

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 27, 2007

3:10 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Gabrielle LeDoux
Representative Jay Ramras
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

Representative Carl Gatto

COMMITTEE CALENDAR

HOUSE BILL NO. 209

"An Act relating to the chair of and the membership of and qualifications of members of the Regulatory Commission of Alaska; adding positions to the partially exempt service; creating an administrative law division and natural gas and oil pipeline division within the commission; amending the timeline requirements for a final order of the commission; relating to the commission's regulatory cost charges; and adding to the duties of the Alaska Judicial Council as they relate to the presentation of nominees for consideration for appointment to the commission."

- MOVED CSHB 209(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 200

"An Act relating to the presumption of coverage for a workers' compensation claim for disability as a result of certain diseases for certain occupations."

- HEARD AND HELD

HOUSE BILL NO. 71

"An Act requiring licensure of occupations relating to radiologic technology, radiation therapy, and nuclear medicine technology; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 209

SHORT TITLE: REGULATORY COMMISSION OF ALASKA

SPONSOR(S): LABOR & COMMERCE

03/19/07	(H)	READ THE FIRST TIME - REFERRALS
03/19/07	(H)	L&C, JUD, FIN
04/13/07	(H)	L&C AT 3:00 PM CAPITOL 17
04/13/07	(H)	Heard & Held
04/13/07	(H)	MINUTE(L&C)
04/27/07	(H)	L&C AT 3:00 PM CAPITOL 17

BILL: HB 200

SHORT TITLE: WORKERS' COMP: DISEASE PRESUMPTION

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

03/14/07	(H)	READ THE FIRST TIME - REFERRALS
03/14/07	(H)	L&C, JUD
04/27/07	(H)	L&C AT 3:00 PM CAPITOL 17

BILL: HB 71

SHORT TITLE: LICENSING RADIOLOGIC TECHNICIANS

SPONSOR(S): REPRESENTATIVE(S) KAWASAKI

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	L&C, FIN
03/21/07	(H)	L&C AT 3:00 PM CAPITOL 17
03/21/07	(H)	Heard & Held
03/21/07	(H)	MINUTE(L&C)
04/27/07	(H)	L&C AT 3:00 PM CAPITOL 17

WITNESS REGISTER

JOHN BITNEY, Legislative Liaison
Governor's Legislative Office
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 209.

RICHARD GAZAWAY, Hearing Examiner
Common Carrier
Regulatory Commission of Alaska (RCA)

Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Responded to questions during discussion of
HB 209.

MARK JOHNSON, Commissioner
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Responded to questions during discussion of
HB 209.

JANIS WILSON, Commissioner
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska
POSITION STATEMENT: Responded to a question during discussion
of HB 209.

KRISTI CATLIN, Vice President
State Law & Government Affairs
AT&T Alascom
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with some of the
provisions of HB 209.

JAMES ROWE, Executive Director
Alaska Telephone Association (ATA)
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns and responded to
questions during discussion of HB 209.

VIRGINIA RUSCH
AARP
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with some of the
provisions of HB 209.

REPRESENTATIVE NANCY DAHLSTROM
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 200.

KELLY HUBER, Staff

to Representative Nancy Dahlstrom
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of
HB 200 on behalf of the sponsor, Representative Dahlstrom.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community, & Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB
200.

MARK DRYGAS, President
Alaska Professional Fire Fighters Association (AKPFFA)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 200 and
responded to questions.

MATTHEW McSORLEY, Secretary/Treasurer
Alaska Professional Fire Fighters Association (AKPFFA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 200, and asked that the bill be moved from committee.

ERIC TUOTT
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 200, and responded to questions.

JEFF BRIGGS
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 200, and asked that the bill be passed out of committee.

PAUL F. LISANKIE, Director
Division of Workers' Compensation
Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of
HB 200.

KEVIN SMITH, Executive Director
Alaska Municipal League Joint Insurance Association,
Inc. (AMLJIA)
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 200.

REPRESENTATIVE SCOTT KAWASAKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 71.

CLYDE E. PEARCE, Radiologic Health Specialist II
Radiologic Health
Laboratories

Division of Public Health
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 71.

DONNA J. RUFSHOLM, R.T., Chair
Legislative Committee
Alaska Society of Radiologic Technologists (AKSRT)
Homer, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 71.

RHONDA MERRIHEW, R.T., Co-Chair
Legislative Committee
Alaska Society of Radiologic Technologists (AKSRT)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to
questions during discussion of HB 71.

PAUL HANSEN, Deputy Administrator
Maniilaq Health Center
Maniilaq Association
Kotzebue, Alaska

POSITION STATEMENT: Provided comments during discussion of
HB 71, and suggested an amendment.

S. LYNN HORNBEIN, M.D.
Palmer, Alaska

POSITION STATEMENT: Provided comments and asked questions
during discussion of HB 71.

SONIA HANDFORTH-KOME, President
Alaska Primary Care Association (APCA);
Executive Director
Iliuliuk Family & Health Services, Inc.
Unalaska, Alaska

POSITION STATEMENT: During discussion of HB 71, provided comments and indicated that her organizations do not support the bill as currently written.

ACTION NARRATIVE

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at [3:10:04 PM](#). Representatives Buch, LeDoux, Neuman, Gardner, and Olson were present at the call to order. Representative Ramras arrived as the meeting was in progress.

HB 209 - REGULATORY COMMISSION OF ALASKA

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 209, "An Act relating to the chair of and the membership of and qualifications of members of the Regulatory Commission of Alaska; adding positions to the partially exempt service; creating an administrative law division and natural gas and oil pipeline division within the commission; amending the timeline requirements for a final order of the commission; relating to the commission's regulatory cost charges; and adding to the duties of the Alaska Judicial Council as they relate to the presentation of nominees for consideration for appointment to the commission." [Before the committee was the proposed committee substitute (CS) for HB 209, Version 25-LS0717\M, Kane, 4/12/07, which had been adopted as the work draft on 4/13/07.]

[3:10:53 PM](#)

JOHN BITNEY, Legislative Liaison, Governor's Legislative Office, Office of the Governor, indicated that HB 209 proposes several revisions to the statutes pertaining to the Regulatory Commission of Alaska (RCA), revisions the administration hopes will improve the RCA and its decision-making processes; in part, HB 209 addresses the RCA's timelines for dockets, and provides that the governor shall appoint the RCA's chair. He then spoke briefly about other pieces of legislation.

CHAIR OLSON offered his understanding that prior to 2002, the governor had the ability to appoint the chair of what used to be the Alaska Public Utilities Commission (APUC) and is now the RCA.

REPRESENTATIVE GARDNER said she has concerns with the governor appointing the chair of the RCA, and requested clarification regarding the change proposed via Section 2.

REPRESENTATIVE LeDOUX surmised that under Section 2, hearings and proceedings before the RCA would become more formal and complex.

[3:21:27 PM](#)

RICHARD GAZAWAY, Hearing Examiner, Common Carrier, Regulatory Commission of Alaska (RCA), Department of Commerce, Community, & Economic Development (DCCED), concurred.

REPRESENTATIVE GARDNER asked whether such hearings and proceedings would then take longer and be more expensive.

MR. GAZAWAY acknowledged that that might be the case.

[3:22:21 PM](#)

MARK JOHNSON, Commissioner, Regulatory Commission of Alaska (RCA), Department of Commerce, Community, & Economic Development (DCCED), concurred, but remarked that the RCA's hearing examiner staff is fully capable of handling more complex hearings and proceedings.

[3:22:56 PM](#)

JANIS WILSON, Commissioner, Regulatory Commission of Alaska (RCA), Department of Commerce, Community, & Economic Development (DCCED), acknowledged, though, that the RCA's regulatory bar might need to make some adjustments.

REPRESENTATIVE GARDNER questioned whether adopting Section 2 is the best approach given that one of the legislature's goals is to have the RCA's decision-making process take less time and be less costly. She then referred to page 2, lines 25-29 - proposed AS 42.05.151(e)(1) - and questioned what precluding petitions to intervene by those without a current, nonspeculative property interest in the subject of the proceeding will mean for groups such as the AARP and the Alaska Public Interest Research Group (AkPIRG), groups - or even individual members of the public - that would have a concern with how rates are set.

MR. GAZAWAY replied that that the RCA currently adheres to a somewhat lenient standard regarding intervention, taking into consideration factors such as property interests, financial interests, or "other" interests, and whether participation by

such parties will aid in the development of the record. He acknowledged that the proposed change creates a more stringent requirement for intervention. In response to a question, he also acknowledged that intervention, regardless of the interest, can lengthen the time of a proceeding.

REPRESENTATIVE GARDNER referred to paragraph (1)(A) of Section 9, and offered her understanding that the term, "good cause" - as used in paragraph (1) - is well defined, whereas the term, "unusually complex and novel" - which is proposed as an additional qualifier in subparagraph (A) - is not. She opined that this change offers no benefit but will instead cloud the issue of whether a timeline should be extended.

CHAIR OLSON suggested that the House Judiciary Standing Committee could better address that issue.

REPRESENTATIVE GARDNER referred to subparagraph (C) of Section 9, and offered her understanding that currently the RCA does extend timelines due to its workload.

MR. JOHNSON concurred, and explained that the RCA would like the flexibility to extend timelines when its workload necessitates it.

CHAIR OLSON suggested that the House Judiciary Standing Committee could better address that issue as well.

MR. BITNEY acknowledged the concerns regarding Sections 2 and 3, and offered that Section 9 contains suggested language "that came to us on the docket."

[3:31:27 PM](#)

KRISTI CATLIN, Vice President, State Law & Government Affairs, AT&T Alascom, referred to Section 1, and said that her company is in favor of maintaining the existing system wherein RCA commissioners pick their own chair, but would like to see the chair's term of office lengthened. She shared her understanding that the existing system was put in place in order to depoliticize the process, and said her company believes that this system is working since one must gain the support of his/her peers before being elected to serve as chair. She then said that her company shares some of the previously mentioned concerns regarding Section 2; its proposed changes could cause further delays and heighten the system's level of technicality. Rules of evidence normally apply only in civil court and don't

generally apply in administrative hearings, and while RCA staff may have the skills to handle the proposed change, everyone involved would have to be refreshed on what the technical rules of evidence are because they haven't had to operate under them. Therefore, her company's preference would be that the change proposed via Section 2 not be adopted.

MS. CATLIN turned attention to Section 3, specifically proposed AS 42.05.151(d), and said the existing civil rules are not easily applied and therefore it might be better to allow the RCA to determine which rules it wishes to adopt, though if this has not occurred by the next legislative session, the legislature could address the issue at that point. Referring to proposed AS 42.05.151(e), she said her company is not opposed to the change regarding petitions to intervene because it feels that there should be rules regarding intervention, but mentioned that she herself does have a concern regarding precluding members of the public from filing petitions to intervene. Referring to the terms, "good cause" and "unusually complex and novel" as used in Section 9, she said she agrees that the proposed additional qualifier might cause difficulties with appeals. In conclusion, she said her company believes that the RCA has done a tremendous job of improving its processes and getting decisions out, and therefore has her company's support.

MS. CATLIN, in response to a question, said that her company has no problems with the timelines outlined in the bill.

[3:36:42 PM](#)

JAMES ROWE, Executive Director, Alaska Telephone Association (ATA), said that the ATA would like to see the RCA reauthorized, and agrees that the RCA has done a good job, a job wherein not all members of the industry are going to be happy with any given decision. Referring to Section 1, he said that the ATA has no adverse reaction to having the governor appoint the chair of the RCA, though it is also satisfied with the current system because it has resulted in a functioning RCA. Referring to Section 2, he posited that the current system has worked well without tighter guidelines regarding evidence brought before the RCA, and said that the ATA is happy with how things are going in that regard. Referring to Section 3, he said that the ATA shares the concerns regarding paragraph (e)(1), adding that it would be unfortunate if a party was precluded from offering beneficial information just because the party had only a speculative property interest.

MR. ROWE, with regard to timelines, stated that the ATA is happy to see them. With regard to Section 9, he expressed agreement with the comments made by Janis Wilson at a prior hearing that the term, "good cause" has already been defined via case law. He opined that the change proposed via paragraph (1)(A) appears to be attempting to use the term "unusually complex and novel" to define the term, "good cause", and suggested that doing so will lead to further delays. Referring to Section 10, specifically proposed AS 42.05.175(n), he opined that if the commission is not allowed to extend a timeline due to workload constraints, then this provision implies that a bad decision is preferable to a considered decision. Remarking that in the last few years there have been few dockets that have been extended due to the RCA's workload, he said he would prefer an extended timeline and a considered and good decision versus a poor decision.

MR. ROWE, in response to a question regarding Section 1, said that he doesn't know that one methodology of picking a chair will serve the public any better than the other. He shared his hope that the commissioners of the RCA are focusing on the issues before them rather than who shall get to be chair. Upon a request to chose which methodology he prefers, Mr. Rowe said he would prefer for the commissioners of the RCA to elect their own chair, but suggested that the proposed three-year term ought to be deleted, adding that he would like the commissioners to have the opportunity to vote for the best chair.

[3:48:35 PM](#)

VIRGINIA RUSCH, AARP, relayed that the AARP has been very interested in the impact of utility rates on consumers, and that she has worked with the RCA and its predecessor since 1981 and has worked as an assistant attorney general for 23 years - 14 of which she was assigned to represent the APUC and the RCA. She remarked that she has seen a lot of how the RCA operates, and mentioned that at one point she was assigned to the Transportation Section of the Department of Law (DOL) where she "did some large scale contract litigation in the court system" and so has observed how the technical rules of evidence and the rules of discovery in court operate in contrast with the RCA's proceedings. She said that although the AARP has sent the committee a letter that summarized the AARP's position, she would like to respond to some of the questions raised thus far.

MS. RUSCH, referring to Section 2 and the question of whether having to apply technical rules of evidence would lengthen

hearings and proceedings and make them more costly, opined that it would, recalling that it often took her many hours of preparation just to learn the technical utility, accounting, or finance-type issues involved in a case, and so if she'd had to also keep in mind technical rules of evidence, it would have required many more hours of preparation. Such increases in preparation time will result in increased utility expenses for all.

MS. RUSCH referred to Section 3, specifically the provisions regarding discovery, and opined that this will take the RCA in the wrong direction if the legislature's goal is to cut some of the costs of proceedings. She suggested as an alternative that the bill be altered such that it contains standards directing the RCA to ensure that the parties have appropriate discovery at the least cost. Referring to the language of Section 3 regarding petitions to intervene, she characterized it as disturbing to the AARP because it would prevent the AARP from seeking to intervene or argue or present issues on behalf of consumers. There is just no need, she opined, for any statutory provision addressing intervention because the RCA, for many years, has had standards set out in regulations.

MS. RUSCH mentioned a recent case wherein the court considered the RCA's decision regarding intervention; in that case, one refuse utility that competed with another refuse utility sought to intervene in the rate case of that other utility. The RCA refused intervention on the basis that the cost of discovery for the other utility "would drive out the competition," and the RCA's decision on that proceeding was upheld by the court. She offered her understanding that ever since the federal Public Utility Regulatory Policies Act of 1978 (PURPA) began requiring some compensation for consumers' interveners, there has been a policy to try to encourage consumer intervention. However, it's a little more problematic, she remarked, when two utilities are fighting each other and attempt to participate in each other's rate cases; intervention in such situations just results in longer, more expensive proceedings, but the bill's provisions regarding intervention aren't going to solve this sort of problem. She urged members to remove those provisions.

MS. RUSCH, in conclusion, stated that the RCA should have flexibility with regard to timelines because, under the bill, if the RCA makes a mistake, it will be the consumers who might be hurt. For example, if a utility files a rate case asking for a 10 percent increase in rates, under the current statute if the commission doesn't act by certain dates, that rate increase goes

into effect and consumers are required to pay it, but, under the bill, if the RCA has a proceeding in which it examines all the utility's rate justifications and concludes that the rate increase should only be 5 percent but the commission is unable to meet a deadline, the commission wouldn't have the flexibility to extend that deadline and so the consumers would end up paying [a rate increase double what the RCA thinks they should be paying].

CHAIR OLSON asked how many times in the last three years has the AARP intervened in an RCA decision.

MS. RUSCH replied that the AARP has intervened twice, has asked to participate as an amicus curia in a court appeal on one case, and has appeared at consumer hearings or has sent comment letters four or five other times.

CHAIR OLSON, after ascertaining that no one else wished to testify, closed public testimony on HB 209.

[3:57:32 PM](#)

REPRESENTATIVE NEUMAN moved to report the proposed committee substitute (CS) for HB 209, Version 25-LS0717\M, Kane, 4/12/07, out of committee with individual recommendations and the accompanying fiscal notes.

The committee took an at-ease from 3:58 p.m. to 4:02 p.m.

CHAIR OLSON, noting that there were no objections to the motion, announced that CSHB 209(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 200 - WORKERS' COMP: DISEASE PRESUMPTION

[4:02:37 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 200, "An Act relating to the presumption of coverage for a workers' compensation claim for disability as a result of certain diseases for certain occupations."

[4:03:28 PM](#)

REPRESENTATIVE NANCY DAHLSTROM, Alaska State Legislature, sponsor, explained that HB 200 establishes a presumption that certain professions carry a risk of certain diseases,

specifically the professions of firefighter - whether professional or volunteer - peace officer, and emergency medical and rescue personnel - referred to as "first responders." Firefighters and first responders take great risks every day to protect the public, she remarked, and mentioned that she and her staff are still working on the fiscal issues related to the bill.

REPRESENTATIVE GARDNER, referring to similar legislation heard last year, noted that HB 200 now lists prostate cancer as one of the presumptive illnesses.

REPRESENTATIVE DAHLSTROM remarked that HB 200 has also been tightened up with regard to physical exams, tobacco use, and applicable timeframes.

4:06:52 PM

KELLY HUBER, Staff to Representative Nancy Dahlstrom, Alaska State Legislature, sponsor, in response to a question, explained that under HB 200, the amount of time someone must work for "the department" before qualifying for the presumption is now seven years, and there is a new proposed AS 23.30.121(c)(1)(F), which says: "(F) any uncommon infectious disease the contraction of which the United States Secretary of Labor determines to be related to the hazards to which an employee in fire protection activities may be subject". In response to a further question, she noted that statute does define the term "fire fighter"; AS 09.65.295(c) reads:

(c) In this section, "fire fighter" means a person employed by a municipal fire department or who is a member of a volunteer fire department registered with the state fire marshal, or a person registered for purposes of workers' compensation with the state fire marshal as a member of a volunteer fire department.

MS. HUBER, in response to another question, explained that under the bill, in order to qualify, a firefighter must have worked as a firefighter for at least seven years before developing or manifesting the disease, and have passed a qualifying medical exam, either upon becoming a firefighter or during employment as a firefighter. Once these criteria have been met, under the bill there is then a presumption that the disease was the result of working as a firefighter. However, Section 1 of the bill states that the presumption of coverage may be rebutted by a

preponderance of the evidence, which may include the use of tobacco products, physical fitness, weight, lifestyle, hereditary factors, and exposure from other activities.

REPRESENTATIVE NEUMAN surmised that such points would be heavily debated in court, and expressed concern that the bill might exacerbate the state's current problems with workers' compensation.

REPRESENTATIVE GARDNER asked how many of Alaska's firefighters would be affected by the bill.

MS. HUBER offered that the firefighters who will be testifying later will present Alaska-specific statistics, and remarked that the other states which have adopted similar legislation have experienced only minor, if any, cost increases.

REPRESENTATIVE RAMRAS acknowledged that very few other vocations require people to stand in harm's way, and shared his belief that the bill is proposing appropriate coverage. He mentioned a fire that occurred recently in Fairbanks, and stated his support of HB 200.

REPRESENTATIVE LeDOUX asked what the interplay is currently between health insurance and workers' compensation insurance. For example, if firefighters who acquire one of the enumerated diseases are not covered under workers' compensation, are they covered under their health insurance policies?

MS. HUBER suggested that someone else might be better able to answer that question, but surmised that the state's health insurance policies would cover a firefighter with one of enumerated diseases but only if it were not a preexisting condition.

[4:16:54 PM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community, & Economic Development (DCCED), said she has heard discussion regarding how an increase in the potential cost for medical care for firefighters would affect the workers' compensation system, but because few firefighters are currently part of the "voluntary workers' compensation system," there is very little data available. The National Council on Compensation Insurance (NCCI), she relayed, has indicated to the division that the increase to the overall workers' compensation system costs is expected to be negligible, but [HB 200] may have

a significant impact on workers' compensation costs for certain class codes, specifically those generally covered "in the self-insured arena or in the program that most of the municipal entities participate in."

MS. HALL remarked that the retroactive nature of some of the bill's provisions may potentially lead to a significant unfunded liability for things that have occurred in the past. Most of what occurs in the workers' compensation rating arena for insurance is prospective, and so it is particularly difficult to make estimates of system costs for something that could be retroactive, she said, but added that she would be willing to discuss this issue further with the sponsor. In response to a question, she said she does not know how the bill's provision regarding a qualifying medical examination would be applied.

4:20:51 PM

MARK DRYGAS, President, Alaska Professional Fire Fighters Association (AKPFFA), after mentioning that he works for the City of Fairbanks fire department, relayed that the AKPFFA stands in strong support of HB 200. He commented that the diseases listed in the bill have an increasing effect on firefighters, and that there is very little controversy over whether such diseases are occurring in firefighters as a result of their profession. In conclusion, he asked for the committee's support of HB 200.

MR. DRYGAS, in response to a question, offered his understanding that most firefighters get an exam upon becoming a firefighter and then get additional physical exams yearly, adding that it can be difficult to determine whether the occurrence of a disease in a particular firefighter is the result of repeated exposure or one instance of exposure.

REPRESENTATIVE NEUMAN said he'd received a letter from the Municipality of Anchorage (MOA), and offered that it says in part:

For specific employees, regardless of the cause, these bills would have the municipality prove that they are not work related. This is an impossibly high standard in most cases, and one that requires personally invasive investigation into an employee's life.

MR. DRYGAS acknowledged that the bill does require the employer to dispute a claim that the occurrence of a disease was the

result of the job. He offered his understanding that the cancers listed in the bill are very specific types of cancers that are well documented as being more prevalent amongst firefighters.

REPRESENTATIVE NEUMAN relayed that the aforementioned letter goes on to say that no evidence has been provided to show that a problem exists with the workers' compensation system with regard to providing coverage for first responders.

MR. DRYGAS opined that if true, it merely illustrates that there would not be a large number people being affected by the bill - perhaps just one person every couple of years.

[4:27:03 PM](#)

MATTHEW McSORLEY, Secretary/Treasurer, Alaska Professional Fire Fighters Association (AKPFFA), characterizing HB 200 as an important bill, shared a story involving a Fairbanks firefighter who died of a cancer that resulted from his exposure to chemicals he encountered while performing his job, particularly when putting out fires at industrial complexes. Mr. McSorley explained that most homes these days contain many items that are made of plastics and various other chemicals, all of which produce large quantities of carcinogens when burned; modern-day firefighters must use air packs when fighting fires because inhaling such carcinogens even once can render a person unconscious or dead.

MR. McSORLEY opined that there is an urgent need for HB 200 to pass, and pointed out that every time he fights a fire, he is contaminated by various chemicals because his skin - the largest organ in the body - absorbs the resultant smoke. This is why fire fighters get cancer two to three times more often than the general population. He then predicted the arguments that opponents of the bill would be making against it. In conclusion, he asked the committee to move the bill from committee and show support for Alaska's fire fighters and public safety officers, who, he added, need the extra protection that the bill provides.

REPRESENTATIVE LeDOUX noted that language on page 2 - proposed AS 23.30.121(b)(2) - restricts the presumption to 60 calendar months following the last date of employment, and expressed concern about this limitation.

MR. McSORLEY said the AKPFFA was also concerned about that limitation but had attempted to make the bill as fiscally certain as possible - without the limitation the bill would never pass and yet the extra coverage provided by the bill is needed and deserved because fire fighters engage in dangerous work.

[4:34:15 PM](#)

ERIC TUOTT relayed that he is a fire fighter in Anchorage, and offered that the claims history from other states [that have adopted a similar law] illustrates that there won't be a huge increase in workers' compensation cases related to the bill. In Nevada, out of 4,000 firefighters, there were 3 cancer claims paid in the first four years after similar legislation was enacted, and none of those cancers were lung cancer, which is covered under different Nevada legislation. In Rhode Island there were 6 claims paid in the first eight years after similar legislation was enacted. In Massachusetts, during the first four years after similar legislation was enacted, there were 34 cancer claims, 15 disability claims, 19 death benefit claims paid - and this is out of 25,000 fire fighters. In Florida, where there are about 24,000 active career fire fighters, there were claims paid on .034 percent of the active work force. In Washington, after which Alaska modeled its proposed legislation, there were 13 cancer claims between 2002 and 2006, but only 6 of those claims were accepted and paid.

MR. TUOTT offered that Alaska has an estimated 700 career firefighters that would be covered by HB 200, and the predictions are that there will be less than one cancer claim made every two years. In response to an earlier question, he explained that if a fire fighter were screened at some point during his/her career prior to retirement and that screening indicated that he/she was free of cancer, and then another screening conducted within five years - 60 calendar months - after retirement indicated that he/she did have one of the enumerated forms of cancer, under the bill it would be presumed that the cancer formed as a result of the fire fighter's occupation.

REPRESENTATIVE GARDNER questioned whether all currently employed firefighters have already been screened, or whether the "qualifying medical exam" referred to in the bill would be a new procedure. She also asked Mr. Tuott whether the presumption provided in the bill would apply to him if he were to develop one of the enumerated cancers within the next four weeks.

MR. TUOTT said the presumption wouldn't apply to him at this point because he hasn't been with the department for seven years, as is required in the bill. He relayed that fire fighters in Anchorage get an initial physical exam upon being hired and an annual physical exam thereafter, and that during those exams fire fighters are screened for cancer. He emphasized that the bill does not mandate that local governments provide medical exams. In response to a question, he offered his understanding that fire fighters in Anchorage have been receiving annual physical exams for at least the last five years, though he is not sure how long that policy has been in place. One problem with the five-year threshold, he remarked, is that many of the enumerated cancers become terminal quickly, and hence many fire fighters that have contracted cancer have died quite soon after retiring and weren't alive long enough to consider that the cancer was linked to their occupation.

[4:39:56 PM](#)

JEFF BRIGGS relayed that he is a fire fighter in Anchorage, and feels that HB 200 is long overdue. He noted that 40 other states and 5 provinces in Canada currently have some form of "presumptive legislation" for fire fighters, that a handful cover every type of cancer that has been linked to fire fighting, and that even in Washington, D.C., there is pending legislation that would provide a presumption for federal fire fighters. Fire fighters as a whole, he remarked, tend to be a very empathetic, hard working, and courageous group of people, and they touch the lives of so many people, whether it be teaching a gymnasium full of children the rudiments of fire safety, participating in community events, comforting a family that has lost a loved one, or performing rescues.

MR. BRIGGS recounted how one of his fire fighting mentors died of cancer less than a year after retiring, adding that that person is not the only one of his coworkers that has either died from or been diagnosed with some form of cancer or other disease related to fire fighting. Characterizing HB 200 as a very good piece of legislation, he asked the committee to pass it.

[4:43:53 PM](#)

PAUL F. LISANKIE, Director, Division of Workers' Compensation, Department of Labor & Workforce Development (DLWD), in response to the question of how this proposed workers' compensation presumption would interact with a fire fighter's health

insurance when he/she is employed by the state or a municipality, offered his understanding that such a person is covered by three potential payors of medical costs, and HB 200 would shift the balance such that workers' compensation becomes the more likely payor in cases of work-related injuries/illnesses. In response to another question, he indicated that members of volunteer fire departments that are registered with the state fire marshal's office are treated as employees if injured while responding to a fire or other emergency.

REPRESENTATIVE LeDOUX pointed out, though, that workers' compensation benefits are based on one's wages, and yet volunteer fire fighters are not receiving any wages.

MR. LISANKIE offered his understanding that under the workers' compensation Act, if a volunteer fire fighter serves in an area that has paid fire fighters, his/her benefits will be based on the wages of a paid fire fighter in that area, and if a volunteer fire fighter serves in an area that doesn't have paid fire fighters, the "governmental area" is required to set, in lieu of wages, a compensation rate that is not less than the minimum wage multiplied by 40 hours. In response to another question, he said he is not certain whether volunteer fire fighters are extended any sort of health care as part of their volunteering, and so the bill may have the biggest impact on volunteer fire fighters.

REPRESENTATIVE NEUMAN asked whether a fire fighter would be better off financially being compensated through his/her health insurance or through workers' compensation.

MR. LISANKIE offered that under current law, with the exception of the various forms of cancer enumerated in the bill, the workers' compensation system has been pretty good at acknowledging causality between respiratory diseases or certain cardiovascular events and a person's work as a fire fighter. However, because medical science is not nearly as certain about what causes cancer, the claimant of workers' compensation must prove causality and this can be difficult. Under HB 200, the burden of proof will shift to the employer; the employer will have to prove that a person didn't contract one of the enumerated cancers or diseases due to his/her work, and proving this will be difficult because it is unlikely that medical experts will be able provide a definitive answer that one absolutely cannot contract cancer because of exposure to certain chemicals. In response to another question, he reiterated that

volunteer fire fighters probably aren't extended any sort of health insurance benefits.

REPRESENTATIVE NEUMAN questioned what cost increases might result from the passage of HB 200 to a small community with only a volunteer fire dept.

MR. LISANKIE replied that having to provide qualifying medical exams might result in the only additional costs to communities. He noted that the bill directs the DLWD to define via regulation what constitutes a qualifying medical exam. In response to other questions, he reiterated that it is hard to prove what causes cancer, and that currently the employee, whether currently employed or retired, must prove that the cancer is work-related in order to obtain either workers' compensation benefits or occupational disability benefits.

[Chair Olson turned the gavel over to Vice-Chair Neuman.]

[5:02:03 PM](#)

KEVIN SMITH, Executive Director, Alaska Municipal League Joint Insurance Association, Inc.(AMLJIA), first explained that the members of the AMLJIA pool together to cover the first \$.5 million of each of the workers' compensation claims and then the AMLJIA buys excess insurance over that amount.

[Vice-Chair Neuman returned the gavel to Chair Olson.]

MR. SMITH then said that HB 200 would place fire fighters with seven or more years of experience into a preferred category wherein they would not be subject to the same proof requirements for occupational injuries/illnesses as other workers in either the private or public sector; instead, cardiovascular events, respiratory problems, and cancers would be presumed to be work-related. The bill would require tax-payor funded municipalities to prove a negative - that the fire fighter's cancer, for example, was not caused by the job. He opined that HB 200 is bad public policy for a number of reasons, not the least of which is that it's not really supported by science. House Bill 200 will affect approximately 9,250 first responders, he opined, and since municipalities employ the vast majority of Alaska's first responders, the AMLJIA strongly opposes the bill.

MR. SMITH said the bill's potential increase in costs are difficult to gage; for example, the cost for treating cancer will vary depending upon the type of cancer, how early it is

detected, and the available treatment options. He offered his understanding that for the "cancer presumption" alone, the NCCI has estimated a 15-30 percent cost increase for the affected class code, and pointed out that HB 200 contains more than just a cancer presumption. Referring to "Legislative Research Report, Report Number 07.125", Mr. Smith noted that there are only 10 states in the country that cover some form of each of the four "category diseases" as is proposed in HB 200 - heart disease, lung disease, cancer, and infectious diseases. And although the NCCI recommends a base rate for Alaska of \$4.99 per \$100 payroll, Nevada - one of the aforementioned 10 states - has a rate of \$15.03, and California - another one of the aforementioned 10 states - has a rate of \$10.94.

MR. SMITH said that about half of Alaska's registered fire fighters are volunteers; most small communities cannot afford to pay for professional fire fighters and so they have volunteer fire fighters, but they still need to buy workers' compensation insurance for them. [The rates for that insurance] will necessarily have to increase to cover the costs of the presumption proposed in HB 200, he opined, and, given the rates in Nevada and California, will probably increase by hundreds of percentage points. When taxpayers in the smaller communities can't even afford to pay professional fire fighters, it's unreasonable to expect them to pay considerably more for workers' compensation.

[5:07:06 PM](#)

MR. SMITH offered his understanding that many of the "jurisdictions" that provide "this coverage" don't provide a presumption for volunteers. And although proponents of the bill have used California as an example - stating that the effect of similar legislation on the actuarial assumptions for the California Public Employees' Retirement System (CalPERS) was negligible/minimal - what hasn't been said thus far is that California provides a rebate for unfunded mandates; data from 2000 to the present shows that local agency requests for reimbursement on California's fire fighter cancer presumption totals approximately \$40 million - not a negligible amount, he opined. Furthermore, in order to take advantage of the presumption offered by the bill, medical screenings are necessary, and those screenings, although the costs vary, are expensive. For example, Juneau's fire and rescue agency reports that it pays approximately \$1,300 per medical screening - for a medical screening and an electrocardiogram (EKG). Using that figure and multiplying it by 9,250 - the assumed number of

affected employees - results in a cost of over \$12 million for screenings alone.

MR. SMITH reiterated that the bill is not supported by science. Cancer is a terrible disease that's probably touched everyone's lives, he remarked, adding that according to statistics gathered by the American Cancer Society (ACS), about half the men in "this room" will be diagnosed with some sort of cancer in their lifetime. Furthermore, yesterday's Anchorage paper cited a cancer statistic which indicated that prostate cancer is the second most diagnosed cancer in men after skin cancer, and that it is the second leading cause of cancer death; one third of all the women in "this room" will also be diagnosed with cancer. The causes of cancer are largely unexplained, he remarked, opining that the science behind the bill is far from conclusive [because] the International Association of Fire Fighters (IAFF) is basing its data on a type of study that is based on several other studies.

MR. SMITH said that by comparison, in a different kind of study considered by epidemiologists to have a sound approach, "none of the cancers" rise to the level of medical certainty; statistically speaking, there are associations, but in none of the listed diseases has the standardized mortality ratio exceeded 200, which is the standard epidemiologists use to determine [causality]. For example, in situations involving kidney and bladder cancers, the study indicates that fire fighting is unlikely to contribute significantly, that more study is needed, and that more innovative, comfortable protective equipment needs to be developed. Nearly three out of ten men in the general population will develop one of the cancers listed in HB 200, but according to statistics in the aforementioned study, for every four cancer claims by fire fighters, three of those cancer cases would have occurred regardless of occupation.

MR. SMITH, as an alternative, suggested developing a broad-based state funding source to finance "this extraordinary benefit and unfunded mandate on local government employers and taxpayers." Passage of HB 200 would "crack the door for other special interest groups that would like a similar presumption," he opined. Case in point, last year, during discussion of a similar bill, there was discussion regarding an amendment that would have added nurses to the list of those qualifying for the presumption. He characterized the bill as discriminatory, pointing out that similar laws have been challenged in Nevada on constitutional grounds, and a similar bill was overturned in New

Hampshire because it violated the constitution - specifically it violated an unfunded mandate clause.

MR. SMITH pointed out that many people have occupational exposure at their jobs, and that the workers' compensation system already provides such people with protection. Turning the system upside down for one class of employees is bad public policy, he remarked, characterizing HB 200 as special interest legislation that provides a tremendous benefit to a single group of employees at local taxpayer expense. Welders, construction workers, demolition crews, sanitation employees are all exposed to the same carcinogenic or contagious agents as fire fighters, but the difference is that the former groups of people are exposed to those agents on a daily basis. The ailments listed in HB 200 are already covered by workers' compensation if a connection between the ailment and work can be shown. Furthermore, according to the aforementioned study, non fire fighters can and do get the diseases enumerated in the bill, and yet most fire fighters never do. In closing, he urged the committee to not pass HB 200.

[5:13:12 PM](#)

REPRESENTATIVE RAMRAS relayed that the statistics he is familiar with lead him to come to a different conclusion, and pointed out that workers' compensation insurance rates are higher for hotel workers than for fire fighters.

REPRESENTATIVE NEUMAN noted that he has heard several times that as long as a connection between a disease and work can be shown, workers' compensation will pay benefits. He asked, therefore, whether fire fighters keep a record of the chemicals they are exposed to at each fire.

MR. TUOTT said no, and characterized that as a nearly impossible task, adding that many chemicals, when burned together with other chemicals, can pose additional dangers. However, fire departments are required to record which personnel respond to which fires, and this data may prove helpful in the future if several fire fighters that attended the same fire come down with the same sort of cancer several years later.

REPRESENTATIVE NEUMAN expressed concern that paying the costs of the proposed presumption will result in less money being available for safety equipment.

MR. TUOTT replied that he does not anticipate HB 200 resulting in many claims being filed.

CHAIR OLSON relayed that HB 200 would be held over, and offered his understanding that a committee substitute (CS) will be forthcoming.

HB 71 - LICENSING RADIOLOGIC TECHNICIANS

[5:19:25 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 71, "An Act requiring licensure of occupations relating to radiologic technology, radiation therapy, and nuclear medicine technology; and providing for an effective date." [In members' packets was a proposed committee substitute (CS) for HB 71, Version 25-LS0321\E, Bullard, 4/10/07.]

[5:19:34 PM](#)

REPRESENTATIVE SCOTT KAWASAKI, Alaska State Legislature, sponsor, relayed that in addition to the proposed committee substitute (CS) for HB 71 - Version 25-LS0321\E, Bullard, 4/10/07 - there would be a few amendments forthcoming, and then responded to questions and concerns raised at the bill's prior hearing. With regard to a concern about cost, he said he doesn't believe that HB 71 will be particularly cost prohibitive to those providing radiologic services in Bush communities because the bill contains criteria allowing a person to obtain licensure as a limited radiologic imager. With regard to the question of how many trained radiologic technologists provide services in the Bush, he explained that there are currently 479 registered radiologic technologists in the state, though that number fluctuates from year to year, and that there are an estimated 600-700 untrained individuals in the state most of whom, if not all, would qualify under the limited licensure provisions of [Version E].

REPRESENTATIVE KAWASAKI said that hospitals in Kotzebue, Dillingham, and Nome employ "full" radiologic technologists, and that proposed AS 08.89.150(b)(1) now requires a limited radiologic imager to perform limited radiologic diagnostic imaging only under the "general supervision" of a fully licensed radiographer or a licensed practitioner. With regard to a question regarding continuing education, he explained that continuing education credits are available; that most folks use an online program found on the web site, "glaciermedicaled.com";

and that the American Society of Radiologic Technologists (ASRT) also provides an online program for continuing education credits. With regard to a concern about the updating of radiologic equipment, he relayed that the Alaska State Public Health Laboratories (ASPHL), within the Department of Health and Social Services (DHSS), already addresses that issue, though with limited staff.

REPRESENTATIVE KAWASAKI said that both large and small hospitals dealing with the federal Public Health Service (PHS) or Indian Health Service (IHS), and general hospitals in larger cities, are accredited, and the [Joint Commission on Accreditation of Healthcare Organizations (JCAHO)], which deals with larger scale hospitals, maintains accreditation and has strict compliance levels, particularly with regard to radiological equipment. With regard to the question of who supports the bill, he said that the Alaska Society of Radiologic Technologists (AKSRT), the ASRT, the Department of Commerce, Community, & Economic Development (DCCED), the Alaska State Hospital and Nursing Home Association (ASHNHA), and various other groups all support the bill.

REPRESENTATIVE KAWASAKI mentioned that other groups such as the Alaska Native Tribal Health Consortium (ANTHC), the Southeast Alaska Regional Health Consortium (SEARHC), and the Alaska Primary Care Association, Inc. (APCA) have expressed concern with some of the provisions of the bill, particularly as they might affect rural communities, and so he will be addressing some of those concerns via amendments. He also mentioned that some groups that have opposed similar legislation in the past now either support HB 71 or are neutral towards it. He indicated that his goal is to get HB 71 passed in a form that will satisfy the concerns of all interested parties and thereby address the existing public safety problem. With regard to the question of why dental assistants are not included in HB 71, he relayed that such persons are already specifically addressed via separate statute and regulations.

REPRESENTATIVE KAWASAKI, in response to questions, replied that currently there is no state licensure of those conducting radiologic imaging in Alaska, and that he introduced HB 71 by request because of public health concerns regarding unlicensed and untrained personnel administering radiologic exams.

REPRESENTATIVE NEUMAN said he just presumes that healthcare facilities which offer radiologic services have already taken

steps to ensure that the employees conducting radiologic exams have received the proper training.

REPRESENTATIVE KAWASAKI indicated that such is not the case, and offered as just one example an incident involving the hospital in Juneau wherein patients were subjected to improperly-performed radiologic procedures. In response to another question, he relayed that although he can't speak about other hospitals, the Fairbanks Memorial Hospital & Denali Center requires those performing radiologic procedures to receive certified training from the American Registry of Radiologic Technologists (ARRT).

REPRESENTATIVE GARDNER referred to written information from Clyde Pearce - chief of Alaska's Radiological Health Program - provided in members' packets regarding state inspections of radiological equipment and procedures, and noted that this information illustrates that Alaska is behind the times with regard to radiological safety practices.

REPRESENTATIVE KAWASAKI, in response to questions, relayed that he was first approached to sponsor HB 71 by a licensed and registered radiologic technologist, and that the goal of the bill is to prevent [further] harm from coming to the people receiving and performing radiological services.

[5:35:56 PM](#)

CLYDE E. PEARCE, Radiologic Health Specialist II, Radiologic Health, Laboratories, Division of Public Health, Department of Health and Social Services (DHSS), relayed that he is the state's radiation inspector and travels throughout the state performing both state inspections and federal inspections under contract, adding that the federal rules are different than the state's current rules; for example, the federal rules require a level of training for those performing radiologic exams that meets or exceeds that being required by the bill. He gave a brief history of the use of ionizing radiation, remarked that the use of such radiation has been found to be of great benefit - perhaps even contributing to increased life expectancy in the last century - but warned that it has also been clearly found that radiation can cause injury if used in excess.

MR. PEARCE said he feels some passion about HB 71 because even though there have been a lot of changes over the years that keep reducing, theoretically at least, the risks associated with the

use of radiation, the changes that have occurred in the last dozen years have actually increased those risks. He elaborated:

We have two things going on at once: one is that radiation exposures in general are increasing because we have many more ways of using the radiation, and if you use more radiation you can improve the quality of the image, and so we want a good quality image but we don't want any more radiation than is absolutely necessary to get that; and at the same time research that has been done more recently has shown two things, one is that biological effects now are shown to occur at diagnostic levels of exposure, which means it's not just people who got some horrendous amount or some radiation therapy treatment to the breast that get breast cancer, that even at diagnostic levels they're showing some effects, and the other thing is a study by Dr. Pierre Hall from Stockholm, Sweden, ... of about 3,500 adult men who were exposed as infants, and they had a measurable reduction in mental capability - they were less smart as a result of radiation exposure at diagnostic levels.

And so, with the fact that we see biological effects occurring at lower levels of exposure, and overall trends of increasing exposure, there's a concern. And in my inspections throughout Alaska - I am the author of that [written information which] Representative Gardner was referring to [and it contains] just some ... representative examples - ... I see a lot of that. For the most part I see the problem as one that's amenable through education [because with] the machine itself, I rarely see an actual problem; I do many different tests, and the machines normally pass most of those tests. What I see most often [are] ... problems with how the machines are used.

And I relate that to an automobile, where you're required to have a certain amount of knowledge and you have a skill test and you even have an eye test, and you go out and you drive the automobile, so you would think with our transportation regulations that would be a pretty safe thing - the automobile itself has a lot of safety features built in - and yet we still have over 40,000 people a year who've died. And so what's the problem? It's how the automobile is used - people exceeding the speed limit or going through red

lights because, if you look at science, if you go fast enough, a red light does look green, theoretically, and apparently we have some people in Anchorage ...

REPRESENTATIVE RAMRAS interjected to question the difference between someone who is trained to used radiologic equipment and someone who is licensed to use radiologic equipment, adding that he presumes a certain degree of competency [in those that are performing radiological exams].

MR. PEARCE characterized that presumption as incorrect: not all who perform radiological exams are trained - many individuals operating the equipment have had no formal education or training in the use of that equipment. He relayed that one of the examples of misuse he'd listed in his written information was one he'd come across while investigating a complaint about that provider's office - the person performing the radiological exams clearly did not know what she was doing and had been given the wrong advice by her supervisor who, theoretically, trained her in the use of the equipment.

REPRESENTATIVE RAMRAS said he will be supporting the bill because qualified training is needed for those that operate radiological equipment.

[5:43:37 PM](#)

DONNA J. RUFSHOLM, R.T., Chair, Legislative Committee, Alaska Society of Radiologic Technologists (AKSRT), relayed that the AKSRT has been working on this legislation for a number of years because it feels strongly that patient health/safety is primary. She said that she has worked at both large and small facilities over the last 23 years, and has seen a number of radiological images come in from sites that don't hire registered radiological technologists or people that have been trained at all, and those images have no diagnostic value whatsoever - they are either too dark or too light or the positioning of the patient is wrong, and so a proper diagnosis cannot be obtained from those images. The AKSRT feels that there is a concern, particularly after becoming familiar with the information provided by Mr. Pearce.

MS. RUFSHOLM indicated that that information illustrates that there are people providing radiological services in this state who are not properly trained, people who've been "practicing" on each other, people who've not taken steps to protect themselves. House Bill 71 will provide protection both for patients and for

those who operate radiological equipment, and will help ensure that x-rays are taken properly; the way to reach these goals is to license those who provide radiological services. Requiring licensure will ensure that those individuals have received the proper education and credentials to perform radiological procedures.

MS. RUFSHOLM said that the AKSRT has suggested that the bill include provisions to ensure that rural areas can continue to provide radiological services; however, it is important that the images produced in rural communities are of a quality that can be used to help determine whether a patient actually needs to be transferred to a larger medical facility. She explained that the AKSRT has taken steps to ensure that providers of radiological services can receive the proper training at a minimum of expense, and has identified online courses that are available. Such courses, she remarked, are available at a cost of \$229 - less than the cost of one radiological exam - and currently there are 40 people voluntarily taking the training program that's available through the University of Alaska. In conclusion, she relayed that the AKSRT would like to see HB 71 adopted.

[5:47:58 PM](#)

RHONDA MERRIHEW, R.T., Co-Chair, Legislative Committee, Alaska Society of Radiologic Technologists (AKSRT), shared an example wherein an individual providing radiological services in a rural area of the state took a whole-body x-ray - without shielding - of a baby that only needed a chest x-ray; that baby received far more radiation than was needed. She also shared an example wherein an individual providing radiological services in an urban area of the state told a physician, "I didn't know what I was doing, so I just aimed for the middle." Ms. Merrihew remarked: "These are things that we would like to see not happen, and ... [the AKSRT wants to ensure] that ... people are not being irradiated unnecessarily."

REPRESENTATIVE GARDNER expressed concern that radiological services are being provided [by untrained personnel], adding that she is ready to move the bill from committee.

REPRESENTATIVE LeDOUX asked whether patients are notified when the person performing radiological services hasn't done it right.

MS. MERRIHEW said those patients have no idea that they were being overexposed.

REPRESENTATIVE LeDOUX, referring to the example involving the baby, noted that that baby may have health problems years from now as a result of his/her overexposure. She asked whether there is any way for a person to find out whether he/she has "been the victim of this sort of thing."

MS. MERRIHEW said not that she is aware of. [Due to technical difficulties with the microphones, the remainder of Ms. Merrihew's response was not audible.]

REPRESENTATIVE NEUMAN asked Ms. Merrihew whether she has seen the letter of opposition to HB 71 provided by the Alaska State Medical Association (ASMA).

MS. MERRIHEW said she has not.

The committee took an at-ease from 5:54 p.m. to 5:55 p.m.

MS. MERRIHEW shared her belief that all residents of Alaska deserve to have safe medical care.

The committee took another brief at-ease.

[5:56:47 PM](#)

PAUL HANSEN, Deputy Administrator, Maniilaq Health Center, Maniilaq Association, relayed that the Maniilaq Association is a tribal organization in Kotzebue; that the Maniilaq Health Center, which is JCAHO accredited, provides medical services to eligible individuals that reside in local tribal communities and in the Northwest Arctic Borough; that the medical, clinical, and nursing services provided by the Maniilaq Association are delivered both by the federally owned health center and a network of village health clinics; and that his organization is a co-signer of the "Alaska Tribal Health Compact." He said that his organization generally supports the intent of HB 71, but is concerned that as currently drafted, the bill will negatively impact access to and the level of healthcare that his organization provides to its patients, and that it conflicts with the exemption from state regulations currently provided by the aforementioned compact.

MR. HANSEN said that his organization feels that HB 71 should be modified to extend to tribal healthcare providers the same

licensure exemption that the bill currently provides to medical personnel in the armed forces and the U.S. Public Health Service (PHS). He relayed that his organization has proposed some language that would extend the exemption to providers in federally owned facilities; specifically, language would be inserted into proposed AS 08.89.100(b) - the exemption provision - such that the licensure requirements would not apply to "a person who is in the direct employment of a tribe or tribal organization for the purpose of carrying out healthcare programs, functions, services, and activities in facilities utilizing connection with a contractor or compact with the Indian Health Service pursuant to Title 1 or 5 of the Indian Self-Determination and Education Assistance Act".

MR. HANSEN, in conclusion, said that the Maniilaq [Health Center] opposes the bill without the aforementioned suggested amendment, adding that the Alaska Native Health Board (ANHB) has taken a similar position.

CHAIR OLSON asked Mr. Hansen to fax written comments to his office.

REPRESENTATIVE LeDOUX indicated that she is planning to introduce an amendment that would read, "(7) in the medical service of or employed by a tribal health organization providing a healthcare service or program of the Indian Health Service while in the discharge of the person's official duties", and asked Mr. Hansen whether this amendment would alleviate his concerns.

MR. HANSEN indicated that it would. One reason for including such an exemption, he added, is that the tribal healthcare organization, via the aforementioned compact, is now providing services on behalf of the federal IHS, and as such is entitled to a federal preemption from state regulations. He pointed out, however, that Representative LeDoux's suggested amendment may not necessarily make that point clear. He went on to say that he agrees that ensuring patient safety is very important, and that requiring at least a minimum amount of training prior to providing radiologic services is also important, though the key to providing quality service is to maintain proper oversight and ongoing peer review.

[6:06:08 PM](#)

S. LYNN HORNBEIN, M.D., relayed that she runs an urgent care clinic in Palmer, and that the clinic has just purchased an x-

ray machine. She said she questions how she will be able to afford to keep a full time "radiation tech" on staff, surmising that the average hourly wage for such a person is probably about \$30. She also surmised that if she has no one on staff that's allowed to operate the radiological equipment, patients will have to drive to another facility in order to receive radiologic services. She opined that HB 71 will cause treatment to be more expensive and will cause delays in diagnoses. She asked how limited licensure could be obtained by those who already have some experience "shooting films ... in practice," and whether someone seeking limited licensure could receive training while continuing to work full time. In response to a question, she said she supports the idea that individuals performing x-rays should be educated, but she has concerns that the language in the bill may prove limiting to smaller clinics regardless of whether they are in rural areas of the state.

CHAIR OLSON suggested that Dr. Hornbein submit her questions to the sponsor's office.

[6:09:48 PM](#)

SONIA HANDFORTH-KOME, President, Alaska Primary Care Association (APCA); Executive Director, Iliuliuk Family & Health Services, Inc., said that the APCA is not in support of the bill as it is currently written and has concerns that the bill will have significant budgetary impacts on her organizations without guaranteeing safety. She went on to say:

We have very stringent safety programs in place in Unalaska, [and] I would be more comfortable with a bill that required that we prove ... our training program when we prove our safety measures and ... quality measures, than with a bill that simply requires education. I have one certified and two uncertified x-ray techs on staff and there is no discernable quality difference between them. In fact, my two uncertified ones have more experience than our, arguably, safer and better [tech] because they're very stringent about how they follow our safety guidelines; we have to pretty much urge our certified one to follow the safety guidelines.

MS. HANDFORTH-KOME, in conclusion, reiterated that "we do not currently support" HB 71.

CHAIR OLSON, after ascertaining that no one else wished to testify, closed public testimony on HB 71 and relayed that the bill would be held over. [Although the proposed committee substitute (CS) for HB 71, Version 25-LS0321\E, Bullard, 4/10/07, was available in members' packets, no motion was made during this meeting to adopt it as the work draft.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:12 p.m.