

ALASKA STATE LEGISLATURE  
**SENATE LABOR & COMMERCE COMMITTEE**

April 17, 2001  
1:30 p.m.

**MEMBERS PRESENT**

Senator Randy Phillips, Chair  
Senator Alan Austerman  
Senator Loren Leman  
Senator John Torgerson  
Senator Bettye Davis

**MEMBERS ABSENT**

All Members Present

**COMMITTEE CALENDAR**

Confirmation Hearings:

Alcohol Beverage Control Board - Mr. Duane S. Udland  
Occupational Safety and Health Review Board - The Honorable Cliff Davidson

SENATE BILL NO. 191

"An Act relating to insurance pooling by members of an airline employers association."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

SB 191 - No previous action to be considered.

**WITNESS REGISTER**

Senator Taylor  
State Capitol Bldg.  
Juneau AK 99811

**POSITION STATEMENT:** Sponsor of SB 191.

Ms. Sarah McNair-Grove, Actuary P/C  
Division of Insurance  
Department of Community and Economic Development  
P.O. Box 110805  
Juneau AK 99811

**POSITION STATEMENT:** Commented on SB 191.

Mr. John Walsh  
Alaska Association of Independent Insurers Agents  
P.O. Box 240952  
Douglas AK 99924

**POSITION STATEMENT:** Commented on SB 191.

**ACTION NARRATIVE**

**TAPE 01-19, SIDE A**

Number 001

**CHAIRMAN RANDY PHILLIPS** called the Senate Labor & Commerce Committee meeting to order at 1:30 p.m. and announced a confirmation hearing for Mr. Duane S. Udland, Alcohol Beverage Control Board and Honorable Cliff Davidson for the Occupational Safety and Health Review Board.

SENATOR TORGERSON moved to forward the names of Mr. Udland and Mr. Davidson to the full body of the Senate with the standard letter of non-objections. There were no objections and it was so ordered.

CHAIRMAN PHILLIPS announced a recess from 1:32 - 1:36 p.m.

#SB191

**SB 191-JOINT AVIATION INSURANCE ARRANGEMENTS**

CHAIRMAN PHILLIPS announced SB 191 to be up for consideration.

SENATOR TAYLOR, sponsor of SB 191, explained that it would provide an opportunity and an option for those people who run air carrier businesses in the State of Alaska, everything from mom and pop air taxi operators all the way up, to create and form their own insurance pool for purposes of insuring the various risks, both to hull and liability, and even workers' compensation that they are involved in today. This is the result of a weakening market [stock market] in the U.S., but the insurance industry has dramatically increased premiums to air carriers all across the state, some of whom are barely making it today.

SENATOR TAYLOR said this pattern has repeated itself on a five-year cycle for at least the last 30-years. When we were faced with the very same type of problem with municipalities and also with school districts, about 14 years ago the legislature created AMLJIA, which has been a very successful pool. It also created the education pool that insures a majority of all the school districts in the state. That has resulted in significant decreases in premiums to both the municipalities and the school districts over that period of time,

saving hundreds of millions of dollars.

He heard constituents talk about 200 percent increases in premiums. A meeting with Congressman Young revealed that he had heard the same concerns and was willing on a federal level to provide us assistance in funding the initial reserves. Senator Taylor explained that this is the way MICA was created, the insurance company created by the State of Alaska when our medical profession, both doctors and hospitals, were faced with astronomical premium increases. He said:

MICA was so successful that they only used \$3 million of the original \$10 million that the legislature had appropriated for their reserves. At the end of a 12 year period, they had been so successful, they had accumulated reserves so far beyond anything that could be justified that the internal revenue service was going to begin taxing all the participants on the reserves in that pool. The doctors and hospitals came to the legislature and asked them to "kill that company" and they went back into the private sector with a company called NORCAL.

To give you an idea of how large the excess reserves were at the time, NORCAL accepted all the claims against the medical profession in Alaska and gave to every single one of the doctors and hospitals who continued on with them a three-year credit against future premiums. Several of our hospitals and a majority of the doctors involved paid no malpractice premium for three-years. They had that much credit accumulated.

SENATOR TAYLOR said that the Alaska Loggers Insurance Pool, on average, would run about 37 percent below the lowest numbers on market for premium. "It is still alive and doing well today, even though the timber industry has pretty well gone under, and provided them with some tremendous savings on insurance premiums."

He said the first pool he came in contact with was the halibut pool, which had been created in Washington State. During those years, our boats were seeing 15 - 30 percent increases in hull coverage. A guy with a wooden boat could no longer buy insurance. "The very same fellow had a wooden boat setting alongside of him in Petersburg that belonged to the halibut pool and during that three years of really dramatic increases, the guys in the halibut pool got a check back from their insurance pool because there weren't any claims and they got paid the excess back."

Number 700

SENATOR TAYLOR said all the SB 191 does is provide air carriers with the option, an additional tool, to create their own insurance pool so to give themselves some protection from the dramatic sweeps and changes that are occurring and have occurred historically in this market. There is nothing mandatory in the bill that would require them to do anything.

SENATOR TAYLOR said that the law was changed years and years ago by heavy lobbying from the insurance industry to make certain that no one else could go into the insurance business except them. You couldn't be self insured as a small group of people."

He said the reason Boeing and other big companies, even the State of Alaska are self-insured is because, "We don't want to give up that 25 - 30% minimum, for small businesses, of our overall income just to have somebody out there whose going to take care of our claims for us. When you get large enough, you take care of your own claims."

SENATOR TORGERSON asked what the difference was between this and the Homebuilders Association fiasco the legislature got into.

SENATOR TAYLOR explained that they were trying to set themselves up with limited reserves.

SENATOR TORGERSON said, "There aren't any reserves here."

SENATOR TAYLOR said, "They didn't on the other either."

SENATOR TORGERSON asked, "Aren't we concerned about not having any reserves?"

SENATOR TAYLOR replied, "We weren't with our municipalities and schools. We set up mandatory reserves on those, each one of them. The reserves in this instance - I think they would have a hard time meeting, Senator Torgerson, without having extraordinarily high premiums up front. That's a choice they are going to have to make. Not us."

SENATOR TORGERSON added, "Under this section of the statute, these are not audited records, either, of the state. These are totally stand alone, right?"

SENATOR TAYLOR replied, "Right, these are independent companies."

SENATOR TORGERSON asked, "The JIA could also insure these folks if they wish the way it is written? Is that correct?"

SENATOR TAYLOR answered, "I'm not sure if they could or not."

SENATOR TORGERSON responded, "It says may enter into cooperative agreements with each other."

SENATOR TAYLOR replied, "I don't doubt that they could, but I don't think there's any desire to."

SENATOR TORGERSON retorted, "That's what this bill says."

SENATOR TAYLOR said he didn't have a problem with it. "If people are getting down to the place where they can't afford the insurance and they are going to go bare, I'd rather have them at least have some option available to them."

SENATOR TORGERSON said he agreed, but they don't have enough reserves and there are no sideboards to this. "It's just go out and do it."

SENATOR LEMAN asked what the state's requirement were on reserves.

SENATOR TAYLOR said they are under the state's insurance code, which is regulated by an insurance commissioner.

SENATOR LEMAN asked if there was a requirement in the code that would reach into this association?

SENATOR TAYLOR indicated yes.

MS. SARAH MCNAIR-GROVE, Division of Insurance, said Senator Leman asked what the reserve requirements were and the answer is that the JIA statute was a carved out from the regulation from the Division of Insurance. "We do not regulate them, so any other requirements that are in Chapter 21 would not apply to a JIA."

SENATOR TORGERSON asked if it would apply to this pool.

MS. MCNAIR-GROVE said that it wouldn't because it is being set up in the JIA Chapter. "Any other statutes in Title 21 do not apply."

SENATOR LEMAN asked if they wanted to impose any requirements, they would have to be imposed through separate legislation.

MS. MCNAIR-GROVE said that was correct.

SENATOR DAVIS asked what kind of reserves the municipalities and schools needed to have on hand.

MS. MCNAIR-GROVE answered that she didn't know the answer.

CHAIRMAN PHILLIPS asked if the department had a position on this bill.

MS. MCNAIR-GROVE replied that they just got the bill and haven't had time to take a position.

CHAIRMAN PHILLIPS asked her if she could get one by Thursday.

MS. MCNAIR-GROVE answered that she would talk it over with the director.

SENATOR TORGERSON said that he agreed with Senator Taylor, "We've got to do something to allow some pooling, but I also agree that there should be some sideboards. The debate we had over at Homebuilders - they made some real valid points about trouble with reserves, but I also agree that we ought to allow our folks to go out and do pools. We should work on this and fix it."

CHAIRMAN PHILLIPS said he agreed.

MS. MCNAIR-GROVE added that there is a chapter in Title 21 dealing with reciprocals and it is set up for this purpose, so people can get together and pool their insurance risks. "That option is already available to these types of people."

SENATOR TORGERSON asked what reserves are required for that.

MS. MCNAIR-GROVE replied that there are reserve requirements, but she didn't know the numbers. She added that it is regulated by the Division of Insurance as any other insurance company is.

SENATOR TORGERSON asked how they determine the reserve difference between the Homebuilders and the airlines.

Number 1025

MS. MCNAIR-GROVE replied that the main difference is the type of risk. Air lines is very high catastrophe and would need more reserves initially, because if there was a large loss right at the beginning, you would want to protect the solvency of your company.

SENATOR TORGERSON said the debate was that those reserves are too high and that there's no way to pay down those reserves.

CHAIRMAN PHILLIPS asked Senator Taylor to work with the department

on a second draft.

SENATOR TAYLOR responded that they had looked at that question for years and it seemed to depend on how big the crunch was at the time about how concerned we were. He said:

I share the concerns that have been expressed that there should be some sideboards, but inevitably, as soon as we start setting sideboards, we end up trying to submit our wisdom on this subject over and above that of those people who may wish to create one. We certainly don't want to set up an insurance pool that's going to fail or that would have that inherent problem of not having adequate reserves.

My only thought is that when we set up the other two, we had municipal authority for taxation, which provided an additional backup, so to speak. We had that same thing available through schools. And yet other states have done the same thing we did with the doctors. We knew it was going to be expensive to create the reserves for the doctors and hospitals upfront, so the legislature just said, "Here's \$10 million. If you need it, you can take up to that \$10 million."

They started off with \$3 million and never had to write the letter again. They then paid us back, by the way. Not only that \$3 million, but interest compounded on that \$3 million for the whole time they had it.

There comes some point at which I don't believe a pool will ever be created unless it's done by folks who have sufficient credibility and business acumen. That the people buying into the pool have credibility within that system. They won't sign up if they think it's too thinly done or too weak or that's going to jeopardize them, individually, because as participants and owners within the pool, unless Congress comes through with some level of initial reserves, a block of \$10 - \$20 million that just sits there for that purpose, I don't see the major carriers coming in and kicking in \$1 - \$2 million a piece just towards reserves unless they know how that system is going to be operated and what the overall risks are and how much risk they are putting their money to. I feel somewhat constrained to try and develop here in the legislature the type of specific sideboards that might give us some comfort level as far as allowing it to be

created at the same time might either be way too high or way too small for what it's really going to cost.

We have given authority to one group that never has exercised that authority and that was Senator Eliason following up on legislation for municipalities and school districts. He actually passed a law that allowed fishing organization to do the same thing. None of them have ever put that together, but that option is available to them, too. I thought I'd put in the basic blank check and see whether anyone goes forward with it.

CHAIRMAN PHILLIPS asked everyone to get together and work on the bill by next Thursday.

MR. JOHN WALSH, Independent Insurance Agents and Brokers, said he wanted a couple of days to get comments back from them on this issue.

CHAIRMAN PHILLIPS said that was fair and adjourned the meeting at 2:00 p.m.

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