

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 4, 2002

3:15 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

Representative Andrew Halcro, Vice Chair
Representative Pete Kott

COMMITTEE CALENDAR

HOUSE BILL NO. 274

"An Act relating to workers' compensation; and providing for an effective date."

- MOVED CSHB 274(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 298

"An Act relating to legislative approval of certain land leases by the Alaska Railroad Corporation."

- MOVED CSHB 298(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 291

"An Act relating to the requirements for obtaining a residential contractor endorsement."

- MOVED CSHB 291(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 274

SHORT TITLE: EXPEDITED WORKERS' COMPENSATION HEARING

SPONSOR: REPRESENTATIVE COGHILL

Jrn-Date	Jrn-Page		Action
05/08/01	1712	(H)	READ THE FIRST TIME - REFERRALS

05/08/01 1712 (H) L&C
02/04/02 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 298

SHORT TITLE: LEGISLATIVE APPROVAL OF RAILROAD LEASES

SPONSOR: REPRESENTATIVE MURKOWSKI

Jrn-Date	Jrn-Page		Action
01/14/02	1952	(H)	PREFILE RELEASED 1/4/02
01/14/02	1952	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1952	(H)	TRA, L&C
01/31/02		(H)	TRA AT 1:00 PM CAPITOL 17
01/31/02		(H)	Moved CSHB 298(TRA) Out of Committee MINUTE(TRA)
02/01/02	2110	(H)	TRA RPT CS(TRA) NT 6DP
02/01/02	2110	(H)	DP: MASEK, KOOKESH, SCALZI, OGAN,
02/01/02	2110	(H)	WILSON, KOHRING
02/01/02	2110	(H)	FN1: ZERO(CED)
02/04/02		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 291

SHORT TITLE: LICENSING OF RESIDENTIAL CONTRACTORS

SPONSOR(S): REPRESENTATIVE(S) MEYER

Jrn-Date	Jrn-Page		Action
01/14/02	1951	(H)	PREFILE RELEASED 1/4/02
01/14/02	1951	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1951	(H)	L&C
02/04/02		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE JOHN COGHILL

Alaska State Legislature
Capitol Building, Room 102
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 274.

PAUL GROSSI, Director

Division of Workers' Compensation
Department of Labor & Workforce Development
PO Box 25512
Juneau, Alaska 99802-5512

POSITION STATEMENT: Testified that the Division of Workers' Compensation supports HB 274; answered questions.

KERWIN TSCHETTER

(No address provided)

POSITION STATEMENT: Testified on HB 274, explaining his problems with workers' compensation.

ED MEYER

841 9th Avenue

Fairbanks, Alaska 99701

POSITION STATEMENT: Testified on HB 274, characterizing it as "good as far as it goes."

BARBARA BECKMAN

3321 North Wyoming Drive

Wasilla, Alaska 99654

POSITION STATEMENT: Testified that HB 274 is much-needed legislation.

ERIC BECKMAN

3321 North Wyoming Drive

Wasilla, Alaska 99654

POSITION STATEMENT: Testified on HB 274.

CINDY MAEL

PO Box 240912

Anchorage, Alaska 99524

POSITION STATEMENT: Testified on HB 274.

GEORGE RODRIGUES

819 West 76th Avenue

Anchorage, Alaska 99518

POSITION STATEMENT: Testified on HB 274, emphasizing the need for injured workers to be heard in a timely manner.

DAVID TWEDEN

1403 West 40th Avenue

Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 274, recounting his own experience.

DIANE TWEDEN

1403 West 40th Avenue

Anchorage, Alaska 99503

POSITION STATEMENT: Testified on HB 274, providing more information on her husband's situation.

FLOYD L. OBERG
2306 Roosevelt Drive
Anchorage, Alaska 99517
POSITION STATEMENT: Testified on HB 274, asking for more protection for injured workers.

BARBARA WILLIAMS
Alaska Injured Workers Alliance
PO Box 101093
Anchorage, Alaska 99510
POSITION STATEMENT: Testified on HB 274, asking that it be strengthened to protect workers.

MARIA RAMIREZ
1200 West Dimond, Number 1207
Anchorage, Alaska 99515
POSITION STATEMENT: Testified on HB 274 on behalf of George Ramirez, relating his problems with lack of information on his case.

TINA EDMONDSON
(No address provided)
POSITION STATEMENT: During hearing on HB 374, expressed concerns with regard to the independent medical examiners.

DEBBIE PIEPLOW
PO Box 141846
Anchorage, Alaska 99514
POSITION STATEMENT: Testified on HB 274.

AMANDA PIEPLOW
PO Box 141846
Anchorage, Alaska 99514
POSITION STATEMENT: Testified on HB 274.

WENDY LINDSKOOG
Alaska Railroad Corporation (ARRC)
PO Box 107500
Anchorage, Alaska 99510-7500
POSITION STATEMENT: Testified in support of HB 298 on behalf of ARRC, which had requested the legislation.

KAREN MORRISSEY
Alaska Railroad Corporation
Department of Community & Economic Development
PO Box 107500

Anchorage, Alaska 99510-7500

POSITION STATEMENT: Testified on HB 298.

CATHERINE REARDON, Director

Division of Occupational Licensing

Department of Community & Economic Development

PO Box 110806

Juneau, Alaska 99811-0806

POSITION STATEMENT: Testified in support of HB 291.

ACTION NARRATIVE

TAPE 02-10, SIDE A

Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Murkowski, Meyer, Crawford, and Hayes were present at the call to order. Representative Rokeberg arrived as the meeting was in progress. Representative Halcro was excused.

HB 274-EXPEDITED WORKERS' COMPENSATION HEARING

CHAIR MURKOWSKI announced the first order of business, HOUSE BILL NO. 274, An Act relating to workers' compensation; and providing for an effective date."

Number 0110

REPRESENTATIVE MEYER moved to adopt the proposed committee substitute (CS) [version 22-LS0983\J, Ford, 2/4/02] as the working document.

CHAIR MURKOWSKI announced that Version J was adopted.

Number 0124

REPRESENTATIVE JOHN COGHILL, Alaska State Legislature, sponsor of HB 274, explained that the bill would do two things: allow for expedited hearings for workers' compensation cases, and ask that doctors who perform the evaluations be licensed in Alaska.

Number 0198

CHAIR MURKOWSKI asked what would happen if the examination were to take place outside of Alaska. She said she gathers that where the exam takes place is important.

REPRESENTATIVE COGHILL said in [Version J], page 1, line 11, the wording states "[in which] the examination occurs". The intention is that if the examination occurs in Alaska, the physician must be licensed in Alaska. If the exam occurs in another state, the physician must be licensed accordingly.

REPRESENTATIVE COGHILL said HB 274 also aims to expedite [workers' compensation] hearings. Many times, people who are injured must go through an appeals process, while the injury does not stop; injuries have been exacerbated from that. The intent is to get a hearing sooner if there is a medical need. This gives the [Alaska Workers' Compensation Board] the language to do so. The board may, based on an appeal, schedule a hearing, but doesn't have to. Referring to page 2 [lines 25-26], he noted that [the board or the board's designee] can determine whether the claim involves an issue of medical treatment and an expedited hearing is necessary to avoid physical harm.

Number 0380

CHAIR MURKOWSKI asked what had precipitated the introduction of HB 274.

REPRESENTATIVE COGHILL mentioned routine work in the office and said that several constituents have come to him. He added:

Some of them have joined themselves to organizations which have other agendas than what I might have. But, certainly, this point was brought up, over and over again. So I think that ... it was a good fix. This does not fix everything that all of my friends want, believe me. But I think it's a move in the right direction. It's something that we can do. It makes it very clear. ... It was constituent work that brought this to light.

Number 0437j

REPRESENTATIVE CRAWFORD noted that in Section 2, line 24, the word "may" is used. He asked why that is, when HB 274 is trying to get expedited hearings.

REPRESENTATIVE COGHILL replied that there is a prioritization process that the board deals with, and this provides a tool to do that. There probably are going to be appeals where discretion is needed; that is why he'd believed there should be discretion there, instead of a directive.

Number 0509

REPRESENTATIVE CRAWFORD said it seems that if the board's designee determines that the claim involves an issue, then that would be reason to go ahead with it.

REPRESENTATIVE COGHILL replied that Representative Crawford's point was well taken. Representative Coghill said it is a policy call as to whether, once the board makes a decision, it should then become a directive. He said he'd hoped to start with having these as [possible] tools, leaving as much discretion as he could, because there are times when it is kind of a check and balance.

Number 0570

CHAIR MURKOWSKI offered that it appears the board may schedule the hearing if it determines that it involves an issue of medical treatment and that the expedited hearing is necessary to avoid physical harm. There could be a situation in which there is a determination that yes, this revolves around an issue of medical treatment, but that a delay won't compromise the physical condition of the employee. This is when the board would have discretion regarding whether to put the case on an expedited or routine basis. She asked whether she was reading it correctly.

REPRESENTATIVE COGHILL deferred to Mr. Grossi, suggesting it connects to several other issues.

CHAIR MURKOWSKI asked if anyone else had questions of Representative Coghill before Mr. Grossi testified.

REPRESENTATIVE ROKEBERG referred to the written sponsor statement and mentioned that HB 274 would require any physician conducting the examination in Alaska to be licensed to practice in Alaska. He asked if it would be permissible for an employer to select a physician outside of Alaska.

REPRESENTATIVE COGHILL said yes, provided that the examination took place outside of Alaska. He directed attention to page 1,

line 11, where it says the physician must be licensed in the state where the examination occurs.

Number 0705

PAUL GROSSI, Director, Division of Workers' Compensation, Department of Labor & Workforce Development (DLWD), first addressed why "may" was used instead of "shall". He said the main reason is that everyone believes his/her own case is the most important, and should be prioritized [accordingly]. This language provides a method of [prioritizing] and putting one case in front of another case. Although it shouldn't be done all the time, for those cases where it is needed - such as when a person needs the treatment in order to prevent physical harm - this authority will be utilized.

Number 0820

MR. GROSSI, in response to a question from Chair Murkowski, said currently one case can jump in front of another, but there is the question of whether "we" have authority to do so. With the bill, the authority is clearly there. Regarding where an exam occurs, he said this has always been a bit of a conflict [between Alaska] statute and the Division of Occupational Licensing; the latter says [a doctor] must be licensed for treatment in the state. He noted that, in fact, there have been complaints after doctors from other states have been brought in and then done an examination. Mr. Grossi said [HB 274] would clarify that and conform better to the Division of Occupational Licensing's requirements.

CHAIR MURKOWSKI asked Mr. Grossi if his division is in support of HB 274.

MR. GROSSI said the Division of Workers' Compensation is in support of HB 274.

Number 0930

REPRESENTATIVE HAYES asked how a doctor becomes licensed in Alaska.

MR. GROSSI said he didn't have the expertise to answer the question. He offered to get that information.

Number 1000

KERWIN TSCHETTER testified via teleconference. He began by saying that the employers and the insurance companies seem to want to know everything about the injured workers, including prior medical information. Although he didn't have a problem with that, he objected that information regarding the medical decision process wasn't being relayed to the injured worker.

MR. TSCHETTER said he'd presented his personal case in front of Mr. Grossi; the Division of Insurance; the Division of Workers' Compensation; and former Governor Knowles' secretary, Elizabeth Roberts (ph). He said he'd asked them to look at the information he'd presented and to get in touch with him, with no success. Mr. Tschetter expressed frustration with the process, saying he didn't think his own case was "strictly anecdotal." He said he thinks many other Alaskans who are injured have similar circumstances.

MR. TSCHETTER recounted how in July 1996, on the first day of a new job, he'd slipped and twisted his leg and felt a "rip go up my leg and a pop below the knee." He said he was referred by the company to a clinic in Anchorage, but the doctor failed to take an X-ray and sent him back to work with a broken leg. He said he'd worked another week with a broken leg.

Number 1208

MR. TSCHETTER expressed frustration that he couldn't get information regarding his case from anyone. He went back to the doctor the following week, and an X-ray showed the leg was broken below the knee. He was told he would need surgery to pin the ankle and would require a cast. He was referred to a surgeon in Anchorage who took some more X-rays and concurred with the diagnosis. Mr. Tschetter had asked if he could be referred to a doctor in Fairbanks for the surgery. He said the doctor in Fairbanks had told him that surgery was not indicated, and that the doctor was sending him back to work.

MR. TSCHETTER said he'd tried calling the nurse assigned to him by the insurance company, and was told he wasn't entitled to another medical opinion. He was told he could appeal the decision to the Alaska Workers' Compensation Board, but that [the board] would contest the issue until it "would be moot." He added, "I found out that in California, where this company resides, that the doctors were subject to receiving a financial incentive for minimizing the medical care."

Number 1320

MR. TSCHETTER reported that he'd called the first doctor's clinic in Anchorage and asked why an X-ray was not taken on the first visit; he was told the insurers didn't want to pay for the diagnostic test if it turned out negative. He said he was sent to work twice with a broken leg. He remarked, "To this day, the bone was left to heal by itself. The only medical treatment that I've had for that injury is that I was sent back to work with a splint the second time." He asked whether this bothers anybody.

MR. TSCHETTER emphasized that the medical report from the second doctor not only changed the description of his injury, but also changed the description to say that the injury had occurred previously. No one told him there was a change in the medical report, for almost two years. No one told him there was a problem with the claim. He concluded with the following point: "If you're not given specific information to make an informed consent, you won't even know whether there's a problem or [whether] you should even ask for an expedited hearing."

Number 1490

ED MEYER testified via teleconference, thanking Representative Coghill for the bill, which he characterized as "good as far as it goes." He said he wants expedited hearings, and thinks "shall" - not "may" - should precede "schedule" regarding those hearings. He said if it is established that a hearing is necessary, it is still optional for the board, giving the board too much leeway. Mr. Meyer said he is pleased the physicians will be licensed in Alaska or where the exam occurs. He urged the committee to not take HB 274 "as a big step, in any sense, toward helping injured workers." As Mr. Tschetter pointed out, Mr. Meyer said it isn't necessarily [true] that a physician's report or recommendations can be trusted; that needs to be addressed. He added, "Maybe employees should have a say in what physicians are going to determine their lives."

MR. MEYER offered a second point, that the board doesn't have a physician or medical expert on it, and yet makes medical decisions about expediting medical treatment. He asked that the committee consider whether to add medical expertise to the Alaska Workers' Compensation Board, which is doing the review.

Number 1603

BARBARA BECKMAN testified via teleconference on "this much-needed piece of legislation." She said out-of-state physicians are no more than "paid medical opinions, with really ... no recourse on their ... opinions"; the same is true of the group of physicians used in-state by the insurers. She added, "They are led by the adjusters writing letters to them prior to the exam, ... basically leading the exam, to render an opinion that they want. And we all know the bottom line is the dollar." With regard to the expedited hearing, Ms. Beckman suggested that injured workers wouldn't request a hearing unless they needed it. She added, "I wouldn't be here today, over five years later, had I gotten the board or someone to step in and allow me to get the medical care I needed." She agreed with Mr. Meyer regarding the need to have medical expertise on the board.

MS. BECKMAN also said the insurers shouldn't be allowed to controvert medical benefits until a board hearing has taken place. She said she was denied much longer than she should have been, which is why she suffers from the disease she has now. She said no one reviews what goes to the board. Understaffing of the division is a big problem, and the staff aren't qualified to make the determinations. She concluded by saying the wording in HB 274 needs to be "shall", not "may".

Number 1750

ERIC BECKMAN testified via teleconference. He agreed the wording on HB 274 needs to be changed to "will" or "shall". He told members he'd filed for an expedited hearing and waited for over two years; there was no response from the state when he filed. He said, "I don't believe that ... anybody should be able to be cut off by the insurance company alone, or be controverted by them, until they ... have an expedited hearing. I believe that that practice should stop."

MR. BECKMAN said the medical examinations are being led specifically by a questionnaire that basically leads the doctor through the examination as to what he/she is going to do. He asked: When did a medical doctor need an adjuster to lead an examination with a questionnaire? He said the practice of sending a letter to the doctor to guide them through an exam should be stopped, and suggested that the stopping of that practice should be included in HB 274.

Number 1911

CHAIR MURKOWSKI called an at-ease at 3:54 p.m. She called the meeting back to order at 3:57 p.m.

MR. BECKMAN concluded by asking the committee to consider some of the testimony given in 1998, which he believes will to substantially reinforce this law so that it works.

Number 1967

CINDY MAEL testified via teleconference. She said she feels an appropriate exam needs to be conducted in regard to the injury, including the extent of the injury and the amount of time during which it has been sustained. She suggested the examination should be pertinent to [the person's place of residence]. She agreed with the need for medical expertise on the board, and that there should be no controversion of benefits until there has been a fair hearing. She spoke in favor of having the examinations be independent, rather than copying another examiner's report.

Number 2035

GEORGE RODRIGUES testified via teleconference, suggesting injured workers should have the right to be heard in a timely manner. In his case, the insurance company spent more money on travel, motels, and cars than on examinations. He added, "They spent more time sitting there, trying to catch me saying something wrong, than they did worrying about me getting well to get back to work." Mr. Rodrigues reported that his evaluation had stated that he had a pre-existing injury, with nothing to back that claim; they never asked for his X-rays or MRIs [magnetic resonance imaging], and then had told him he had to go back to work. Ten days later, he'd received a cancellation letter in the mail.

Number 2111

DAVID TWEDEN testified via teleconference. He informed members that his first medical evaluation was performed by a doctor who lives in Oregon and was flown to Alaska to administer it. The doctor who performed the second evaluation rated his permanent, partial impairment at 5 percent. Mr. Tweden said he then visited a chiropractor, who reported an impairment rating of 17 percent - quite a difference. Mr. Tweden said he has had many controversions in his case; it has been difficult "just trying to survive." In September, he went to a prehearing conference and was told he was no longer receiving compensation. He said

he has had no source of money since then, when his compensation was controverted.

Number 2195

DIANE TWEDEN testified via teleconference, saying she thinks it is a crime how injured workers are treated. She said there needs to be a commission that helps them, rather than hurting them further. She said her husband has been injured twice. He was able to recover from the first injury through physical therapy until he was healed. After the second injury, however, the physical therapy was stopped, without notification, before he was healed; now he suffers daily, ongoing pain, without medical treatment. If he could have completed physical therapy, she believes it is possible her husband could be back at work today. She suggested there "needs to be a commission of people that are for the injured workers, not for the money involved in protecting the doctors and the rest of the bureaucracy."

Number 2240

CHAIR MURKOWSKI asked testifiers to limit remarks to the legislation, rather than addressing problems with workers' compensation as a whole.

FLOYD L. OBERG testified via teleconference. He said there needs to be more protection for injured workers. He said he has been "in this system ... for about nine months, and I've about had all of it I can handle." He added, "They put me on welfare, they put me on social security, and all because of neglect of some of these [higher-ups] up there, and I expect something to be done. ... Get out and do your jobs, for Christ's sake. Thank you. I've had enough."

Number 2290

BARBARA WILLIAMS, Alaska Injured Workers Alliance, testified via teleconference. She said when someone has to see an independent medical evaluator, there is no legal requirement for the evaluator to even look at [the worker's] records. The only time there is such a legal requirement is when the board appoints a second independent medical evaluator. Most of the time, workers don't have the proper information to make informed decisions. The pertinent information from the independent medical evaluator would allow the worker to ask the board for a chance for a second independent medical evaluator - but most injured workers aren't aware that this information is available to them. The

injured workers don't have anyplace to go to seek this information because the board doesn't even sell the rulebook that contains this vital information.

MS. WILLIAMS suggested HB 274 should be strengthened by requiring independent medical evaluators to review "our" records. She stated that after researching over 250 cases, "we" find that insurance companies are summarizing injured workers' records and sending those to the evaluators. Again, there is no legal requirement for the evaluators to review the records to make their decision. She said, "Workers are subject to this every 60 days."

MS. WILLIAMS noted that when workers are unable to appear at the hearing because of extenuating circumstances, it is automatically considered a controversion of benefits; she cited examples. Therefore, she said having a hearing before the controversion is a great idea. "However, workers that need immediate medical care never get it," she added, pointing out that Ms. Beckman has a terminal illness that could have been avoided, had the insurer used the proper information to determine what was wrong with her. She emphasized that nothing in the bill says anyone will read [an injured worker's] records.

Number 2366

MS. WILLIAMS said not one person on the Alaska Workers' Compensation Board has any medical expertise to be rendering decisions on medical emergencies on behalf of workers. She said workers are denied care every day. This offers injured workers little protection. When workers [are referred to doctors outside of Alaska] there is no guarantee that the medical evaluator has the proper credentials, has been sanctioned, or is currently under sanction.

MS. WILLIAMS offered that the current licensing restrictions don't adequately address the situation of medical evaluators coming into Alaska. She suggested these medical evaluators should be licensed with the Department of Occupational Licensing. She added, "These people are also taking temporary permits that are meant to be given to people in a one-time fashion when there's emergencies for physicians, and they're using these temporary permits to come and go and determine what medical treatment we can get."

MS. WILLIAMS concluded by saying she appreciates the members of the committee who are attentive, but that some members need to

be more attentive to workers' needs. She emphasized the seriousness when people have to seek public assistance and social security [benefits] just to survive. She asked that the committee strengthen the legislation to protect the workers.

Number 2472

MARIA RAMIREZ testified via teleconference on behalf of [George Ramirez], who'd had an accident.

TAPE 02-10, SIDE B
Number 2480

MS. RAMIREZ discussed the lack of information in the case. She noted how difficult it had been for [Mr. Ramirez], and that they'd been told to drop the case.

Number 2439

TINA EDMONDSON testified via teleconference, mentioning a couple of different independent medical evaluations. In one case, the insurance adjuster set up [an appointment] for her to travel to Oregon for an independent medical evaluation; however, she was unable to fly at the time. The insurance adjuster had informed Ms. Edmondson that the [insurance company] had to pay the doctor \$1,500 regardless, and therefore the insurance company sent Ms. Edmondson's records for review. Upon review of Ms. Edmondson's records, the physician sent a letter [to the insurance company] stating that Ms. Edmondson was able to work, was malingering, and was in it for secondary gain. However, Ms. Edmondson said, that wasn't true.

MS. EDMONDSON explained that her case has been going on since 1998. She expressed disbelief that a physician could write a medical summary without ever actually physically examining her. She informed the committee that she is on assistance now and living in low-income housing, and therefore [how could one construe that she is doing this for secondary gain]. Ms. Edmondson said she doesn't believe in [using] out-of-state physicians who are being paid by the insurance adjuster. She charged that the physician will [write the reports to favor] the insurance adjuster who pays the physician. Injured workers don't stand a chance, she concluded.

Number 2308

DEBBIE PIEPLOW testified via teleconference, noting that she was testifying because doctors aren't required to refer to the medical [information] brought to them. She informed the committee that her case was controverted in February 2001. In November or December before that, her physician had wanted her to go to the Environmental Health Center (ph) in Dallas, Texas, in order to be tested and treated for exposure to chemicals. After the treatment, she would have been back to work. However, the insurance delayed until the first 60 days had passed. The insurance company said it had physicians in Portland, Oregon, [who were qualified the same as those in Dallas, Texas], and therefore she went to Portland.

MS. PIEPLOW explained that during a pulmonary examination, she was exposed to gases, and the physicians wouldn't explain what they were doing to her. In the end, she had to fight to obtain the name of the gas to which she was exposed. After that exposure, Ms. Pieplow was very ill. She noted that before going to Portland, she was on oxygen, which she continues today, and was taking histamine shots up to eight times a day in order to keep breathing. This is because the antigens, which would have helped her to get over this, were mixed with preservatives. The preservative glycerin sent her into shock, and thus she had no alternative but to go out of state.

MS. PIEPLOW continued, saying she lost her home and became homeless for five months. Just recently she got into [low-income] housing and applied for social security. If it weren't for food stamps, she would have no food. She characterized reducing someone to this state of poverty as a crime. Ms. Pieplow stressed that these independent medical evaluators aren't independent whatsoever, but are paid by the insurance companies. She noted that she'd brought her medical information [to the meeting with the independent medical examiner], but [the examiner] had said she hadn't, and the evaluation was based upon the information available before the date of the exam.

Number 2134

AMANDA PIEPLOW testified via teleconference. She informed the committee that she'd been examined by an independent medical examiner who'd refused to review records sent to him by anyone other than her employer's insurance company, which was trying to controvert her case. This examiner wouldn't review her physician's report that discussed how injured she was and that she was unable to return to work at the moment. After doing a cursory examination - and asking her to walk across the room,

which she did - the examiner then pronounced that she was cured and could return to full-time work. This was not true, Ms. Pieplow said, having been severely injured by a horse and unable to stand or sit for long periods. Injured workers need to be protected against these kinds of incidents, she concluded.

Number 2048

CHAIR MURKOWSKI announced that public testimony was concluded on HB 274. She asked Representative Hayes whether Ms. Reardon had answered his question regarding how a physician is licensed.

REPRESENTATIVE HAYES said yes, noting that he even had documentation regarding that.

CHAIR MURKOWSKI recalled mention that the Alaska Workers' Compensation Board doesn't have a member with medical expertise. She asked whether that was the case.

MR. GROSSI explained that statute requires that the Alaska Workers' Compensation Board consist of a labor member, an industry member, a designee of the commissioner [of the DLWD] or the commissioner. He pointed out, however, that there is a lot of medical expertise involved, because of doctors' testimony, reports, and depositions. A statutory change would be necessary [to require a member of the board with medical expertise]. Furthermore, it may be problematic to attract physicians to the board because it is basically a volunteer position, with a \$50 stipend. In answer to a question by Chair Murkowski, Mr. Grossi said there are currently 12 members on the board; however, Representative Harris has sponsored legislation that requests two more members.

Number 1957

REPRESENTATIVE ROKEBERG recalled that most of these panels are three-member panels. He surmised that it would be expensive to obtain medically trained individuals.

MR. GROSSI agreed. Even with the current composition of the board, it has been difficult to obtain [volunteers] to serve, because a hearing requires an entire day. Whether physicians would have the time to serve on such a board would be questionable. "But, again, we do have lots of expertise, as far as specific cases," he concluded.

Number 1910

REPRESENTATIVE ROKEBERG pointed out that two years ago there was a major rewriting of the workers' compensation law by the House Labor and Commerce Standing Committee, which he chaired at the time. He recalled discussion regarding rules of procedures and dissemination. He asked whether something [is given] to the general public so that they understand their rights.

MR. GROSSI answered that [DLWD's] statutes are published and available for purchase. Also, DLWD has a workers' compensation booklet that is sent to all injured workers.

REPRESENTATIVE ROKEBERG expressed concern with today's testimony indicating that people hadn't understood their rights or the procedures and deadlines. He surmised that the workers' compensation booklet attempts to address such questions.

MR. GROSSI replied yes, noting that the division office can be contacted as well. In further response, Mr. Grossi affirmed that the booklet was updated after the recent rewrite. It is updated whenever there is a change.

REPRESENTATIVE ROKEBERG emphasized that the recent rewriting of the law was significant; the House Labor and Commerce Standing Committee had spent countless hours working on it. Therefore, he took personal exception to Ms. Williams' comment indicating [some committee members] aren't paying [adequate] attention to the issues of workers.

MR. GROSSI agreed there had been an increase in benefits and a number of significant changes. He pointed out that with any given legislation, it is impossible to make all the changes that people desire. Furthermore, changes seldom affect the claims of those who were injured prior to the changes.

Number 1755

REPRESENTATIVE COGHILL wrapped up by pointing out that HB 274 will allow an expedited workers' compensation hearing. He announced that he was open to discussing a change from "may" to "shall" on page 2, line 24. "Once the board makes the determination, then they can make a directive," he added. "And that's really what the language would be saying." He said he feels that might shore up some concerns expressed in today's testimony.

CHAIR MURKOWSKI asked whether changing it to "shall" would impact the ability to process the claims and result in a fiscal note for the bill [because of lack of flexibility].

REPRESENTATIVE COGHILL acknowledged that the change might require a fiscal note. He noted that the language was made permissive in order to avoid "wading out into that." "I don't think we've studied the numbers, though, or the ramifications of it," he added.

MR. GROSSI explained that the determination would still have to be made that the individual may be adversely impacted by not receiving the treatment. He said, "If these determinations were made in a significant number, obviously, it would have some impact. But I don't think that that's likely to be the case, although I can't say with absolute with certainty." Mr. Grossi surmised that if [Representative Harris's] legislation were to pass, there would be more board members to hold more hearings, and thus there wouldn't likely be a problem. One big problem with hearings is obtaining the lay members to hear them, whereas the department people are [working] every day [anyway].

Number 1633

REPRESENTATIVE ROKEBERG returned to Mr. Grossi's point that everyone feels his/her case is the most important one. However, he said, the case could be made that any type of treatment is necessary to avoid physical harm. He indicated the change to "shall" would mandate the aforementioned, negating any flexibility regarding an expedited hearing.

MR. GROSSI agreed it would be a possibility.

REPRESENTATIVE ROKEBERG added that if he were counseling someone, he would suggest that the individual could demand a hearing and that the [department] could hardly refuse.

MR. GROSSI offered his belief that there would have to be some medical proof or evidence. It would be a "somewhat legal determination."

Number 1564

REPRESENTATIVE ROKEBERG asked, "How do you sort that out?"

MR. GROSSI answered, "By that type of a process, ... whether ... some operation is needed, and needed right away - those types of considerations."

REPRESENTATIVE ROKEBERG mentioned sovereign immunity and getting sued by everybody.

MR. GROSSI acknowledged that it could be a problem, but added, "You'd still have to make that determination."

REPRESENTATIVE ROKEBERG asked whether [the language change] elevates a person's right to appeal, and whether "may" helps.

MR. GROSSI replied in the affirmative. Currently, there is no statutory expedited-hearing authority per se. Therefore, HB 274 does make a significant change.

Number 1481

REPRESENTATIVE CRAWFORD remarked that HB 274 seems to go far in addressing the complaints heard today. He remarked, "Once the board or board's designee has determined that the claim involves an issue of medical treatment and an expedited hearing is necessary, I think it should be 'shall' instead of 'may'." Furthermore, he said, it doesn't appear it would cause the department undue harm to change the language.

REPRESENTATIVE CRAWFORD announced that he would offer the foregoing as a conceptual amendment.

REPRESENTATIVE ROKEBERG pointed out that Representative Crawford had referred to the board, rather than the individual. Representative Rokeberg said he wouldn't disagree if it applied to the board, rather than the individual, with "may" being applied to the individual "in a proscriptive way." He surmised that wouldn't seem objectionable to the [department].

REPRESENTATIVE COGHILL responded, "We're talking about a party, the board, or the board's designee." He explained that [HB 274] attempts to create a line so that those with an expedited need [get an expedited hearing]. However, [with the "shall" language] everyone would [have the ability to receive an expedited hearing]. In that situation, Representative Coghill said he didn't believe people would be served well. He clarified that although he was cautious, he was open to discussion.

Number 1366

CHAIR MURKOWSKI referred to the possibility on page 2, line 23, of deleting the language "upon request by a party". Therefore, it would be just the action of the board or the board's designee [in] recognizing that it is an issue of medical treatment and that an expedited hearing is necessary. She asked whether that would help. Chair Murkowski said she saw [Representative Coghill's] point that [the language change] could open this up to where it would no longer be workable.

REPRESENTATIVE ROKEBERG maintained that at the level of the individual, [the expedited hearing] would be permissive by using "may", while the action of the board or board's designee would be mandatory. Therefore, the expedited hearing would be within reach if the worker had convinced the board of the necessity.

MR. GROSSI mentioned his belief that it's almost necessary that the party bring it to [the department's] attention, because without that, it might or might not reach the point where a determination is made.

Number 1252

REPRESENTATIVE COGHILL, in response to Representative Rokeberg's suggestion to use permissive language in reference to the individual while using mandatory language for the board or board's designee, referred to lines 25-26 [page 2, Section 2]. He said it isn't a mandate, but surmised that it could be mandated somehow regarding the board or board's designee. However, he inquired as to how much judgment [the legislature] wants to mandate for the board or board's designee. He questioned how far he wanted to delve in this arena. Furthermore, "we" can never do enough in workers' compensation issues. He reiterated the need to at least create an avenue for an expedited hearing, when an individual brings it to the board's attention. Frankly, he said, too many directives would seem to tilt [the situation]. He then announced that he had changed his mind on changing ["may"] to "shall".

CHAIR MURKOWSKI noted that Representative Crawford had put forth a conceptual amendment earlier.

REPRESENTATIVE CRAWFORD said he was ready to amend it according to Representative Rokeberg's clarification.

REPRESENTATIVE COGHILL turned to page 2, line 26, and noted that it says "necessary to avoid physical harm". He related his belief that there is a criterion before the board and that the individual has access to the board. Therefore, he didn't know whether [the language] needed to go further.

Number 1120

REPRESENTATIVE ROKEBERG remarked that the language is confusing because he reads it that the individual, board, or board's designee may schedule [an expedited hearing]; however, he believes the drafter really meant that the board or board's designee would schedule [an expedited hearing]. Still, there has to be a request. He concluded that the language is defective. The individual's request alone shouldn't mandate that [an expedited hearing] be scheduled, because the board or board's designee should review it and determine whether to do it. Representative Rokeberg suggested a conceptual amendment could be put forth with the committee aide's assistance.

CHAIR MURKOWSKI suggested that Representative Rokeberg could also chair a subcommittee.

Number 1036

REPRESENTATIVE COGHILL acknowledged that perhaps the language isn't as artful as it could be. However, page 2, line 23, specifies that the request is made, and the board is provided the discretion to have [an expedited hearing], if the board or board's designee so determines, in lines 24-25. Therefore, he felt that the language was adequate.

REPRESENTATIVE ROKEBERG said, "Well, maybe you're right."

[The conceptual amendment wasn't pursued further.]

Number 0985

REPRESENTATIVE HAYES moved to report CSHB 274 [version 22-LS0983\J, Ford, 2/4/02] out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 274(L&C) was moved out of the House Labor and Commerce Standing Committee.

HB 298-LEGISLATIVE APPROVAL OF RAILROAD LEASES

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 298, "An Act relating to legislative approval of certain land leases by the Alaska Railroad Corporation." [Before the committee was CSHB 298(TRA).]

Number 0298

CHAIR MURKOWSKI, sponsor, explained that she'd introduced HB 298 after working in conjunction with the Alaska Railroad Corporation (ARRC), in order to simply allow for extension of the railroad leases in certain terminal areas across the state. Currently, statutes limit the leases to 35 years. Financing for any project is usually for a longer term, however. Therefore, HB 298 would expand the lease date from 35 years to 55 years, in keeping with the current leasing policies of the University of Alaska and the Department of Natural Resources. She informed the committee that there has been concern that ARRC hasn't be able to obtain adequate financing for projects in the Anchorage area because of the current limitation in statute. Therefore, ARRC has requested this legislation. She asked that Ms. Lindskoog discuss the bill further.

Number 0789

WENDY LINDSKOOG, Alaska Railroad Corporation, explained that this legislation would help make some of ARRC's land more viable for commercial and residential development. She noted that a couple of years ago [ARRC] came to the legislature with an amendment to a bill that dealt with the problem of short leases in relation to financing home mortgages in a subdivision in the Healy area. Rather than address this problem in a piecemeal fashion, [ARRC] had requested flexibility to offer a longer lease term, 55 years, in the areas with the most demand for such.

Number 0692

REPRESENTATIVE ROKEBERG noted that he and Ms. Lindskoog had had a conversation regarding extending the lease to 55 years on all lands, including the reserve lands. He asked if ARRC would be amenable to that.

MS. LINDSKOOG answered that the foregoing would have been ARRC's first choice. However, the request was [limited] to the reserve lands, where there is the largest demand for this type of lease length. Certainly, if ARRC could obtain the ability to lease any of its land, [it would like to do so].

REPRESENTATIVE ROKEBERG said there may be some restrictions on operating lands within the rights-of-way, but that could be taken care of internally, he thought. He added, "And only those lands that might come up that aren't within the so-called terminal reserves, ... I think they may well. Why make it any different?"

MS. LINDSKOOG remarked that it would be great if ARRC could have the ability to have a 55-year lease on all lands. She clarified that on right-of-way lands, ARRC typically doesn't issue leases; rather, it issues permits. Those [permits] are often for utilities that go through ARRC's right-of-way, and those can be only for an 18-year period, per the Federal Transfer Act. In further response to Representative Rokeberg, Ms. Lindskoog confirmed that other lands could potentially qualify for a long-term lease.

CHAIR MURKOWSKI pointed out that even if the lease terms were extended to 55 years, it is still up to the board how long it wants to make each lease. This [legislation] merely sets the maximum term.

MS. LINDSKOOG concurred. She explained that ARRC's board of directors has to approve all long-term leases, and there is a public comment period, the time of which is dependent upon the type of lease. Therefore, there is a lot of opportunity for the public to comment on how the land should be used.

Number 0448

KAREN MORRISSEY, Alaska Railroad Corporation, Department of Community & Economic Development, testified via teleconference. She echoed earlier comments that the length of ARRC's lease term is precluding a lot of developments, and that operators need the longer term to obtain financing.

REPRESENTATIVE ROKEBERG commented that in his 30 years as a real estate broker in Anchorage, he thought it was extraordinarily difficult to determine valuations on improvements when there was a ground lease with a limited term. He said the valuations would tend to be extraordinarily depreciated or that they wouldn't get true value for the improvements to the land, depending on the diversionary interest.

MS. MORRISSEY agreed, but pointed out that in recent times, tenants are tending to sell their improvements. She explained

that often [tenants] request a longer term, which is taken to the board. The board approves that longer term, subject to the sale of the improvements. Therefore, the new tenant can invest in that improvement and obtain financing to acquire that improvement. Still, it is limited to 35 years.

Number 0317

REPRESENTATIVE ROKEBERG related his understanding, then, that this would have to be taken up as an issue 20 years before [ARRC] would otherwise do so.

MS. MORRISSEY agreed, adding that typically the tenant needs 10 years beyond the term of the financing. Therefore, [HB 298] will make it easier for tenants to either sell improvements or invest in what they have [with a] longer term.

Number 0265

REPRESENTATIVE ROKEBERG offered an amendment to CSHB 298(TRA), as follows: Delete the text on page 1, lines 13-14, through the word "paragraph" on page 2, lines 1-4. On page 2, line 4, delete "35" and insert "55".

MS. LINDSKOOG indicated the only difference [between this and a bill in Senate] is that the Senate bill deleted the language "certain terminal reserves" in the title.

CHAIR MURKOWSKI said the title of HB 298 would conform [to the changes].

Number 0131

REPRESENTATIVE ROKEBERG amended his conceptual amendment to include a conforming title.

CHAIR MURKOWSKI informed the committee that as the sponsor, she wouldn't object to Representative Rokeberg's amendment [as amended]. She announced that there being no objection, the amendment [as amended] was adopted.

Number 0108

REPRESENTATIVE ROKEBERG moved to report CSHB 298(TRA), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB

298(L&C) was moved out of the House Labor and Commerce Standing Committee.

HB 291-LICENSING OF RESIDENTIAL CONTRACTORS

TAPE 02-11, SIDE A
Number 0001

CHAIR MURKOWSKI announced the final order of business, HOUSE BILL NO. 291, "An Act relating to the requirements for obtaining a residential contractor endorsement."

Number 0033

REPRESENTATIVE KOTT moved to adopt the proposed committee substitute (CS), version 22-LS1158\C, Lauterbach, 2/1/02, as a work draft. There being no objection, Version C was before the committee.

NUMBER 0080

REPRESENTATIVE MEYER, sponsor of HB 291, explained that currently a person must apply for the residential contractor endorsement within six months after successfully completing the exam. He said a constituent, Mr. Devore, had written a letter noting that he'd been out of state for a family emergency and had missed the six-month deadline; Mr. Devore's concern was that the law didn't allow for extenuating circumstances. If a person misses the six-month deadline, the only recourse is to take the residential contractor exam again - which is four hours long and is only offered four times a year, with a \$75 fee each time the test is taken.

REPRESENTATIVE MEYER said he'd contacted Catherine Reardon, Director, Division of Occupational Licensing, who'd agreed that the law could allow some flexibility. He said a simple solution was to extend the timeline to apply for a contractor endorsement. He said Ms. Reardon had explained to him that a common reason for missing the deadline was that a person might be in the process of starting a new construction business.

REPRESENTATIVE MEYER pointed out that originally HB 291 extended the deadline from six months to two years, but Version C only extends the deadline to twelve months. He said this was more agreeable to all the parties involved.

Number 0283

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Commerce and Economic Development, informed the committee that the Division of Occupational Licensing supports HB 291.

Number 0302

REPRESENTATIVE ROKEBERG moved to report CSHB 291 [version 22-LS1158\C, Lauterbach, 2/1/02] from committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 291(L&C) was moved out of the House Labor and Commerce Standing Committee.

ADJOURNMENT

Number 0341

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:00 p.m.