

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

Juneau, Alaska

Friday

February 25, 2005

Forty-seventh Day

Pursuant to adjournment the House was called to order by Speaker Harris at 10:05 a.m.

Roll call showed 27 members present. Representatives Berkowitz, Cissna, Crawford, Dahlstrom, Gatto, Guttenberg, Kapsner, Kohring, Kott, Lynn, and Neuman had been previously excused from a call of the House today.

Representative Coghill moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Joule - from today to 10:00 p.m., plane time, February 27, 2005

Representative Moses - from today to 10:00 p.m., plane time, February 27, 2005

The invocation was offered by the Chaplain, Nancy Campbell of the Gospel Outreach Christian Center. Representative Stoltze moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

Dear Heavenly Father,

I come to You on behalf of our legislators. As they labor together over the bills being introduced and the demands of this day, let strategy come forth. I ask that You would remove any obstacles blocking their vision. I pray for any

weariness or sickness they may be experiencing to lift off of them right now in Jesus' name. Renew their strength, and bless their labors. Thank You, Lord.

In Jesus' name, Amen.

The Pledge of Allegiance was led by Representative McGuire.

CERTIFICATION OF THE JOURNAL

Representative Coghill moved and asked unanimous consent that the journal for the 46th legislative day and House and Senate Joint Journal Supplement No. 4 be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

REPORTS OF STANDING COMMITTEES

HB 69

The Health, Education & Social Services Committee has considered:

HOUSE BILL NO. 69

"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska Native family assistance programs; relating to assignment of child support by Alaska Native family assistance recipients; relating to paternity determinations and genetic testing involving recipients of assistance under Alaska Native family assistance programs; and providing for an effective date."

The report was signed by Representative Wilson, Chair, with the following individual recommendations:

Do pass (5): Cissna, Gardner, McGuire, Seaton, Wilson

No recommendation (2): Anderson, Kohring

The following fiscal note(s) apply:

1. Fiscal, Dept. of Health & Social Services
2. Fiscal, Dept. of Health & Social Services
3. Fiscal, Dept. of Health & Social Services
4. Fiscal, Dept. of Health & Social Services

HB 69 was referred to the Finance Committee.

HB 120

The Health, Education & Social Services Committee has considered:

HOUSE BILL NO. 120

"An Act relating to safety devices and sharp instruments for the prevention of the spread of bloodborne pathogens in health care employees; and providing for an effective date."

The report was signed by Representative Wilson, Chair, with the following individual recommendations:

Do pass (4): Cissna, Gardner, Seaton, Wilson

No recommendation (1): Kohring

The following fiscal note(s) apply:

1. Zero, Dept. of Health & Social Services
2. Zero, Dept. of Labor & Workforce Development

HB 120 was referred to the Labor & Commerce Committee.

SB 42

The Health, Education & Social Services Committee has considered:

SENATE BILL NO. 42

"An Act extending the reporting date for and the termination date of the Task Force on Naturopathic Scope of Practice; and providing for an effective date."

The report was signed by Representative Wilson, Chair, with the following individual recommendations:

Do pass (6): Cissna, Gardner, Kohring, Seaton, Anderson, Wilson

The following fiscal note(s) apply:

1. Zero, Dept. of Commerce, Community, & Economic Development

SB 42 was referred to the Finance Committee.

INTRODUCTION OF CITATIONS

The following citation was introduced and referred to the Rules Committee for placement on the calendar:

Honoring - Specialist Lennin Castellon, Fort Wainwright's Soldier of the Year

By Representatives Ramras, Coghill, Guttenberg, Harris, Holm, Kelly, Salmon; Senators Seekins, Therriault, Wilken

INTRODUCTION, FIRST READING, AND REFERENCE OF HOUSE BILLS

HB 176

HOUSE BILL NO. 176 by Representatives Salmon, Kohring, Croft, and Gruenberg, entitled:

"An Act exempting the state and its political subdivisions from daylight saving time."

was read the first time and referred to the Community & Regional Affairs and State Affairs Committees.

HB 177

HOUSE BILL NO. 177 by Representative Kelly, entitled:

"An Act relating to employee and employer contributions to the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

was read the first time and referred to the State Affairs and Finance Committees.

HB 178

HOUSE BILL NO. 178 by Representative Olson, entitled:

"An Act relating to special motor vehicle registration plates; and providing for an effective date."

was read the first time and referred to the State Affairs and Finance Committees.

HB 179

HOUSE BILL NO. 179 by Representative LeDoux, entitled:

"An Act relating to the wrongful recording of a notice of pendency of an action relating to title to or right to possession of real property."

was read the first time and referred to the Labor & Commerce and Judiciary Committees.

HB 180

HOUSE BILL NO. 180 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to a special deposit for workers' compensation and employers' liability insurers; relating to assigned risk pools; relating to workers' compensation insurers; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development, assigning certain Alaska Workers' Compensation Board functions to the division and the department, and authorizing the board to delegate administrative and enforcement duties to the division; establishing a Workers' Compensation Appeals Commission; providing for workers' compensation hearing officers in workers' compensation proceedings; relating to workers' compensation medical benefits and to charges for and payment of fees for the medical benefits; relating to agreements that discharge workers' compensation liability; relating to workers' compensation awards; relating to

reemployment benefits and job dislocation benefits; relating to coordination of workers' compensation and certain disability benefits; relating to division of workers' compensation records; relating to release of treatment records; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; relating to attorney fees; providing for the department to enter into contracts with nonprofit organizations to provide information services and legal representation to injured employees; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to fraudulent acts or false or misleading statements in workers' compensation and penalties for the acts or statements; providing for members of a limited liability company to be included as an employee for purposes of workers' compensation; establishing a workers' compensation benefits guaranty fund; relating to the second injury fund; making conforming amendments; providing for a study and report by the medical services review committee; and providing for an effective date."

was read the first time and referred to the Labor & Commerce, Judiciary, and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Commerce, Community, & Economic Development
2. Indeterminate, Dept. of Administration
3. Fiscal, Dept. of Law
4. Fiscal, Dept. of Labor & Workforce Development

The Governor's transmittal letter dated February 24, 2005, follows:

"Dear Speaker Harris:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the workers'

compensation system. This bill proposes discrete improvements to the current system. The goal of these changes is to increase the efficiency and flexibility of the current system, and significantly reduce some of its costs, in order to ensure that benefits will continue to be available in substantially the same form they are today without stifling employment opportunities.

The Legislature has consistently striven to have our workers' compensation system quickly and efficiently deliver fair and predictable benefits to injured workers at a reasonable cost to their employers. Despite those efforts, the current system has not kept pace with the pressures caused by a growing, ever-changing workforce and rising medical costs. In response to complaints regarding delays in resolution of claims and the increasing costs of maintaining the current system, the enclosed bill proposes improvements to several areas.

A significant change proposed in this bill is the creation of a workers' compensation appeals commission. Currently, appeals from Alaska Workers' Compensation Board decisions are heard on a rotating basis by individual superior court judges. The bill proposes to have appeals heard by a five-member commission. This commission, like the board itself, would consist of both lay members representing workers and employers as well as a chair with legal training and workers' compensation experience. Appeals would be heard by a panel both knowledgeable in workers' compensation matters and available to produce consistent, legally precedential decisions in an expeditious manner.

The bill also places increased responsibility for oversight of the system in the hands of the workers' compensation division. The bill would increase the division's ability to investigate fraudulent claims, pursue employers who fail to provide coverage for their employees, and oversee medical costs. Under the current system the division must refer suspected fraudulent claims to other state agencies for investigation. Under this bill, the division would be able to investigate fraudulent claims on its own. The bill would also allow the division to investigate and quickly close down employers who attempt to operate without workers' compensation coverage. The board is then empowered to assess fines for failing to insure and the bill creates a

fund to receive those fines and use them to pay benefits to injured workers whose employers failed to insure.

In addition, the bill gives the division additional authority to address medical costs that are now approaching 60 percent of every workers' compensation benefit dollar paid in Alaska. Under this bill, the Commissioner of the Department of Labor and Workforce Development is authorized to empanel a medical services committee. The committee will review the medical benefit delivery system including current charges, as well as the causes for the sharp rise in charges and possible solutions, and make recommendations for appropriate improvements. The committee is charged with reporting its findings and recommendations by March 1, 2007; sufficient time for a thorough study of the costs and appropriateness of the delivery system.

To address the immediate impacts of the recent premium increases and rising direct costs to self-insured businesses, the bill "rolls back" maximum payments to those under the medical fee schedule in effect on December 15, 1999. The bill also authorizes the division to develop a preferred drug list and establishes a statutory preference for generic drugs unless a worker's physician specifies a name brand drug for medical reasons.

The division is assisted in this endeavor by input from employers, insurers, providers, and the use of national, peer-reviewed medical treatment guidelines. Under the current bill, employers, insurers, and providers may agree to charges for services in advance. Workers would be under no obligation to select a physician from this preferred provider list but the rates for these providers' services would be established by contract with the insurer or employer.

The bill also provides the division with guidance in overseeing the efficacy of the medical benefits system. The bill would adopt the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines as a benchmark for medical treatment. The Guidelines provide for quality care while promoting some standardization of medical services. However, if a condition is not addressed by the Guidelines or the worker's physician

recommends alternative treatment, the physician has the opportunity to provide medical justification for treatment outside the Guidelines.

In addition, the bill provides workers and employers greater flexibility over certain portions of the worker's claim. Currently, parties may not settle any portion of a worker's claim without board approval. The bill would allow parties represented by legal counsel to more quickly resolve a worker's claim by agreement without board approval, thereby freeing the board to focus on settlements needing more scrutiny such as those involving minors or workers unrepresented by counsel. It would also allow the parties to stipulate to a worker's eligibility for reemployment benefits without the expense and delay of a reemployment eligibility evaluation while also making it easier to exchange unwanted reemployment benefits for a limited cash benefit. This greater flexibility will make the reemployment process more efficient and satisfactory to both parties.

The bill further enhances the efficiency of the current system by expanding workers' access to legal counsel and including a limited release of medical information on the report of injury form. The bill allows the division to contract with non-profit organizations to provide legal services to injured workers unable to obtain private legal counsel. It also provides a limited medical release for medical records of treatment for the reported injury on the initial report of injury form. This second change is aimed at reducing unnecessary delays in payment resulting from a lack of supporting medical documentation for an injured worker's claim.

The bill also reduces insurers' costs by phasing out contributions to the Second Injury Fund. That Fund represents a limited mechanism for reducing impediments to the hire of workers with certain listed physical limitations. That mechanism has become outmoded due to developments in contemporary employment standards including the Americans with Disabilities Act. The Second Injury Fund will not accept new claims and will be phased out as currently accepted claims are paid.

The bill would increase the coordination of benefits between the workers' compensation system and other disability systems. This would minimize the instances where double compensation results in a

worker receiving combined disability benefits that exceed their take home pay. Finally, the bill would also cap the compensation rates of workers residing outside the State of Alaska to bring them in line with that paid to Alaska resident workers.

This bill represents a major step in bringing the existing system up to date with the current State of Alaska's work force. These changes to specific parts of the existing law are vital to the continuing survival of the workers' compensation system and the availability of a full range of benefits for injured workers in the future.

I urge your prompt and favorable action on this matter.

Sincerely yours,
/s/
Frank H. Murkowski
Governor"

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE RESOLUTIONS

HCR 2

The following was read the second time:

HOUSE CONCURRENT RESOLUTION NO. 2

Urging Governor Murkowski to take quick action to conduct, approve, or sanction a study of in-state natural gas needs and take-off points for intrastate use of natural gas transported in a North Slope natural gas pipeline.

with the:	Journal Page
RES RPT 7DP	408
FN1: ZERO(H.RLS/DNR)	420

The question being: "Shall HCR 2 pass the House?" The roll was taken with the following result:

HCR 2
 Second Reading
 Final Passage

YEAS: 27 NAYS: 0 EXCUSED: 13 ABSENT: 0

Yeas: Anderson, Chenault, Coghill, Croft, Elkins, Foster, Gara, Gardner, Gruenberg, Harris, Hawker, Holm, Kelly, Kerttula, LeDoux, McGuire, Meyer, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Excused: Berkowitz, Cissna, Crawford, Dahlstrom, Gatto, Guttenberg, Joule, Kapsner, Kohring, Kott, Lynn, Moses, Neuman

And so, HCR 2 passed the House.

Representative Samuels moved and asked unanimous consent that all members present today be shown as cosponsors to HCR 2. There being no objection, it was so ordered.

HCR 2 was referred to the Chief Clerk for engrossment.

LEGISLATIVE CITATIONS

Representative Coghill moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the following citations were approved and sent to enrolling:

Honoring - Life Achievements of Robert C. "Bob" Reeve

By Representatives Hawker, Samuels, Harris, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Elkins, Gara, Gatto, Gruenberg, Holm, Joule, Kelly, Kerttula, Kohring, LeDoux, McGuire, Meyer, Moses, Neuman, Olson, Ramras, Rokeberg, Salmon, Seaton, Stoltze, Thomas, Weyhrauch, Wilson

Honoring - The Volunteer Corps of the Iditarod Dog Sled Race Who Have Proudly Served Our Country in the Military

By Senator Huggins; Representatives Stoltze, Neuman, Harris, Anderson, Berkowitz, Chenault, Cissna, Coghill, Crawford, Croft, Elkins, Gara, Gardner, Gatto, Gruenberg, Hawker, Holm, Joule, Kelly, Kerttula, Kohring, LeDoux, McGuire, Meyer, Olson, Ramras, Rokeberg, Salmon, Samuels, Seaton, Thomas, Weyhrauch, Wilson

UNFINISHED BUSINESS**HB 124**

The Speaker waived the Finance Committee referral for the following at the request of Representative Meyer, Co-chair:

HOUSE BILL NO. 124

"An Act relating to the collection of, and the use of reasonable force to collect, a deoxyribonucleic acid sample from persons convicted of or adjudicated delinquent for certain crimes."

HB 124 was removed from the Finance Committee and referred to the Rules Committee for placement on the calendar.

Representative Coghill moved and asked unanimous consent that the following members be excused from a call of the House. There being no objection, the members were excused as noted:

Representative Chenault - from 1:00 p.m., February 25 to 9:30 a.m., plane time, February 28, 2005 (amended from page 381)

Representative Ramras - from 1:00 p.m., February 25 to 9:30 a.m., plane time, February 28, 2005 (amended from page 400)

Representative McGuire - from 7:00 a.m. to 10:00 p.m., plane time, February 28, 2005

HCR 2

Representatives Hawker, Stoltze, LeDoux, and Croft added their names as cosponsors to:

HOUSE CONCURRENT RESOLUTION NO. 2

Urging Governor Murkowski to take quick action to conduct, approve, or sanction a study of in-state natural gas needs and take-off points for intrastate use of natural gas transported in a North Slope natural gas pipeline.

The following were added as cosponsors (page 435):

Representatives Harris, Anderson, Chenault, Coghill, Elkins, Foster, Gruenberg, Holm, Kelly, Kerttula, Meyer, Ramras, Rokeberg, Salmon, Seaton, Thomas, Weyhrauch, and Wilson

HB 82

Representative Salmon added his name as cosponsor to:

HOUSE BILL NO. 82

"An Act extending the termination date of the Statewide Suicide Prevention Council; and providing for an effective date."

HB 148

Representative McGuire added her name as cosponsor to:

HOUSE BILL NO. 148

"An Act relating to trafficking of persons."

ENGROSSMENT**HCR 2**

HCR 2 was engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration.

ANNOUNCEMENTS

House committee schedules are published daily under separate cover.

ADJOURNMENT

Representative Coghill moved and asked unanimous consent that the House adjourn until 11:00 a.m., February 28, 2005. There being no objection, the House adjourned at 10:30 a.m.

Suzi Lowell
Chief Clerk