

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 19, 2012

1:34 p.m.

MEMBERS PRESENT

Senator Dennis Egan, Chair
Senator Joe Paskvan, Vice Chair
Senator Linda Menard
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 116

"An Act offering mediation of disputed workers' compensation claims by a hearing officer or other classified employee of the division of workers' compensation and allowing collective bargaining agreements to supersede certain provisions of the Alaska Workers' Compensation Act; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 116

SHORT TITLE: WORKERS' COMP.: COLL BARGAINING/MEDIATION

SPONSOR(S): LABOR & COMMERCE

03/25/11	(S)	READ THE FIRST TIME - REFERRALS
03/25/11	(S)	L&C, FIN
04/05/11	(S)	L&C AT 2:00 PM BELTZ 105 (TSBldg)
04/05/11	(S)	Heard & Held
04/05/11	(S)	MINUTE(L&C)
01/19/12	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

PAUL GROSSI, Lobbyist
Alaska State Pipe Trades and Ironworkers

Juneau, Alaska

POSITION STATEMENT: Supports SB 116.

J.D. WILKERSON, Owner
Griffard Steel Company
Fairbanks, Alaska

POSITION STATEMENT: Supports SB 116.

MR. STEVE RANK, Executive Director Safety and Health
Ironworkers International Union
San Francisco, California

POSITION STATEMENT: Supports SB 116.

FRED BROWN, Executive Director
Health Care Cost Management Corporation of Alaska (HCCMCA)
Fairbanks, Alaska

POSITION STATEMENT: Supports SB 116.

GREG KUCERA, Business Manager
Ironworkers Union, Local 751
Anchorage, Alaska

POSITION STATEMENT: Supports SB 116.

JIM BARRACK, Contractor
Ironworkers Union, Local 751
Anchorage, Alaska

POSITION STATEMENT: Supports SB 116.

MR. THOMAS ZIMMERMAN, President
Universal Welding and Fabrication, Inc.
North Pole, Alaska

POSITION STATEMENT: Supports SB 116.

MR. MIKE MONAGLE, Director
Division of Workers' Compensation
Department of Labor and Workforce Development (DOLWFD)
Juneau, Alaska

POSITION STATEMENT: Neutral on SB 116.

ACTION NARRATIVE

[1:34:02 PM](#)

CHAIR DENNIS EGAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Davis, Giessel and Chair Egan.

SB 116-WORKERS' COMP.: COLL BARGAINING/MEDIATION

[1:34:28 PM](#)

CHAIR EGAN announced the consideration of SB 116.

[1:37:11 PM](#)

PAUL GROSSI, lobbyist for the Alaska State Pipe Trades and Ironworkers, Juneau, Alaska, explained that he had given past testimony supporting SB 116. He stressed that SB 116 was not a panacea to fix everything in Alaska's Workers' Compensation program but that it provides an opportunity for groups to develop a pilot-project to save money on these issues. SB 116 may provide an alternate way for dealing with rising expenses, primarily by providing enabling language to allow groups the opportunity to develop a program. He reiterated that the primary intent is to lower workers' compensation costs. He added that an early treatment system development is also part of the plan, which allows employees a chance to return to work, saving employee and employer groups on the investment made in training.

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SENATOR GIESSEL asked if SB 116 makes workers relinquish their freedoms and liberties in choosing their health care provider and beyond local Juneau support for SB 116, could he name others that support it.

MR. GROSSI responded that the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) had endorsed SB 116 in 2011, but he didn't know if it would continue its support in 2012.

SENATOR GIESSEL asked if the AFL-CIO located in Alaska supports SB 116.

MR. GROSSI replied yes.

CHAIR EGAN stressed that witness testimony on SB 116 during the 2011 session remains on the record and asked if Mr. Grossi was extending an invitation for the committee to attend an open house next week.

MR. GROSSI confirmed that a luncheon and tour at the local Pipefitters Training Facility was scheduled for the committee on Thursday, January 26, 2012.

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SENATOR GIESSEL asked if the Juneau Pipefitters Training Facility was similar to the training facility in Fairbanks.

MR. GROSSI explained that there are three separate union locals; Anchorage, Fairbanks and Juneau. He mentioned being hopeful that union representatives from the Anchorage and Fairbanks training facilities will be in attendance at next week's luncheon to address the senators' questions.

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J.D. WILKERSON, owner, Griffard Steel Company, Fairbanks, Alaska, said he is in favor of SB 116. He emphasized that workers' compensation is a large part of Griffard Steel's operating costs and feels "in the back seat" with the current program. He believed that SB 116 could provide him with cost savings without jeopardizing individual care choices.

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SENATOR GIESSEL asked in what way Mr. Wilkerson feels like he is "in the back seat" regarding workers' compensation for employees.

MR. WILKERSON referred to past workers' compensation cases at Griffard Steel in which he sent letters to the Division of Workers' Compensation and received no replies other than financial statements and said he believes interacting with an appointed trustee would help him feel more informed about the claims. The current system provides minimal information for the business owner.

SENATOR GIESSEL asked how he felt about losing the option of selecting the independent medical evaluation (IME) physician for a second opinion.

MR. WILKERSON replied that he was not 100-percent sure what options employers currently have, but was ready to look at other options.

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SENATOR GIESSEL stated that Alaska's present workers' compensation process allows an employer to ask for a second opinion pertaining to the findings of the first physician and she advised Mr. Wilkerson to take a closer look at SB 116's impact on employers' options for a second opinion.

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STEVE RANK, Executive Director, Safety and Health, Ironworkers International Union, California, said he supported SB 116. He said he was involved in developing California's Collectively

Bargained Workers Compensation (CCBWC) program in 2003 and that it was established for the very same reasons that are being explored in Alaska. He stressed that the CCBWC was created to help improve the delivery of medical benefits to injured workers without diminishing rights. He also stated that the CCBWC programs are voluntary.

MR. RANK emphasized that nothing in the CCBWC diminishes labor's or management's ability to get a second opinion and that it led to labor and management working together. Both parties have medical specialists and experienced hearing officers to expedite claims in a timely manner, leading to a win-win for labor, management and insurance companies.

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SENATOR PASKVAN joined the committee.

MR. RANK pointed out that independent reviews and audits were conducted in the state of Minnesota and their Collective Bargaining Agreement (CBA) had shown a reduction in medical costs, lost time and days from work and litigation to help resolve disputes.

He pointed out that delay in resolving workers' compensation cases is the primary cause for higher costs and the CBA program encourages the employer, insurance carrier, union ombudsman and program trustees to work together and help expedite claims. He stressed that Ironworkers International would not back a CBA for its members unless it had been shown to be successful as in California and Nevada.

He pointed out that programs from a CBA would take time to establish, and as they develop, there would be an opportunity to review and evaluate success. He offered Illinois as an example of a state that had recently started a CBA pilot-program to address "out of control" workers' compensation costs.

He emphasized that a CBA would provide an avenue for all parties to work together. He explained that injured workers in the CCWBC program have access to an established communication network: a union ombudsman with 24-hour access, independent case nurse managers with no insurance carrier, and a union or management affiliate trained to answer medical questions rather than dealing with a claims officer.

In closing, he summarized that while costs continue to increase, the CBA programs have proven successful in California and

Nevada. He urged them to pass SB 116 and suggested adding a CBA review after 12 to 18 months.

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SENATOR GIESSEL stressed being "100-percent on the same page" with Mr. Rank. She noted that the Alaska Medical Dispute Resolution Comparisons (AMDRC) diagram showed a limited selection option for the employee under a CBA system when compared to the current Alaska Statutory Workers' Compensation System (ASWCS) that provides an option to injured employees to select whatever physician they want - perhaps their childhood family doctor or a specialist. If an employer has questions about the injured employee's medical examination results, ASWCS allows him to choose his own physician for a second opinion. She said SB 116 limited an employee's choice of physician to the narrower CBA "approved list" and an employer's second choice option to a list selected by an arbitrator. She said California's and Nevada's CBA shows a significantly larger number of healthcare providers to choose from and asked how many there were.

MR. RANK responded that California and Nevada CBA's allow employees to choose a physician for general health and welfare reasons; however, a physician specialist listing is provided for knees, back, shoulders, hands and related injuries which require significant expertise. He added that physicians that abuse proper billing practices for the CBA are removed from the approved provider listing. He concluded that since the CBA took effect in 2003, no negative feedback has been received from injured workers or union representatives in California and Nevada. Current data supports the fact that a CBA for well-organized workers' compensation programs do work.

2:02:34 PM

FRED BROWN, Executive Director, Health Care Cost Management Corporation of Alaska, Inc. (HCCMCA), Fairbanks, Alaska, said they support SB 116.

2:03:57 PM

GREG KUCERA, Business Manager, Alaska Ironworkers, Anchorage, Alaska, said he supports SB 116. He explained that collective bargaining between labor and management will result in a "higher quality" list of physicians, specialists, independent facilitators and case management nurses giving injured workers the best care and path back to full employment as quickly as possible. He concluded that SB 116 would foster a cooperative effort to address cost savings and quality care.

[2:09:07 PM](#)

CHAIR EGAN asked if SB 116 will speed up the resolve of the injury dispute and mediation process.

MR. KUCERA replied yes, due to a "team effort" structure.

[2:09:56 PM](#)

JIM BARRACK, Contractor, Ironworkers Local 751, Anchorage, Alaska, said he supports SB 116. He noted that SB 116 was explained to the Alaska Steel Erectors Association meeting last year and it received positive feedback from membership. He believed that it would lead to improved care and service for injured workers along with cost reduction for employers.

[2:12:55 PM](#)

MR. THOMAS ZIMMERMAN, President, Universal Welding and Fabrication, Inc., North Pole, Alaska, declared his support for SB 116, clarifying his status as a contractor and not an Alaska Ironworkers Union representative. He welcomed the concept of a CBA for workers' compensation which would help provide an opportunity for contractors to control costs and assure that employees receive the level of care they deserve and are entitled to. He said he is encouraged by the AFL-CIO's willingness to work with management.

He reflected on his 35 years in the industry and pointed out how individuals place faith in the current system that might not offer alternative care solutions and that a CBA program provides independent practioners as a sounding-board to give advice. He also reflected on Senator Giessel's comments on the Independent Medical Evaluation (IME) process currently used in the ASWCS for second physician opinions and pointed out that the current IME stage is used only after many months had elapsed. He stated his belief that a CBA preferred-physician listing would speed up the process and drive down costs related to second opinion evaluations without jeopardizing employee rights. He said that "time is money" and employees returning to work sooner win by earning more as a productive employee versus income from workers' compensation benefits and employers win by avoiding losses in production. He encouraged legislators to give SB 116 a try with sunset and review parameters.

[2:18:04 PM](#)

MR. MIKE MONAGLE, Director, Division of Workers' Compensation, Alaska Department Labor and Workforce Development (DOLWD), stated they have a neutral position on SB 116.

SENATOR PASKVAN asked what he liked and does not like about SB 116.

MR. MONAGLE replied that since the division has a neutral position, he would not express his likes or dislikes. He reflected on previous testimony and agreed that workers' compensation costs are a concern to everyone.

SENATOR PASKVAN restated his question saying he wanted to know if SB 116 will help or not help to save on costs. He suggested that a concern for costs is irrelevant to the decision that has to be made to actually help with cost reduction.

MR. MONAGLE replied that SB 116 is new legislation and that other states claim savings using that process. But he stated that neither the division nor the department has the ability to collect data and estimate what impact SB 116 would have on rates in Alaska.

SENATOR PASKVAN asked if he thought it was worth the risk to Alaska to try SB 116.

MR. MONAGLE responded that it was up to the Senate Labor and Commerce Committee to determine.

CHAIR EGAN commented that the State of Alaska ranks number one for workers' compensation costs and asked how it could get worse.

MR. MONAGLE divulged that Alaska's workers' compensation rates were ranked second highest in the nation since 2008, but that the state of Montana recently passed legislation that could return Alaska to first place.

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MR. MONAGLE added that he did not know if SB 116 would bring rates down and acknowledged that it would take time to determine the savings.

CHAIR EGAN stated that two or three prior witness testimonies claimed SB 116, with a scheduled review, would be worth trying and asked if the department would take issue with doing that.

MR. MONAGLE reiterated the department's neutral position, but added that approximately three years would be required to collect data and determine actual cost savings.

CHAIR EGAN inquired if it is in the department's best interest to resolve workers' compensation issues in a timelier manner.

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MR. MONAGLE responded that any legislation that saves time and money is good for Alaska's workers. He remarked that the dispute resolution process is complicated; some cases require years of mediation to resolve medically complex issues. He said their hearing officers are asked to mediate approximately 50 dispute cases per year with a 90-percent success rate.

SENATOR PASKVAN asked if there was a better idea to try first rather than SB 116.

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MR. MONAGLE answered that he was not aware of any other legislation that reduces Alaska's workers' compensation rates.

SENATOR PASKVAN, for clarification, asked if beyond legislation, was there an alternate idea, process or procedure to start first, which benefits workers and employers regarding workers' compensation.

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SENATOR MENARD joined the committee.

MR. MONAGLE stated that he had no better ideas to offer the committee at this time.

SENATOR GIESSEL noted her background as a healthcare provider and experience with workers' compensation cases and second opinion requests. She pointed out that requests for second opinions from an alternate physician have resulted in solutions being found which speed the individual returning back to work at a functional level and asked what percentage of workers' compensation cases request a second opinion.

MR. MONAGLE said that the terminology is inconsistent and an Independent Medical Evaluation (IME) is not considered a second opinion when a general practitioner refers an injured worker to a specialist. An IME is considered a second opinion when the employer requests it. He added that disputes typically occur when a second opinion is requested to address the injured employee's disability level.

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SENATOR GIESSEL asked how often an IME is requested.

MR. MONAGLE replied that he did not know and said that IME approval is not required by the division and added that the Employee Compensation Board (ECB) gets involved when parties have a dispute between doctors when a Second Independent Medical Evaluation (SIME) is requested. He explained that the ECB has a list of its own medical experts. Injured workers are sent for an independent evaluation, which is separate from the previous two doctors used in a specific case. He mentioned that the ECB handles approximated 1500 SIME cases per year.

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SENATOR DAVIS commented that SB 116 provides enabling legislation that will only succeed if the parties involved work together, and she questioned the department's neutrality on SB 116 when alternative suggestions for improvement have not been brought forward. She added that data obtained from states which have adopted CBA's for workers' compensation cases would be helpful to the committee.

CHAIR EGAN said he agreed with Senator Davis and that CBA data from other states was currently being compiled. He asked what the member turnover is for the Division of Workers' Compensation's ECB.

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MR. MONAGLE replied that annually there is a one or two seat turnover. He added that the ECB is staffed with newly appointed and experienced board members.

CHAIR EGAN said he had verified via an associate who served on the ECB that the commitment as board member is very time-consuming.

MR. MONAGLE agreed that membership entails a major time commitment.

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CHAIR EGAN announced that no further questions would be taken today and that the committee would continue to gather information for a decision on SB 116.

[2:34:17 PM](#)

There being no further business to come before the committee, Chair Egan adjourned the meeting at 2:34 p.m.