

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 22, 2008

1:32 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Thomas Wagoner

COMMITTEE CALENDAR

SENATE BILL NO. 120

"An Act relating to the calculation and payment of unemployment compensation benefits; and providing for an effective date."

SCHEDULED BUT NOT HEARD

SENATE BILL NO. 28

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

MOVED CSSB 28(L&C) OUT OF COMMITTEE

SENATE BILL NO. 107

"An Act relating to naturopaths and to naturopathic practice; establishing a Naturopathic Advisory Committee and an Alaska Naturopathic Formulary Council; amending the duties of the State Medical Board and the Board of Pharmacy relating to naturopathic practice; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 147

"An Act clarifying when a project owner or general contractor is considered an employer for purposes of workers' compensation exclusive liability."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 28

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

SPONSOR(s): SENATOR(s) DAVIS

01/16/07 (S) PREFILE RELEASED 1/5/07
01/16/07 (S) READ THE FIRST TIME - REFERRALS
01/16/07 (S) HES, L&C, FIN
04/04/07 (S) HES AT 2:45 PM BUTROVICH 205
04/04/07 (S) Heard & Held
04/04/07 (S) MINUTE(HES)
04/16/07 (S) HES AT 1:30 PM BELTZ 211
04/16/07 (S) Moved CSSB 28(HES) Out of Committee
04/16/07 (S) MINUTE(HES)
04/18/07 (S) HES RPT CS 2DP 1NR 2AM SAME TITLE
04/18/07 (S) DP: DAVIS, ELTON
04/18/07 (S) NR: THOMAS
04/18/07 (S) AM: DYSON, COWDERY
04/24/07 (S) L&C AT 1:30 PM BELTZ 211
04/24/07 (S) <Bill Hearing Postponed until Thursday>
04/26/07 (S) L&C AT 1:30 PM BELTZ 211
04/26/07 (S) Heard & Held
04/26/07 (S) MINUTE(L&C)
01/15/08 (S) L&C AT 1:30 PM BELTZ 211
01/15/08 (S) -- MEETING CANCELED --
01/17/08 (S) L&C AT 1:30 PM BELTZ 211
01/17/08 (S) -- MEETING CANCELED --
01/22/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 107

SHORT TITLE: NATUROPATHS

SPONSOR(s): SENATOR(s) DAVIS BY REQUEST

03/07/07 (S) READ THE FIRST TIME - REFERRALS
03/07/07 (S) L&C, HES, FIN
04/19/07 (S) L&C AT 1:30 PM BELTZ 211
04/19/07 (S) Heard & Held
04/19/07 (S) MINUTE(L&C)
01/15/08 (S) L&C AT 1:30 PM BELTZ 211
01/15/08 (S) -- MEETING CANCELED --
01/17/08 (S) L&C AT 1:30 PM BELTZ 211
01/17/08 (S) -- MEETING CANCELED --
01/22/08 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 147

SHORT TITLE: WORKERS' COMP EMPLOYER LIABILITY
SPONSOR(s): SENATOR(s) FRENCH

03/28/07	(S)	READ THE FIRST TIME - REFERRALS
03/28/07	(S)	L&C, FIN
01/17/08	(S)	L&C AT 1:30 PM BELTZ 211
01/17/08	(S)	-- MEETING CANCELED --
01/22/08	(S)	L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

DANA OWEN

Staff to Senator Ellis
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Explained the changes in CSSB 28(L&C) [25-LS0212\V] and SB 107.

NANCY DAVIS, Vice President
Alaska Nurses Association
Anchorage, AK

POSITION STATEMENT: Supported CSSB 28(L&C).

MR. TOM RENKES, Executive Director
Alaska Nurses Association
Anchorage, AK

POSITION STATEMENT: Supported CSSB 28(L&C).

ROD BETIT

Alaska State Hospital and Nursing Home Association (ASHNHA)
Juneau, AK

POSITION STATEMENT: Did not support SB 28 or CSSB 28(L&C).

TOM OBERMEYER

Staff to Senator Davis
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Commented on SB 107 for the sponsor.

SENATOR FRENCH

Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Sponsor of SB 147.

PAUL LISANKIE, Director

Division of Workers' Compensation
Department of Labor and Workforce Development (DOLWD)

Juneau, AK

POSITION STATEMENT: Answered questions on SB 147.

SUSAN ORLANSKY

Feldman & Orlansky & Sanders

Juneau, AK

POSITION STATEMENT: Supported SB 147.

KIP KNUDSON, Government Relations Manager

Tesoro Alaska

Anchorage, AK

POSITION STATEMENT: Opposed SB 147.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:34 PM](#). All members were present at the call to order.

SB 28-LIMIT OVERTIME FOR REGISTERED NURSES

[1:34:18 PM](#)

CHAIR ELLIS announced SB 28 to be up for consideration and that the committee had been working from the CSSB 28(HES) version [25-LS0212\L]. The committee now had a Labor and Commerce CS before it, which he asked his staff to explain.

DANA OWEN, Staff to Senator Ellis, explained the changes in CSSB 28(L&C) [25-LS0212\V]. The first change was on page 2, line 24, that added to the exceptions a new paragraph (1) to include nurses at an occasional school event. It was suggested by nurses who pointed out that they often accompany field trips that last longer than the normal work day.

[1:35:32 PM](#)

The second change was on page 4, line 25, where a new section AS 18.20.440 spells out an enforcement mechanism for the prohibition against retaliation set out in AS 18.24.30. Under this section the commissioner has 90 days to determine whether a facility has violated this statute. If the determination is yes, the commissioner must request that the Office of the Attorney General represent the department in the complaint and seek all appropriate relief. The Department of Labor and Workforce Development (DOLWD) suggested this amendment. The idea is to provide clear authority to the department to investigate and act on allegations of violations. This provision is similar to that for violations of occupational safety and health.

[1:36:22 PM](#)

The third change, he said, was on page 5, line 4, where new language specifies that the report required by Section 18.20.445 is to be submitted to the division responsible for enforcement. Earlier drafts sent the report to the research and analysis section of the department, which also requested this amendment. The effective dates had all been moved a year forward to recognize the current year.

[1:36:56 PM](#)

CHAIR ELLIS asked if it was fair to say the changes in the CS improve the legislation.

MR. Owen replied yes.

CHAIR ELLIS stated he would hold consideration of the CS to have the benefit of public testimony.

NANCY DAVIS, Vice President, Alaska Nurses Association, said she has been a registered nurse for the past 39 years and supported the proposed CS to SB 28. This bill is a great step forward for a number of reasons, she said, to protect the health and safety of patients and nurses alike. The CS recognizes the impacts of fatigue on nurses who are the mainstay of round-the-clock patient care.

She said, "It's well known that excessive work hours for some occupations become a critical issue for safety. Excessive work hours for nurses is a very risky response to the staffing crisis." Errors may be made due to fatigue, which is bad in terms of patient care, but it is also a liability for workers' compensation issues. Nurses are more prone to be injured and this is exacerbated by the fact that this professional group is already facing a shortage, which could get worse. Many other opportunities exist in the workforce for nurses and it is getting more difficult to encourage people into the profession.

MS. DAVIS said that a number of states have passed legislation similar to CSSB 28(L&C).

[1:43:14 PM](#)

SENATOR BUNDE said he didn't want people to work overtime if it harms patients. However there is a nursing shortage and he asked if this would create more of a nursing shortage.

MS. DAVIS replied that there are different management approaches to the nursing shortage. It will continue, but it won't get better if people keep leaving the profession.

[1:44:55 PM](#)

SENATOR STEVENS followed up by asking for statistics on why people are leaving the profession.

MS. DAVIS replied that this is the hard part; nurses say they can't do 12-hour shifts or double shifts; so they pick other employment like home care and out-of-institution places. "Clearly the 24/7 patient situations are the most critical ones for which this makes a difference." She said this is considered a problem nationally, especially as the nursing workforce ages.

[1:46:23 PM](#)

MR. TOM RENKES, Executive Director, Alaska Nurses Association, added that the record on mandatory overtime is mostly anecdotal at this point. They know the shortage of nurses will encompass millions of nurses in the future. Fourteen states have already passed the mandatory overtime legislation and it has been shown that the hospitals that work toward garnering better workforce working conditions have a virtually 0 to 3 percent rate on the RN positions. The hospitals that continue to use the practice of mandatory overtime and mandatory call can have open positions up to the 10 - 20 percent around the country.

[1:48:03 PM](#)

ROD BETIT, Alaska State Hospital and Nursing Home Association (ASHNHA), said he still could not support CSSB 28(L&C). He has been monitoring mandatory overtime use in the Alaska. Hard data from member facilities indicate that mandatory overtime is not one of the tools they use to close the nursing shortage gap, but they rather use temporary nursing staff. In addition, facilities have been working hard to try to produce an adequate number of nurses for health care in Alaska by working with the University of Alaska Anchorage to increase the nursing student graduation rate from about 100 students a year (four years ago) to 200 a year. Data shows that 93 percent of those nurses are staying in Alaska to practice.

[1:50:11 PM](#)

He also said that going down this road will not really improve health care or help support facilities attempting to strike reasonable working conditions for nurses, which is locally managed now mostly through collective bargaining. He didn't see

any evidence presented to the committee that would suggest this is an area that requires legislative attention at this time.

CHAIR ELLIS asked if he wanted to comment on the CS specifically.

MR. BETIT replied no; most of those changes impact the department that is responsible for managing the reporting. That reporting requirement would be onerous to facilities to comply with without having any concrete evidence that a problem exists.

[1:52:34 PM](#)

SENATOR BUNDE asked if this bill would leave wards or beds uncovered.

MR. BETIT replied he thought so. His members say the shortage is improving and not worsening.

[1:54:06 PM](#)

SENATOR BUNDE said one nursing organization suggested doubling nursing wages, but he wondered if that would just elevate the cost of health care.

MR. BETIT replied that was an astute observation.

[1:55:26 PM](#)

SENATOR STEVENS asked if complaint investigations were still an issue for him and what did it mean.

MR. BETIT replied that the whole complaint investigation area is of concern if it's to be done any time someone wants to file a complaint. This particular bill requires the kind of reporting that goes down to the individual nurse using overtime rather than the aggregate kind of facility reporting that is applicable in other states that have adopted this kind of approach.

[1:56:30 PM](#)

SENATOR DAVIS moved to adopt CSSB 28(L&C) version V. There were no objections and it was so ordered.

CHAIR ELLIS said he is personally persuaded that this is reasonable public policy, because he has been concerned about the nursing shortage. He thought this bill would help with it. Other states have moved in this direction and have reported a positive effect.

[1:57:27 PM](#)

SENATOR BUNDE commented if mandatory overtime isn't being used in Alaska, this won't help much. He didn't think the problems in the nursing field were over.

CHAIR ELLIS responded that it may be an incremental change.

[1:59:08 PM](#)

SENATOR DAVIS moved to pass CSSB 28(L&C) from committee with individual recommendations and accompanying fiscal notes. There were no objections and it was so ordered.

SB 107-NATUROPATHS

CHAIR ELLIS announced SB 107 to be up for consideration. He said the committee had proposed CSSB 107(L&C) 25-LS0702\E before it.

[2:02:18 PM](#)

DANA OWEN, staff to Senator Ellis, explained that SB 107 proposes to establish a structure that would regulate an expanded scope of practice for naturopaths in the State of Alaska.

MR. OWEN noted that the title of the CS had been changed to reflect some of the changes. The first major change was on page 3, line 12. He explained that structure of the previous bill had two bodies that would regulate the practice of naturopathy; one would be a formulary commission and the other an advisory committee.

This CS proposes to combine those two bodies into one called the Alaska Naturopathic Council - a concern of the Division of Occupational Licensing. The membership would consist of three naturopaths - one from outside the third judicial district, one would be a pharmacist and one would be a public member who may be a physician. This council retains all the powers and duties ascribed to each of the bodies in the previous bill.

He noted that regarding the public member, physicians did not want to be forced into participating in this process over a concern for liability.

CHAIR ELLIS clarified that it was part of the CS, but it needed to be fully discussed.

MR. OWEN said Section 8 of the original bill was deleted in the CS; it amended the duties of the State Medical Board to include appointing a member of the Formulary Council, which was dropped

in the CS. Section 10 has transitional provisions that reflect the blending of the two bodies.

2:04:15 PM

SENATOR BUNDE asked if the makeup of the council had changed other than the medical doctor.

MR. OWEN replied the numbers are the same as had been proposed for the Formulary Council before; the advisory committee had three members, but that was expanded with the combining.

SENATOR BUNDE observed that most other councils have more public participation. In this case there is only one public member.

TOM OBERMEYER, Staff to Senator Davis, sponsor of SB 107 stepped in to explain that the CS follows the general direction of the original bill, but it has changed substantially. He said the Alaska State Medical Association rejected this bill because it includes minor surgery and pharmaceutical use. The current version essentially waters down the controls that had been implemented in the initial bill by creating just one board that is supposed to be supervising everything - discipline, continuing education, pharmacy and the selection of all legend drugs by a pharmacist that is presumably appointed who also responsible for the drugs to be used along with IVs. The concern is that this practice is being changed into what the Medical Association would call primary care physicians. Naturopaths are not allowed to use the title "physician," but the four institutions that license them give them certificates of naturopathic physicians.

Their main concern is that the public cannot be adequately protected - since physicians don't want to have any part of it and there will not be enough oversight to control everything.

He said the State Medical Association pointed out in a letter to this committee last year that the 23rd legislature had appointed a task force that did not fulfill its obligation of reporting the comparison of the training of medical doctors - their continuing internships and extensive hospital practice while they are in medical school - to that of naturopaths.

CHAIR ELLIS asked if he had any comments about Senator Bunde's concern regarding the amount of public participation on the new board.

MR. OBERMEYER replied that Massachusetts had a task force in 2002 that recommended a nine-member board. It was to include only three or four naturopaths and the remainder would be from the other medical professions and maybe a public member or two. So, it was an expanded board compared to this one. He said this is essentially a self-regulated board and it was determined by Massachusetts that naturopaths could not and should not supervise themselves. He said that naturopathy is growing in this country and he thought the state could work with the version they have.

CHAIR ELLIS summarized that the committee should consider having more than one public member.

MR. OBERMEYER agreed.

[2:12:28 PM](#)

CHAIR ELLIS asked for any other requests from the committee.

SENATOR BUNDE said he wanted to hear from the Division of Occupational Licensing and that he was disappointed the report on training comparison didn't get back to them because he thought he heard some inaccuracies in the report last year and had asked for them to report back.

[2:13:47 PM](#)

SENATOR STEVENS said he didn't remember discussions on prescriptions and he wanted to know more about the ability naturopaths were being given for prescribing drugs.

CHAIR ELLIS announced that SB 107 and the CS would be held over for further hearings.

SB 147-WORKERS' COMP EMPLOYER LIABILITY

[2:15:40 PM](#)

CHAIR ELLIS announced SB 147 to be up for consideration.

SENATOR FRENCH, sponsor of SB 147, stated this bill makes a tiny change to the workers' compensation statutes and said that workers' compensation is basically a no-fault insurance policy that says if you're hurt at work, you get payment for your injuries. He read the sponsor statement:

Workers' compensation laws represent a simple bargain between employers and employees. By purchasing a worker's comp policy, an employer gains immunity from

lawsuits that arise out of workplace injuries. This part of the workers' comp bargain is referred to as 'exclusiveness of remedy,' meaning that the employer who buys the policy knows that there won't be expensive and time consuming court cases arising out of workplace accidents. Injured workers get worker's comp benefits and nothing more.

By entering into the bargain the employee gives up the right to sue for damages. In exchange for giving up the possibility of a large court award, the employee gets a relatively swift and fair, though smaller, compensation benefit for his or her injuries. Both sides also agree to a 'no fault' provision, meaning that there is no inquiry into who was at fault in the events giving rise to the accident.

Revisions to the workers' comp statutes in 2004 added a clause to the workers' comp laws that undermine this bargain, and works to the detriment of workers injured by third parties who do not purchase workers' comp policies. Under the 2004 changes, employers who are merely 'potentially liable' for buying a workers' comp policy, but who do not actually purchase a policy, can still get the benefit of the 'exclusiveness of remedy' provisions in workers' comp.

This legal imbalance is having real world consequences, most notably at large worksites where a project owner is supervising many subcontractors. Because the project owner is 'potentially liable' for purchasing workers' comp policies to cover all the work that takes place at the work site, the project owner enjoys immunity from lawsuits that result from its own negligence. Severe injuries take place at some of these large construction projects. When these injuries are caused by the negligence of the owner, the injured worker is left with only workers' comp benefits, which, as the attached letter shows, do not fully cover the damages inflicted by the injury.

Removing the phrase 'or potentially liable' from the statute restores the bargain to its proper form. If an employer wants immunity, he or she must buy a policy. An employer who gets immunity without buying a policy is getting something for nothing. Basic fairness should not allow such a situation to continue. Please

join me in supporting a small change to the law that will result in big changes to the lives of working people.

[2:21:38 PM](#)

SENATOR STEVENS said he thought he was missing something and asked what the employee loses if he is already covered under workers' compensation.

SENATOR FRENCH replied that he loses the ability to sue for more damages than a lawsuit allows - like future loss of income or pain and suffering for instance. Workers' compensation has fairly strict remedies that while being certain are smaller.

[2:22:22 PM](#)

SENATOR BUNDE asked if this law will benefit the people who sell workers' compensation more than the injured worker.

SENATOR FRENCH answered that is right. He added, "In those instances where the general does the responsible thing and pays money for a policy, yes, he or she will enjoy that coverage."

SENATOR BUNDE asked how often a general contractor is potentially liable for not purchasing workers' compensation.

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PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), answered that he couldn't say. When the bill passed in 2004, he understood the intention was that general contractors and project owners would have some type of insurance policy that would pick up this potential contingent liability. He didn't know if that had started to happen or not.

SENATOR BUNDE asked if Linda Hall, Director, Division of Insurance, would be a resource the committee would want to contact on who is buying insurance.

CHAIR ELLIS replied they could do that for the next meeting.

[2:25:37 PM](#)

SENATOR HOFFMAN asked why the change was made in 2004.

MR. LISANKIE replied that his notes weren't complete on those discussions.

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SUSAN ORLANSKY, Feldman & Orlansky & Sanders, said her firm represents a wide variety of clients in litigation including both injured employees and companies that are sued for negligence at a job site. She underscored Senator French's perspective that SB 147 is a simple fix for a couple of problems that were created by the 2004 language that added the words "or potentially liable" to AS 23.30.055. There are three good reasons for this fix; first undoing those words will promote job safety. She explained that right now general contractors and project owners who are the entities with the greatest oversight over the project have no incentive to be concerned about safety. They are technically liable to pay workers' compensation benefits to any worker on the job site; so the general contractor and project owner are now totally exempt from any risk of tort liability no matter how unsafe their own practices may be. "In reality, what is unfair about it is they don't ever have to pay workers' compensation benefits to the employees of the subcontractors," she said. The law already requires and has required for decades that each subcontractor carry its own workers' compensation insurance for its own employees. General contractors and owners can enforce this through they have master subcontracts which require subs to show a certificate of having purchased workers' compensation insurance for their employees before they ever begin any work on the project. This means the general contractor and project owner have assumed a potential liability, but it's never a realistic one.

This leads to the second reason for SB 147. The 2004 law added a protection from tort liability for employers who actually don't secure worker's compensation insurance and don't pay workers' compensation benefits by designing a system where employers and employees each made a tradeoff. It introduced a new benefit for large employers and project owners and a new disadvantage for employees of subcontractors with no corresponding tradeoff. SB 147 would restore the basic workers' compensation principal so that those who pay workers' compensation benefits are exempt from tort suit and those that don't pay are not.

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Third, she said the 2004 changes resulted in some very illogical and unfair situations where two employees injured in exactly the same way get very different kinds of compensation and it has nothing to do with who actually pays the workers' compensation benefit. Right now little subcontracting companies may be liable in tort to employees of larger general subcontractors but not vice versa. "It's not fair and it's not logical."

She said SB 147 would remedy the unfairness. She has a client who is employed by Tesoro; he was injured at a Tesoro refinery. His own employer paid him workers' compensation benefits. Tesoro didn't do anything for him, but under the 2004 law, it is exempt from having to pay tort damages.

SENATOR BUNDE asked how two employees could receive different amounts of money. In the Tesoro case the injured employee would be compensated by workers' compensation, but if both subcontractor and Tesoro have workers' compensation, the employee is not going to get any additional money.

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MS. ORLANSKY answered if you have two different subcontractors and one mid-level subcontractor and it's the employee of the mid-level contractor who acts negligently, the employee of the subcontractor directly under that person is only going to get workers' compensation benefits under the law the way it's set up, but the employee of the other subcontractor who is not a subcontractor under a contractor is entitled to sue and recover in court. Those damages could be many, many times different. Court damages can be 10 times as high as workers' compensation benefits, which are designed to be sort of minimal - some guaranteed recovery paid relatively quickly. It's a good system when nothing else is available, but the common law has also developed a tort system which is more complicated for employees to choose go that route, but it can also end up compensating them much more generously.

[2:33:06 PM](#)

KIP KNUDSON, Government Relations Manager, Tesoro Alaska, said the current law is good for labor and commerce and the proposed changes are probably a step backwards for both. He said Tesoro has a core value of safety for its workers; but he said it is a constant battle to keep employees safe. He remarked, "Some people have said that employers have no motivation to keep their employees safe; I gotta tell you, these guys aren't grown on trees; we want to keep them as safe as possible. And we want them to come and go every day in the same condition."

He said that workers' safety is a duty that requires significant resource and effort on everyone's part. He said that all Alaskan workers should be covered by a workers' compensation policy and that all businesses benefit from safe employees and reduced legal expenses.

MR. KNUDSON said the 2004 change freed up resources and efforts on projects to allow better coordination of safety programs between employers and contractors with the resulting benefit of safer workers. He opined that exclusive liability motivates project owners to make sure that everybody that is on a project site has a workers' compensation policy in place.

[2:38:14 PM](#)

He illustrated his point with a picture of five different people that might be on a worksite - the project owner, an employee, a project contractor employee, a project subcontractor employee, someone that is a contract employee, but not working on the project and a visitor who just happens to be there - all being injured simultaneous in the same event. In the first scenario the project owner is at fault. Pre-2004 the picture showed the remedy for the employee of the project owner would be workers' compensation and everyone else had both (workers' compensation and tort claim) available. If the same thing happened today, workers' compensation was available to all of them. However, if the project subcontractor for some reason allows a sub on site without a workers' compensation policy in place, that employee is still allowed to sue the project owner. (If the policy is not in place one does not get the benefit of the exclusive remedy.)

He also did scenario 3 that showed the situation Senator French was discussing. If the project contractor is in place, his employees can only make use of workers' compensation and everyone else can sue the project contractor. Today, the imbalance is where the project contractor and all his subs can avail themselves of workers' compensation, but the project owner employee could potentially sue down. His only response was that it is the project owner's responsibility to make sure that everyone has workers' compensation on the project site - the reason the remedy flows back to him.

SENATOR BUNDE said he appreciated fairness and asked if before the 2004 change one could have a workers' compensation claim and a tort claim in three of his situations where people are working on site.

MR. KNUTSON replied that Senator French talked about a bargain between an employer and an employee, but whenever he took a job he didn't understand it that way. This is public policy that has been set. The goal of the 2004 law change (on slide 2) is to have all contractors working on a project treated equally during an injury. There is a no fault provision.

SENATOR BUNDE said he would like to invite Linda Hall to explain if there is double coverage if the contractor and the sub both have workers' compensation coverage. It doesn't necessarily get the worker any more money.

[2:43:14 PM](#)

SENATOR FRENCH wrapped up that the basic unfairness on slide 2, situation 2, is that the project owner is getting a workers' compensation remedy without actually having bought a policy. So, essentially he has less desire to have a safe workplace.

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SENATOR STEVENS asked what he thought about Senator Bunde's question about multiple carriers.

SENATOR FRENCH replied that Linda Hall would be the best person to answer that; he guessed that a project owner would pay less for a workers' compensation policy where every single subcontractor was also carrying a policy because he is then only covering those instances where he is at fault - the time when a drunken truck driver employed by a Collins Construction worker drives over an Alasco employee. That contractor is protected from tort liability because of a workers' compensation policy that the subcontractor has paid for. He said:

That's the imbalance. If the situation were reversed, if the drunken subcontractor runs over a project employee, the project employee is going to sue the pants off of those folks, because of the outrageousness of the conduct and the fact that the liability only and the protection only runs downhill.

CHAIR ELLIS thanked him and said SB 147 would be held for further work. There being no further business to come before the committee, he adjourned the meeting at [2:47:36 PM](#).