLEFF, TREASURER; BECKY MCLOUD, SECRETARY**

Senators Hoffman, Olson, Egan, Thomas, Ellis and McGuire

Page 2

January 19, 2012

cancer and none of them established any substantive causal relationship indicating firefighters were at any greater risk for developing these cancers than the general public.

Despite the above, the amendments to AS 23.30.121 currently before the legislature (SB 103 and HB 232) now seek to expand the scope of the statute to include ALL firefighters who received any "medical examinations provided by the department" and "the examinations did not show evidence of the disease." (SB 103 and HB 232, Sec. (b)(4)). Most municipalities or smaller villages, however, probably did not require examinations and many local governments still do not have annual examinations.

More importantly, testing for many of the listed conditions did not exist before the mid-1990's and many still are either costly prohibitive or are simply not available. Yet, under this amendment, the presumption will arguably apply as "the examinations provided by the department" "did not show evidence of the disease." Never mind that testing for the condition was not even conducted much less available.

Finally, the greatest concern to the WCCA is the increased costs to employers who are subjected to this Firefighter presumption statute and proposed amendments and whether coverage can be obtained. Alaska is currently ranked as either number one or number two in the Nation with the highest workers' compensation insurance premium rates. Thus, any proposed amendments to the AWCA should be focused on providing a fair, just yet affordable, workers' compensation system and to reduce costs to employers so Alaska can attract and keep more businesses.

While WCCA appreciates Firefighters for the critical role they play in the safety of our cities and towns, the legislature must evaluate this issue objectively and scientifically. The statute and the current amendments simply do not and the WCCA urges you to vote against these bills. Thank you.

Very truly yours,


Shelby L. Nuenke-Davison
President of WCCA

cc: Governor Parnell via fax (907) 465-3532