

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 31, 2005

1:35 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Johnny Ellis
Senator Bettye Davis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 130

"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; assigning certain Alaska Workers' Compensation Board functions to the division of workers' compensation in the Department of Labor and Workforce Development and to that 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."

MOVED CSSB 130(L&C) OUT OF COMMITTEE

SENATE BILL NO. 108

"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."

HEARD AND HELD

SENATE BILL NO. 142

"An Act relating to ownership of land, buildings, and other structures by regional school boards; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 147

"An Act providing for a sport fishing facility surcharge on sport fishing licenses; providing for the construction and renovation of state sport fishing facilities and for other projects beneficial to the sport fish resources of the state as a public enterprise; and authorizing the issuance of revenue bonds to finance those projects."

MOVED SB 147 OUT OF COMMITTEE

SENATE BILL NO. 139

"An Act relating to termination and oversight of boards, commissions, and agency programs; extending the termination date

of the Board of Marital and Family Therapy; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE JOINT RESOLUTION NO. 11

Urging the United States Congress to amend the tax code to repeal the federal excise tax on communications.

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 130

SHORT TITLE: WORKERS' COMPENSATION/ INSURANCE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/03/05	(S)	READ THE FIRST TIME - REFERRALS
03/03/05	(S)	L&C, FIN
03/08/05	(S)	L&C AT 1:30 PM BELTZ 211
03/08/05	(S)	Heard & Held
03/08/05	(S)	MINUTE(L&C)
03/10/05	(S)	L&C AT 1:30 PM BELTZ 211
03/10/05	(S)	Heard & Held
03/10/05	(S)	MINUTE(L&C)
03/15/05	(S)	L&C AT 1:30 PM BELTZ 211
03/15/05	(S)	Heard & Held
03/15/05	(S)	MINUTE(L&C)
03/17/05	(S)	L&C AT 1:30 PM BELTZ 211
03/17/05	(S)	Heard & Held
03/17/05	(S)	MINUTE(L&C)
03/22/05	(S)	L&C AT 1:30 PM BELTZ 211
03/22/05	(S)	Heard & Held
03/22/05	(S)	MINUTE(L&C)
03/24/05	(S)	L&C AT 2:00 PM BELTZ 211
03/24/05	(S)	Heard & Held
03/24/05	(S)	MINUTE(L&C)
03/29/05	(S)	L&C AT 1:30 PM BELTZ 211
03/29/05	(S)	-- Meeting Canceled --
03/31/05	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 108

SHORT TITLE: INSURANCE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/14/05	(S)	READ THE FIRST TIME - REFERRALS
02/14/05	(S)	L&C, FIN

03/31/05 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 142

SHORT TITLE: REGIONAL SCHOOL BD LAND/BLDG OWNERSHIP

SPONSOR(s): LABOR & COMMERCE

03/16/05 (S) READ THE FIRST TIME - REFERRALS

03/16/05 (S) L&C, FIN

03/31/05 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 147

SHORT TITLE: SPORT FISHING FACILITY REVENUE BONDS

SPONSOR(s): SENATOR(s) SEEKINS

03/18/05 (S) READ THE FIRST TIME - REFERRALS

03/18/05 (S) L&C, FIN

03/29/05 (S) L&C AT 1:30 PM BELTZ 211

03/29/05 (S) -- Meeting Canceled --

03/31/05 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

PAUL LISANKIE, Director
Division of Workers' Compensation
Department of Labor & Workforce
Development
PO Box 21149
Juneau, AK 99802-1149
Department of Labor and Workforce Development (DOLWD)
POSITION STATEMENT: Commented on SB 130.

DR. WILLIAM PFEIFER, Vice President
Alaska Chiropractic Society
POSITION STATEMENT: Commented on SB 130.

JIM ROBINSON
Ad Hoc Committee
Anchorage AK
POSITION STATEMENT: Commented on SB 130.

NOELL MCCULLOUGH
Anchorage AK
POSITION STATEMENT: Opposed SB 130.

LINDA HALL, Director
Division of Insurance
Department of Community & Economic Development (DCED)

POSITION STATEMENT: Commented on SB 108.

KIP KNUDSON
Deputy Commissioner of Aviation
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Supported SB 142.

PAMELA LEWIS, Statewide Chief
Aviation Leasing
Department of Transportation &
Public Facilities
3132 Channel Dr.
Juneau, AK 99801-7898

POSITION STATEMENT: Supported SB 142.

COLLEEN SAVOIE
Public Employees Local 71
Anchorage AK

POSITION STATEMENT: Opposed SB 108.

FRANK PUSCHAK
Anchorage AK

POSITION STATEMENT: Opposed SB 108.

KELLY HEPLER, Director
Division of Sport Fish
Department of Fish & Game
PO Box 25526
Juneau, AK 99802-5226

POSITION STATEMENT: Commented on SB 147.

BRIAN ALLEE, Director
Alaska Sea Grant Program
University of Alaska
Fairbanks AK

POSITION STATEMENT: Supported SB 147.

MIKE ROUND, Assistant General Manager
Southern Southeast Regional Aquaculture Association (SSRAA)
Petersburg AK

POSITION STATEMENT: Supported SB 147.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:35:44 PM](#). Present were Senators Ben Stevens, Seekins, Ellis, Davis and Chair Bunde.

^#SB130

SB 130-WORKERS' COMPENSATION

CHAIR CON BUNDE announced SB 130 to be up for consideration.

SENATOR SEEKINS moved to adopt CSSB 130(L&C), version G.

SENATOR ELLIS objected for an explanation.

CHAIR BUNDE explained that the CS freezes the rate fee schedule on page 16, line 15, for medical claims to the 2004 rates until 2007 when a medical review committee report (page 28, lines 8 - 13) is released.

SENATOR ELLIS asked if the Governor was proposing to set rates back to what they were in 1999.

CHAIR BUNDE replied yes, but the CS is proposing to go back to last year.

SENATOR ELLIS asked if doctors could have input into the solution where it is not onerous. He asked if they favor this.

CHAIR BUNDE responded that one doctor suggested freezing at current rates and the Chair thought that is a good place to start the discussion.

SENATOR ELLIS asked if the savings could be quantified and compared to the Governor's proposal.

CHAIR BUNDE answered that there is a chart in the committee packet that compares rates, but he based his decision on the notion that you can't limit doctors' rates to the point where there is no treatment available and obviously treatment is available now at current rates.

SENATOR ELLIS asked if the CS would have less costs savings than the Governor's proposal.

CHAIR BUNDE replied yes, but it would also allow more choice in doctors for an injured worker. "It saves the state less money and costs the doctors less money."

[1:42:25 PM](#)

SENATOR ELLIS asked what the CS does with the Medical Services Review Committee as compared to the original bill.

PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), observed that the CS language talks about the December 2003 fee schedule, but the fee schedule in December 2003 was published in July 2003 - in case the Chair is intending to use the '03 schedule.

CHAIR BUNDE said the report is designed to provide hard data to establish rates in 2007.

[1:44:50 PM](#)

SENATOR ELLIS asked if the administration supports the changes.

MR. LISANKIE didn't know. The commissioner said that he wants the flexibility to get everybody someplace they could agree. "In the spirit of doing that, we wouldn't see this as a roadblock to getting where we need to get."

[1:46:08 PM](#)

CHAIR BUNDE said the second change on page 8 inserts language that provides for better tracking and oversight of the voc rehab system. The idea here is that the department doesn't have good information like it has in other situations - like AVTEC where people receive training and the Legislature gets a report after one and two years. Voc rehab is rather costly and he wanted a tracking mechanism to see how it is serving workers.

[1:47:53 PM](#)

CHAIR BUNDE moved on to change 3 in the CS that removes language establishing a new appeals commission and reverts back to the current hearing system - the Superior Court.

MR. LISANKIE commented that he didn't have explicit instructions, but thought the administration wouldn't accept the loss of the appeals commission.

CHAIR BUNDE hoped the issue could be discussed more thoroughly in the next committee.

[1:51:25 PM](#)

He said change 4 clarifies language for use of the medical guidelines. He asked for a stronger waiver component as an option for doctors to use when, in their judgment, the best

treatment for a workers' comp injury falls outside the purview of the guidelines. It removes the original language that says, "The presumption must be rebutted by a preponderance of scientific evidence."

SENATOR ELLIS asked how difficult it would be for a doctor to get a waiver component and how would it work in the real world.

CHAIR BUNDE responded that the language is on page 15, line 18. The intent is that the waiver is obtainable by a doctor based on his professional judgment that the service is outside the guidelines.

SENATOR SEEKINS envisioned the doctor could certify that the treatment is not available in the manual, which doesn't set forth all conceivable injuries.

CHAIR BUNDE read page 16, line 1:

The presumption established under (o) of this section may be rebutted by an employee's physician's written certification explaining the nature, extent and scope of provided treatment or the service that is at variance with the applicable guidelines or standards and the basis for the physician's conclusion that the provided medical treatment or service is at variance was a reasonable requirement by the nature of the injury.

[1:55:25 PM](#)

SENATOR ELLIS asked if the doctor's decision was appealable in any sense.

SENATOR SEEKINS said it appeared to him that the claim wouldn't be reimbursable without the doctor's authority.

SENATOR ELLIS said he thought there would be cases where the doctor shouldn't have the power to decide that a treatment is required outside the scope of the guidelines. The CS takes out the rebuttable presumption.

[1:57:39 PM](#)

CHAIR BUNDE responded that the other option would be to have really rigid guidelines and then an injury might go untreated or be treated with something less effective. "At some point, in my mind, we have to fall back and rely on the professional judgment

and the willingness of a doctor to put his integrity on the line...."

SENATOR ELLIS concluded that they are granting professional discretion, which is not appealable and has no policing mechanism. "It's just we're going to take a chance."

CHAIR BUNDE said that Mr. Lisankie could report abuse back to the Legislature and that could be changed.

[1:59:25 PM](#)

CHAIR BUNDE explained that change 5 of the CS inserts fraud language that was suggested by the Ad Hoc Committee on pages 25 and 26.

[2:00:51 PM](#)

MR. LISANKIE commented this would be the first time having a provision for punitive damages and he supported it.

SENATOR SEEKINS added that this provision doesn't preclude criminal provisions for fraud.

MR. LISANKIE replied that is correct.

[2:03:02 PM](#)

DR. WILLIAM PFEIFER, Vice President, Alaska Chiropractic Society, and delegate for the American Chiropractic Association, had concerns with how the American College of Occupational Environmental Medicine (ACOEM) guidelines would handle chiropractic and other physical medicines that they lack right now. It creates a burden on doctors who might have to file continuous repetitive rebuttals. He suggested creating a variance for situations not covered under ACOEM.

He had another concern with the medical services review committee and would prefer a workers' comp review committee that would provide a broader perspective.

[2:06:07 PM](#)

JIM ROBINSON, Ad Hoc Committee, said it continues to meet and will work into next year on workers' comp issues.

[2:07:09 PM](#)

NOELL MCCULLOUGH didn't want to switch to a new system. She wanted the Legislature to make the Workers' Compensation Board fully live up to the last legislative audit and then look where

changes need to be made. She also asked why the ACOEM guidelines were chosen above AMA guidelines.

[2:08:38 PM](#)

MR. LISANKIE answered that the American College of Occupational Environmental Medicine is a not for profit organization and its mission statement says, "Physicians interested in promoting the optimal health and safety of workers, workplaces and environments," and their particular focus is on, "Use of evidence-based medicine and a focus on commonly occurring industrial injuries, tasks and treatments with significant incidents, cost and practice variations."

[2:09:22 PM](#)

MS. MCCULLOUGH said the fraud provisions in change 5 don't include attorneys as a party who can be penalized for making fraudulent statements.

CHAIR BUNDE replied, "The quick answer to that is that they will be covered, but it will be examined more thoroughly."

[2:10:13 PM](#)

COMMISSIONER GREG O'CLARAY, Department of Labor and Workforce Development (DOLWD), said the Senate Labor and Commerce Committee's adjustments make sense. He supported rolling fees back to what they were in 2004 so that doctors will be available to care for people. He also felt that the appeals commission is a key element in the bill.

[2:12:56 PM](#)

CHAIR BUNDE closed public testimony.

SENATOR ELLIS said he supports some of the CS and removed his objection; and CSSB 130(L&C), version G, was adopted.

SENATOR ELLIS said he had three amendments that were requested by a large number of voc rehab specialists.

SENATOR ELLIS moved Amendment 1.

24-GS1112\A.1

Craver

6/8/05

A M E N D M E N T 1

OFFERED IN THE SENATE

BY SENATOR ELLIS

TO: SB 130

Page 13, line 14, following "evaluation.":

Insert "If the company, firm, or other entity that employs a rehabilitation specialist selected by the administrator to perform an eligibility evaluation under this subsection is performing any other work on the same workers' compensation claim involving the injured employee, the rehabilitation specialist shall inform the administrator, and the administrator shall select a different rehabilitation specialist."

CHAIR BUNDE objected for an explanation.

SENATOR ELLIS explained that Amendment 1 would prevent conflicts of interest with rehab specialists who have been working on behalf of an insurance company in a particular case or on a particular claim from being selected or assigned to write the vocational plan for the same claimant.

[2:15:21 PM](#)

MR. LISANKIE reacted favorably. He does not favor conflicts of interest, although he did not have personal knowledge of a problem in this area. He knows it's common for an injured worker to get an evaluation and have a vocational rehabilitation specialist assigned to their case. That person recommends that the injured worker be found eligible for reemployment benefits and that same provider goes on and works up the plan for the injured worker. He wasn't sure what a rehab specialist would be doing for an insurance company that would promote this.

[2:17:07 PM](#)

SENATOR SEEKINS asked if he seeks to disqualify the insurance company or some other entity that employs or the rehabilitation specialist.

SENATOR ELLIS replied that the amendment would preclude the rehab specialist from working for the insurance company.

SENATOR SEEKINS said he thought that the language actually disqualifies the company, firm or other entity that employs the injured worker.

SENATOR ELLIS responded that those weren't his instructions to the drafter and, further, that the amendments were prepared for the original bill. But, he wouldn't object to making them consistent with the CS. Amendment 1 could be conceptual.

CHAIR BUNDE removed his objection with that understanding.

2:20:00 PM

SENATOR BEN STEVENS asked if the amendment would prevent the same specialist from doing both the evaluation and the implementation of the plan.

SENATOR ELLIS replied yes, "It would prevent the same person [from] doing both jobs." The suggestion came from voc rehab specialists and he thought someone would be present to explain.

SENATOR BEN STEVENS said he didn't object to the amendment, but thought someone from the profession should address that question.

CHAIR BUNDE announced that conceptual Amendment 1 was adopted.

2:24:28 PM

SENATOR ELLIS moved Amendment 2.

24-GS1112\A.2

Craver

6/8/05

A M E N D M E N T 2

OFFERED IN THE SENATE

BY SENATOR ELLIS

TO: SB 130

Page 13, line 15, through page 14, line 1:

Delete all material.

Renumber the following bill sections accordingly.

Page 35, line 3:

Delete "sec. 32"

Insert "sec. 31"

Page 35, line 4:

Delete "sec. 32"

Insert "sec. 31"

Page 37, line 2:

Delete "sec. 23"

Insert "sec. 22"

Page 37, line 6:

Delete "Section 54(a)"
Insert "Section 53(a)"

Page 37, line 7:

Delete "Sections 1 - 4, 32, and 56"
Insert "Sections 1 - 4, 31, and 55"

Page 37, line 8:

Delete "Sections 5, 12, 39, 49, and 55"
Insert "Sections 5, 12, 38, 48, and 54"

Page 37, line 13:

Delete "secs. 57- 59"
Insert "secs. 56 - 58"

CHAIR BUNDE objected for an explanation.

SENATOR ELLIS explained that Amendment 2 adds another disqualifier to the job relocation benefit. The rationale is:

Accepting job dislocation benefit from a different case should not permanently disqualify a worker with a new and even more disabling injury from reemployment benefits....

[Voc rehab specialists] are concerned that it would exploit younger workers, workers with disabilities, non-English-speaking workers and those who are desperate for money. There is no oversight by the Division of Workers' Comp on accepting job dislocation benefits as there is on settlement. Also, no legal representation required in the bill. So, this is trying to address that overall concern.

CHAIR BUNDE asked if this was going to just protect people from themselves.

SENATOR ELLIS answered that people are free to make bad choices in this country, but in this case it potentially drives up costs in the system.

CHAIR BUNDE asked what would prevent an injured worker who took a cash settlement from coming back for a second unrelated injury.

MR. LISANKIE explained that the current provision says if an injured worker gets the benefit and goes back to work in the

same occupation in terms of physical demand, that disqualifies him from a second claim if he gets a second injury.

[2:30:32 PM](#)

SENATOR ELLIS asked how often that scenario happens and said the money is often much less than the rehab benefit cost would have been.

MR. LISANKIE didn't have hard numbers about how often that happens and regarding the second question, the settlement amount might be significantly less or similar to what retraining would cost. "As a rule of thumb there has to be some inducement to settle and inducement is the view that you're saving a little bit of money for your client."

[2:31:37 PM](#)

SENATOR ELLIS went back to the first question saying that the department wrote this bill based on this concern and he is trying to understand it and justify changing the law.

MR. LISANKIE responded that the premise was built into the original act; in 1988 the Legislature felt that there was a potential problem.

[2:33:13 PM](#)

CHAIR BUNDE said that tracking employment records of people who had gone through rehab would be an ancillary benefit of the CS.

MR. LISANKIE agreed.

SENATOR ELLIS asked if there would be an answer to this question in the future.

CHAIR BUNDE replied that he thought they would have more specific information. There was no further discussion of Amendment 2 and he maintained his objection.

MR. LISANKIE said he did not favor Amendment 2.

A roll call vote was taken: Senators Ben Stevens, Seekins and Chair Bunde voted nay; Senators Ellis and Davis voted yea; and Amendment 2 failed.

[2:35:05 PM](#)

SENATOR ELLIS moved Amendment 3.

24-GS1112\A.3

Craver
6/8/05

A M E N D M E N T 3

OFFERED IN THE SENATE
TO: SB 130

Page 14, lines 27 - 30:

Delete "The form provided by the division for election shall specify that the employee understands the scope of the benefits and rights being waived by the election. The administrator shall serve a copy of the executed election form on the parties within 10 days after receiving the form from the employee."

Insert "Before accepting an election to accept a job dislocation benefit in place of reemployment benefits from an employee who has been given a permanent partial impairment rating by a physician, the administrator shall provide the employee planning on making an election with individualized information including calculations based on that employee's impairment rating to illustrate the effect of making an election as well as other information to clearly inform the employee of the potential consequences of the employee's election."

(4) The form provided by the division for making an election of benefits must require that a copy of the individualized calculations and information provided to the employee under (3) of this subsection be attached and incorporated as part of the election and waiver and must require the employee to acknowledge that the employee understands the scope of the benefits and rights being waived by the election. The administrator shall serve a copy of the executed election form, including the individualized information attached to the form, on the parties within 10 days after receiving the form from the employee.

(5)"

CHAIR BUNDE objected for discussion purposes.

SENATOR ELLIS explained:

The victim or claimant will not know all the risks of waiving the benefit for what could be a relatively small sum of money. There is also a concern by the voc

rehab specialists that adjustors will stipulate to the retraining benefit and convince the victim to either waive the benefit or go for the dislocation benefit without communicating it to the claimant the value of the benefit he is waiving or the risk of accepting the job dislocation benefit.

CHAIR BUNDE asked if he is referring to an injured employee being offered a cash settlement.

SENATOR ELLIS replied yes.

MR. LISANKIE elaborated that this amendment referred to Senator Seekins' concern that some people preferred to settle and the board didn't have the authority to stipulate to certain things. The amendment would allow injured workers and their employers and insurers to stipulate that the injured worker is entitled to reemployment benefits and to go forward without having an evaluation report prepared. "We think it is important that they be allowed to stipulate."

He was not aware that some of the rehab community feels that their role is to instruct the injured worker about what their benefits are or aren't at any given point. The bill has a proviso saying that the division will get in touch with someone after he has been off work for 45 days to explain what his rights are, which is something that doesn't happen now.

With all due respect to the rehab people that have suggested that, it's more important that we take the time and spend the money to do an evaluation just to make sure that nothing untoward can go forward. I think the system would work adequately if the parties were entitled to stipulate and move forward with getting a plan together.

[2:40:29 PM](#)

SENATOR STEVENS wanted some clarification on the intent of the amendment.

MR. LISANKIE replied the intent is to delete the ability to stipulate.

So, it would essentially say that if the injured worker and the employer or their insurer both agreed that the injured worker was entitled to this benefit, notwithstanding their mutual agreement, the

reemployment benefits administrator would have to assign the case to a rehab specialist to do an evaluation to confirm the party's belief that the injured worker was entitled to the benefit.

SENATOR ELLIS said Amendment 3 is asking for an evaluation and there could be a compelling state interest for knowing what the plan would be.

[2:44:25 PM](#)

SENATOR SEEKINS countered if a guy has a crushed leg and must hire a voc rehab person to evaluate it, that's not right.

I don't see any sense in that. If something is obvious and they stipulate to say, 'Yeah, you're entitled to vocational rehabilitation,' they ought to be able to do it without having to go through that step.

SENATOR ELLIS replied, "There's a lot more to it than that, Ralph."

SENATOR SEEKINS said they are trying to make sure that someone with the least amount of capacity one way or the other is protected. "However, I think there are times when it's so obvious that we ought to be able to stipulate something rather than having to go through a step that can be needless...."

SENATOR ELLIS said he would persist with the amendment and hope for compromise.

[2:46:11 PM](#)

CHAIR BUNDE asked for a roll call vote. Senators Ben Stevens, Seekins and Chair Bunde voted nay; Senators Davis and Ellis voted yea; and Amendment 3 failed.

[2:49:08 PM](#)

SENATOR SEEKINS moved CSSB 130(L&C) from committee with individual recommendations and attached fiscal notes. Senator Ellis objected.

Senators Ben Stevens, Davis, Seekins and Chair Bunde voted yea; Senator Ellis voted nay; and CSSB 130(L&C) moved from committee.
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^#SB108

SB 108-INSURANCE

CHAIR CON BUNDE announced SB 108 to be up for consideration.

LINDA HALL, Director, Division of Insurance, Department of Community & Economic Development (DCED), said the purpose of SB 108 is to make regulation of insurance more efficient, consistent and good for consumers. She went through a sectional analysis that was available in the committee's packets.

2:55:54 PM

She said two sections of the bill have created some controversy. One deals with service contracts and products called guaranteed auto protection. It is the intent of the Division of Insurance, which currently has authority to regulate products under its very broad definition of insurance, to promulgate regulations allowing recognition of unique products that are on the market that don't fit a traditional definition of insurance. She would like to be able to look at those products and have regulatory oversight that allows more flexibility than the definition of insurance has today.

MS. HALL said she has been working with Senator Seekins to resolve this and feels it can be resolved to all the stakeholders' interests.

The second section that has caused some interesting discussion is section 28. She explained:

There is a provision for the division to set some minimum standards for what's called self-funded governmental plans. Basically, we're talking here are not the political subdivisions; it's not municipalities, it's not school districts. This specifically speaks to the Union Health Trust. Today, statutory language gives the Division of Insurance authority to look at various entities and to determine if they are not regulated by another entity that oversees or licenses plans that provide health coverage, they will fall under Title 21. If those entities fall under Title 21 today, they would be regulated as insurers.

In March 2004, at the request of one of the unions....[to] make a determination whether we had regulatory oversight. I sent letters to all five union health trusts asking for information about who regulated them.... I already have received some

responses to those. We are seeking additional information to make that preliminary determination.

This section seeks to clarify our statutory oversight and to set some minimum standards....

CHAIR BUNDE interrupted to say that he had concerns and wanted her to come back at a future date and give the committee a detailed response.

MS. HALL replied that she would be happy to do that. Also, she said, "It's important that there be an objective analysis of what money is needed to pay benefits to make sure that benefit money is actually there when it's needed."

CHAIR BUNDE announced that the bill would be held.

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^#SB142

SB 142-REGIONAL SCHOOL BD LAND/BLDG OWNERSHIP

CHAIR CON BUNDE announced SB 142 to be up for consideration.

KIP KNUDSON, Deputy Commissioner of Aviation, Department of Transportation and Public Facilities (DOTPF), said this is a simple technical amendment for a state statute that contradicts somewhat federal obligations in terms of FAA airport improvement program dollars. It would make de jure what is actually happening now.

[3:04:12 PM](#)

SENATOR SEEKINS asked for an explanation of, "If the state holds less than fee title to the land, the commissioner of the department having responsibility shall convey the entire interest of the stake in the land to the regional school board." - language on page 2, line 30 .

MR. KNUDSON explained that is existing statute and "less than fee title" would be a lease or an interim land management agreement with DNR or something like that.

[3:04:50 PM](#)

SENATOR BEN STEVENS wanted an example of "other structures used in regional attendance area schools" on page 2, lines 26 & 27.

MR. KNUDSON replied that he didn't understand what that language was trying to achieve.

[3:05:33 PM](#)

PAMELA LEWIS, Statewide Chief, Aviation Leasing, Department of Transportation and Public Facilities (DOTPF), guessed the revisor may have been referring to things like fences and fuel tanks.

SENATOR STEVENS asked about structures outside of the boundary of an airport.

CHAIR BUNDE said this is obviously not the simple bill he thought and said he would hold SB 142 for a further hearing.

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#SB108

SB 108-INSURANCE

CHAIR CON BUNDE announced SB 108 to be back up for consideration and apologized for not taking public testimony earlier.

COLLEEN SAVOIE, Public Employees Local 71, opposed SB 108. It imposes unnecessary and costly regulation and burdens to the trust health plans that were established through the collective bargaining process to provide benefits to state employees. It would require the trust to file actuarial reports and other documents. A Department of Health and Social Services (DHSS) actuary estimated that it would cost a minimum of \$40,000 to \$50,000 per year assuming the actuary was already familiar with the plan. Administrative costs and legal fees would be related to the filings as well.

There is a requirement for a fidelity bond covering the trustees in an amount not less than 10 percent of the benefits paid in the preceding year. In the case of a larger trust, such as the FDA, that could mean a bond of as much as \$6.4 million, which is an unusually large bond and it may be difficult to obtain.

MS. SAVOIE said the fiscal note provides for one customer service specialist, but the number of filings this bill requires would need more.

CHAIR BUNDE said he has passed her written concerns to the director and those would be addressed in detail in a later hearing.

MS. SAVOIE emphasized that the reason trusts are concerned is because every dollar that goes towards administration is a dollar that is not used for benefits.

FRANK PUSCHAK, Anchorage, said he is a trustee for a health plan, but he is speaking for himself. He said the trusts were set up because the state didn't want to deal with them any more. Sections 28 and 29 would put them under control of the state, but the trustees would be doing all the work. SB 108 would cause unnecessary regulation and burden. He was also confused about what government plans are covered in the bill; he thought it could apply to the State of Alaska and municipalities, too.

CHAIR BUNDE thanked him and closed public testimony. He said those concerns would be addressed before acting on the bill.

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^#SB147

SB 147-SPORT FISHING FACILITY REVENUE BONDS

CHAIR CON BUNDE announced SB 147 to be up for consideration.

SENATOR SEEKINS, sponsor, said sport fish production is declining, because of 30-year old facilities in the Anchorage area and the closing of another facility. The bond package would fund a new hatchery in the Fairbanks area close to the Aurora Energy Plant so waste heat could be used. The federal government has come through with over \$6 million already and another promise for \$3 million more. Now is the time to renovate and add to hatcheries at Elmendorf Air Force Base and Fort Richardson and plan for the future.

The bond package would be used for the capital project and the federal money would fund operating expenses. Surcharges would be added to the existing state fishing license fees.

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CHAIR BUNDE asked if the annual surcharge on a sport fishing license would be \$45.

SENATOR SEEKINS responded yes for a non-resident; but for a resident it would be \$15 plus \$8.50.

KELLY HEPLER, Director, Division of Sport Fish, said that the annual non-resident sport fishing license is currently \$100.

CHAIR BUNDE figured that would become \$145. He asked if the ratio between resident and non-resident fees was within constitutional parameters.

MR. HEPLER replied yes; the ratio is about three to one now and that is being kept with the surcharge. He said the last time fishing license fees were raised was in 1993.

SENATOR SEEKINS said the intent is that the surcharge goes away when the facility is paid for.

CHAIR BUNDE declared a conflict saying he is a recipient of benefits from the King hatchery at Ship Creek.

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BRIAN ALLEE supported SB 147. "I think a hatchery in the Interior is really important and renovation of the two hatcheries in Anchorage, as well." He said he is director of the Alaska Sea Grant Program at the University of Alaska Fairbanks and knows the value of hatcheries in terms of the economy, creating jobs and opportunities for fishermen. The University would provide support to the hatchery in the Interior.

SENATOR SEEKINS said part of intent is for the University to provide a research component.

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MIKE ROUND, Assistant General Manager, Southern Southeast Regional Aquaculture Association (SSRAA), Petersburg, said SSRAA is the current contracted operator of the Crystal Lake Hatchery and supported SB 147. He read a statement about how well the hatchery is doing. However, for several years many maintenance issues have been deferred and providing a funding mechanism for maintenance and renovation projects now will ensure the facility's efficient functioning into the future.

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CHAIR BUNDE closed public testimony.

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SENATOR SEEKINS moved to pass SB 147 from committee with attached fiscal notes and individual recommendations. Senators Ben Stevens, Seekins, Ellis, Davis and Chair Bunde voted yea; and SB 147 moved from committee.

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There being no further business to come before the committee, he adjourned the meeting at [3:27:21 PM](#).