

**ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON HB 147**

May 14, 2005

2:23 p.m.

MEMBERS PRESENT

Representative Norman Rokeberg, Chair
Representative Tom Anderson
Representative Berta Gardner

Senator Gene Therriault, Chair
Senator Bert Stedman
Senator Johnny Ellis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 147

"An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, motor vehicle service contracts, guaranteed automobile protection products, health discount plans, third-party administrators, self-funded multiple employer welfare arrangements, and self-funded governmental plans; and providing for an effective date."

- MOVED CCS HB 147 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 147

SHORT TITLE: INSURANCE REGULATION

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/14/05	(H)	READ THE FIRST TIME - REFERRALS
02/14/05	(H)	L&C, FIN
02/23/05	(H)	L&C AT 3:15 PM CAPITOL 17
02/23/05	(H)	Heard & Held
02/23/05	(H)	MINUTE(L&C)
03/02/05	(H)	L&C AT 3:15 PM CAPITOL 17
03/02/05	(H)	Heard & Held
03/02/05	(H)	MINUTE(L&C)
03/16/05	(H)	L&C AT 3:15 PM CAPITOL 17
03/16/05	(H)	Scheduled But Not Heard

03/18/05 (H) L&C AT 3:15 PM CAPITOL 17
 03/18/05 (H) Heard & Held
 03/18/05 (H) MINUTE(L&C)
 03/30/05 (H) L&C AT 3:15 PM CAPITOL 17
 03/30/05 (H) Moved CSHB 147(L&C) Out of Committee
 03/30/05 (H) MINUTE(L&C)
 04/01/05 (H) L&C RPT CS(L&C) NT 1DP 5NR
 04/01/05 (H) DP: ANDERSON;
 04/01/05 (H) NR: CRAWFORD, LYNN, KOTT, LEDOUX,
 GUTTENBERG
 04/15/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/15/05 (H) Moved CSHB 147(FIN) Out of Committee
 04/15/05 (H) MINUTE(FIN)
 04/18/05 (H) FIN RPT CS(FIN) NT 3DP 6NR
 04/18/05 (H) DP: HAWKER, MOSES, FOSTER;
 04/18/05 (H) NR: CROFT, WEYHRAUCH, HOLM, KELLY,
 MEYER, CHENAULT
 04/21/05 (H) RLS AT 3:00 PM FAHRENKAMP 203
 04/21/05 (H) Scheduled But Not Heard
 04/25/05 (H) RLS AT 5:00 PM CAPITOL 106
 04/25/05 (H) Intent to Calendar
 04/28/05 (H) TRANSMITTED TO (S)
 04/28/05 (H) VERSION: CSHB 147(FIN) AM
 05/01/05 (S) READ THE FIRST TIME - REFERRALS
 05/01/05 (S) FIN
 05/06/05 (S) FIN RPT SCS 2DP 4NR
 SAME TITLE
 05/06/05 (S) DP: WILKEN, GREEN
 05/06/05 (S) NR: HOFFMAN, OLSON, DYSON, STEDMAN
 05/06/05 (S) FIN AT 4:30 PM SENATE FINANCE 532
 05/06/05 (S) Moved SCS CSHB 147(FIN) Out of
 Committee
 05/06/05 (S) MINUTE(FIN)
 05/08/05 (S) FIN SCS ADOPTED Y11 N8 E1
 05/10/05 (S) VERSION: SCS CSHB 147(FIN)
 05/10/05 (H) RETURN TO SENATE REQUESTING RECEDE
 05/11/05 (S) SPECIAL SESSION BILL - SEE S. JOURNAL
 P. 1606
 05/11/05 (H) SPECIAL SESSION BILL - SEE H. JOURNAL
 P. 1962
 05/12/05 (H) BILL NOT RETURNED
 05/13/05 (H) CONFERENCE COMMITTEE APPOINTED
 05/13/05 (H) ROKEBERG (CHAIR), ANDERSON, GARDNER
 05/13/05 (S) CONFERENCE COMMITTEE APPOINTED
 05/13/05 (S) THERRIAULT (CHAIR), STEDMAN, ELLIS
 05/14/05 (H) 147 AT 2:00 PM CAPITOL 124

WITNESS REGISTER

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community, & Economic Development
Juneau, Alaska
POSITION STATEMENT: During hearing on HB 147, answered questions.

TOM BRICE, Business Agent
Locals 71, 942, and 341
Juneau, Alaska
POSITION STATEMENT: Expressed concerns with the removal of Sections 31 and 32 in CCS HB 147, Version I.

KEVIN JARDELL, Legislative Liaison
Governor's Legislative Office
Office of the Governor
Juneau, Alaska
POSITION STATEMENT: During hearing of HB 147, offered the administration's perspective.

ACTION NARRATIVE

CHAIR NORMAN ROKEBERG called the Conference Committee on HB 147 meeting to order at [2:23:56 PM](#). Representatives Rokeberg and Gardner and Senators Therriault and Ellis were present at the call to order. Representative Anderson and Senator Stedman arrived as the meeting was in progress.

HB 147-INSURANCE REGULATION

CHAIR ROKEBERG announced that the only order of business would be HOUSE BILL NO. 147, "An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, motor vehicle service contracts, guaranteed automobile protection products, health discount plans, third-party administrators, self-funded multiple employer welfare arrangements, and self-funded governmental plans; and providing for an effective date." [Before the committee were CSHB 147(FIN)am and SCS CSHB 147(FIN).]

CHAIR ROKEBERG specified that [in the committee packet] is Version 24-GH1083\I, Bullock, 5/14/05. He explained that Version I maintains the Section 1 language on page 2, line 9.

The so-called "Article 2" language in Sections 31 and 32, and Section 38 of SCS CSHB 147(FIN) is deleted.

2:27:20 PM

CHAIR THERRIAULT requested an explanation with regard to the changes encompassed in Section 1 [of Version I].

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community, & Economic Development (DCCED), explained that Section 1 makes a fairly small change in the ability of the director to request to examine records. The change was from the ability to request whenever the director feels it's advisable to whenever the director has reasonable cause. The aforementioned was the result of a national brokerage examination over bid rigging in some of the larger national brokerage houses. The reasoning was that there does need to be some cause so that the director doesn't just request and examine records on a whim. She highlighted that [Section 1] deals with producers and adjusters, not insurance companies. In further response to Chair Therriault, Ms. Hall confirmed that the proposed language [in Version I] is more limited in its scope.

CHAIR THERRIAULT inquired as to what was proposed in Sections 31 and 32 [of SCS CSHB 147(FIN)].

MS. HALL explained that the proposed language in Section 31 [of SCS CSHB 147(FIN)] has three components. By way of background, she relayed that current statute includes a provision that if an entity provides coverage for the medical care cost, the entity needs to be regulated by another state agency or the federal government, or they may fall under Title 21. The standards established in Section 31 include filing requirements, which are documents that would be required to be filed with the division. The documents are more limited in this version than the original version. [Version I] would require the annual filing of an audited financial statement, an actuarial memorandum that analyzes reserves, contribution rates, and stop loss coverage as well as an attestation to the financial condition of the plan. Furthermore, the name and contact information of the plan administrator would be required to be filed with the division in order that the division knows who is administering the benefits.

MS. HALL pointed out that there are some minimal requirements in Section [32] including a trust agreement under which the trust operates. [Section 32] also requires a bond that now conforms with the requirements under the Employee Retirement and Income

Security Act of 1974 (ERISA) and thus it's a maximum of \$500,000. Furthermore, this section requires that there be a stop loss policy, competent personnel, adequate facilities for adjusting claims, and that the trust provide a plan document describing the plan to the participants. There is a list of statutes that would apply to the trust. Generally, these are applied to insurance companies and provide the director authority to have hearings, should they be required. Furthermore, [Section 32] provides for an external and internal review process of utilization, which she characterized as more of a peer review than a board review. Most of these are records requirements; reserving standards; health insurance mandates; various federal standards; and provisions for rehabilitation should there be a financial problem there would be a pattern to follow.

[2:32:43 PM](#)

CHAIR THERRIALT surmised then that [Sections 31 and 32] provide for some reporting and oversight rather than control.

MS. HALL said that was her intent in drafting and proposing the language. In further response to Chair Therriault, Ms. Hall informed the committee that there are approximately \$83 million worth of general fund (GF) monies that are given to these trusts as the contribution to pay for state employees' health insurance benefits. She characterized it as a fairly substantial amount of GF.

CHAIR ROKEBERG commented that the amount is bigger than many departments in the GF budget.

[2:33:53 PM](#)

REPRESENTATIVE GARDNER asked whether the list of health trusts provided by the division includes all of them.

MS. HALL offered her understanding that there are only the five listed, and therefore it's all inclusive.

CHAIR ROKEBERG inquired as to whether Ms. Hall would support the legislation with the removal of Sections 31, 32, and 38.

MS. HALL opined that the legislation is important for the division in that it has provisions for efficiencies for the division as well as consumer protections. Ms. Hall related that

although she believes the trust provisions are important, she would support the legislation without those.

[2:36:11 PM](#)

CHAIR THERRIAULT requested that Mr. Brice review the basic concerns with regard to the proposal in [Sections 31 and 32] as compared to current statute.

TOM BRICE, Business Agent, Locals 71, 942, and 341, explained that the employees of Local 71 have established a trust that administers health benefits for its members. The aforementioned was established via a letter of agreement through the collective bargaining process. He noted that through the collective bargaining process regular review is provided to the Division of Retirement and Benefits as well as labor relations in order to ensure financial solvency and that the members are receiving the coverage needed. Additionally, the trust follows the federal guidelines as it relates to various federal standards.

[2:37:57 PM](#)

MR. BRICE expressed concern that with the actuarially requirements because he said he believes it will be difficult to find an actuary who will be able to provide the type of information the Division of Insurance desires for a health trust. He highlighted the difficulty with regard to the status for which some things are bargained and the timelines established. He provided the committee with written statements regarding Sections 31 and 32. Mr. Brice noted that in the House Labor and Commerce Standing Committee there was a great deal of testimony on the aforementioned issues by the trust consultants for [the Local Labor Unions he represents]. The aforementioned testimony lead to the removal of the sections from the legislation.

[2:39:41 PM](#)

SENATOR STEDMAN questioned why more information and checks and balances wouldn't be better than less.

MR. BRICE noted that there are many perspectives. For instance, one could view it in terms of the cost of oversight. He noted that [oversight] would come at a cost to the health trusts, which are nonprofit agencies funded through collective bargaining agreements. Therefore, additional administrative reporting requirements will either decrease services to the

members of the collective bargaining units or increase costs to the state. He opined that it's difficult to ask for more money from the state.

[2:41:18 PM](#)

REPRESENTATIVE GARDNER inquired as to why there is a difference in the language on page 7, [lines 24-30], of Version I and page 7, lines 24-31 of SCS CSHB 147(FIN).

MS. HALL said she is not sure why the language referring to self-funded multiple employer welfare arrangements (MEWAs) was left out [of Version I] because she didn't recall it was ever a topic of conversation. She explained that MEWAs are entities that the division already regulates. Furthermore, MEWAs have nothing to do with union health trusts, which are considered governmental plans. She further explained that Section 14 deals with third-party administrators who aren't licensed and need to register with the division. The provision specifies that a third-party administrator, other than a MEWA, who is working for a foreign, out-of-state, insurer can register. Ms. Hall specified that the division wants to register third-party administrators in order that it knows who is administering benefit programs.

[2:43:32 PM](#)

MS. HALL, in further response to Representative Gardner, opined that the language left out of Section 14 in Version I was an error.

CHAIR THERRIAULT turned attention to the document from the Local 71, which specifies that each trust plan is subject to such federally mandated requirements as the Health Insurance Portability and Accountability Act (HIPAA) and the Comprehensive Omnibus Budget Reform Act (COBRA). He asked if the aforementioned means that the health trust is regulated [on the basis of those federally mandated requirements] or do they merely operate in conformance with federal law.

MS. HALL related her understanding that those federally mandated requirements are not regulatory guidelines but rather are plan standards under the federal law that apply to all health insurance coverage.

[2:45:03 PM](#)

CHAIR THERRIAULT surmised that the federally mandated requirements and the fact that the trusts are regulated by the Internal Revenue Service (IRS) and receive tax-exempt status wouldn't satisfy current AS 21.03.021.

MS. HALL offered her understanding that the IRS wouldn't regulate in the same manner as required in AS 21.03.021. The division has requested that each of the health trusts provide documentation that illustrate regulation elsewhere. However, the division has not yet received that documentation. In further response to Chair Therriault, Ms. Hall confirmed that the Division of Insurance may be able to exert some oversight under the current statutory law.

[2:46:02 PM](#)

SENATOR STEDMAN inquired as to why the division wants an audited statement and actuarial reports.

MS. HALL opined that those are basic financial tools that an entity handling people's money in a fiduciary capacity would want to have. Such tools ensure financial records are in order and that there is an actuarial analysis as to the soundness of the reserving practices as well as a specified point at which stop loss coverage attaches. In further response to Senator Stedman, Ms. Hall explained that without the aforementioned tools, the division would have no documents with which to review in order to determine the adequacy of the entities' reserves, the actuarial soundness of the entities' plans, and the contribution rates. Without such tools, the division wouldn't have the ability to analyze the position of the trust.

SENATOR STEDMAN inquired as to the state's exposure if a trust unravels.

MS. HALL said that wasn't in her purview.

[2:48:05 PM](#)

CHAIR ROKEBERG asked if Section 38 in Version Y should have been removed, as is the case in Version I. He surmised that the MEWA language would be left in statute if Section 38 isn't included.

MS. HALL said that would be acceptable. The intent was to change the title to cover more than MEWAs, she explained.

[2:49:19 PM](#)

CHAIR THERRIAULT asked if Mr. Brice understood the director's comments that the federally mandated requirements don't necessarily rise to the [appropriate] level of regulation and thus the trusts may be subject to some oversight under current statutory law.

MR. BRICE said he understood the director's comments.

CHAIR THERRIAULT indicated the need for time to touch base with various people before taking final action. He indicated that there may be the need for another draft of this legislation.

CHAIR ROKEBERG stated his preference to take final action now.

CHAIR ROKEBERG then recessed the Conference Committee on HB 147 at 2:50 p.m. to the call of the chair.

CHAIR ROKEBERG called the Conference Committee on HB 147 back to order at 2:54 p.m. Representatives Rokeberg, Anderson, and Gardner and Senators Therriault, Stedman, and Ellis were present at the call back to order.

[2:55:10 PM](#)

CHAIR ROKEBERG announced that the Conference Committee on HB 147, per the request of the Senate, would recess until 3:30 p.m.

[3:32:16 PM](#)

CHAIR ROKEBERG called the Conference Committee on HB 147 back to order at 3:32 p.m. Representatives Rokeberg, Anderson, Gardner and Senators Therriault and Stedman were present at the call back to order. Senator Ellis arrived as the meeting was in progress.

CHAIR THERRIAULT moved to adopt CSHB 147, Version 24-GH1083\I, Bullock, 5/14/05, as the working document. There being no objection, Version I was before the committee.

REPRESENTATIVE GARDNER moved that the committee adopt Amendment 1, as follows:

Page 7, line 26, following "insurer":

Insert "other than a self-funded multiple employer welfare arrangement regulated under AS 21.85"

There being no objection, Amendment 1 was adopted.

SENATOR STEDMAN informed the committee that he holds health insurance licenses as well as a minority interest in an independent agency.

[3:34:16 PM](#)

CHAIR THERRIAULT recalled that the Division of Insurance has made some requests for information to determine whether health trusts would be covered under current statute. It appears, he opined, that the applicable provision is AS 21.03.021(b), which states:

Except as otherwise provided in this title, a person that provides coverage for the cost of medical care in this state is subject to this title unless the person shows that, while providing coverage for medical care, the person is subject to the jurisdiction of another agency of this state or of the federal government by providing the director with the appropriate certificate, license, or other document issued by the other governmental agency that permits or qualifies the person to provide coverage for medical care.

CHAIR THERRIAULT asked if that is the information the division requested of the trust.

MS. HALL replied yes, adding that those requests were made in March of 2004 to provide the division with the documentation of regulation by another agency or the federal government. In further response to Chair Therriault, Ms. Hall confirmed that to date the division hasn't received a satisfactory response regarding whether the trusts have the correct certificate license or other document.

[3:35:51 PM](#)

CHAIR THERRIAULT referred to the document provided by Local 71, which specifies that the trusts are subject to the jurisdiction of the State of Alaska Superior Courts. He offered his understanding that the division wouldn't view the aforementioned to provide a statutory showing of being regulated by the state.

MS. HALL stated that based on advice from the Department of Law, the decisions made by the division under its title are always subject to regulatory review by the Superior Court.

CHAIR THERRIAULT turned to the matter of the director regulating these entities under current statutory language, and pointed out that the letter from the Alaska State Employees Association (ASEA) states that the appeal process isn't working, large sums of ASEA's money remain hidden, the board refuses to disclose the contents of these contracts, services to rural chapters aren't acceptable, well baby and maternal services aren't acceptable, [the board] isn't accountable, and the only recourse for the membership is through an expensive court battle. The letter appears to relate that the director of the Division of Insurance will have support from part of the union leadership to utilize its current statutory power to bring these [health trusts] under some sort of reporting.

[3:38:21 PM](#)

CHAIR THERRIAULT inquired as to the intentions of the division if Sections 31 and 32 are eliminated.

MS. HALL answered that the division will continue to review the documents it has received from the various union health trusts. She noted that although the division has sent a second request for information, the information received isn't sufficient to make a determination. Once sufficient documentation is received, the division will determine whether these entities fall under Title 21, at which point the division will have to determine where these entities fall in the various entities that the division regulates.

[3:39:28 PM](#)

CHAIR ROKEBERG noted that these trusts aren't life insurance or annuity companies.

CHAIR THERRIAULT pointed out that there is some question as to whether these entities fall under Title 21. Therefore, if the union membership maintains its complaint, this issue may be before the legislature again next year. Therefore, he inquired as to Mr. Jardell's thoughts on the action the committee is about to take.

KEVIN JARDELL, Legislative Liaison, Governor's Legislative Office, Office of the Governor, related that this [legislation] was in response to a number of Alaska public employees, the complaints of which culminated in ASEA's letter. The complaints were taken very seriously and led to the review as to whether

the entities were being regulated and what avenue the public employees had for resolution. Currently, there is no avenue, which lead to the review of the current authorities. The aforementioned revealed that it appears these entities can be regulated as insurers [under Title 21]. Since [Title 21] is a fairly onerous process, the division looked at creating a special provision for health trusts that wouldn't be so onerous. However, if the legislature decides not to pursue such, the [administration] will pursue its responsibility under current statute to regulate where the authority exists in order to ensure that these services are being provided to Alaska's public employees.

[3:42:08 PM](#)

CHAIR ROKEBERG commented that there is a compelling state interest in this issue in the amount of \$83 million.

REPRESENTATIVE GARDNER moved to report [CCS] HB 147, Version 24-GH1083\I, Bullock, 5/14/05, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

CHAIR THERRIAULT objected for discussion purposes.

SENATOR STEDMAN opined that it is always better to "go the extra mile on disclosure and have audited statements available ... for all people interested in a particular subject matter."

[3:44:45 PM](#)

CHAIR THERRIAULT withdrew his objection.

There being no further objection, CCS HB 147 was reported from the Conference Committee on HB 147.

ADJOURNMENT

There being no further business before the committee, the Conference Committee on HB 147 meeting was adjourned at 3:44 p.m.