

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS**

February 23, 2017

1:05 p.m.

**MEMBERS PRESENT**

Representative Chris Tuck, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Justin Parish (via teleconference)  
Representative Ivy Spohnholz  
Representative George Rauscher  
Representative Lora Reinbold  
Representative Dan Saddler

**COMMITTEE CALENDAR**

HOUSE BILL NO. 126

"An Act relating to workers' compensation benefits for members of the organized militia."

- MOVED CSHB 126(MLV) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 126

SHORT TITLE: ORGANIZED MILITIA: WORKERS COMPENSATION

SPONSOR(S): MILITARY & VETERANS' AFFAIRS

02/15/17	(H)	READ THE FIRST TIME - REFERRALS
02/15/17	(H)	MLV, L&C
02/21/17	(H)	MLV AT 1:30 PM GRUENBERG 120
02/21/17	(H)	Heard & Held
02/21/17	(H)	MINUTE(MLV)
02/23/17	(H)	MLV AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

MARIE MARX, Director  
Central Office  
Division of Workers' Compensation  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HB 126.

SCOTT JORDAN, Director  
Division of Risk Management

Department of Administration  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on HB 126.

**ACTION NARRATIVE**

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**CHAIR CHRIS TUCK** called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:05 p.m. Representatives Saddler, Reinbold, Spohnholz, Rauscher, and Tuck were present at the call to order. Representatives LeDoux and Parish (via teleconference) arrived as the meeting was in progress.

**HB 126-ORGANIZED MILITIA: WORKERS COMPENSATION**

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CHAIR TUCK announced that the only order of business would be HOUSE BILL NO. 126, "An Act relating to workers' compensation benefits for members of the organized militia."

CHAIR TUCK stated that HB 126 would extend workers' compensation benefits to organized [militia members] while participating in training exercises. Current statute already provides workers' compensation benefits to members of the organized militia when called into active service; HB 126 would extend the benefits to training.

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REPRESENTATIVE RAUSCHER asked what the workers' compensation coverage would cost the state both before and after an injury.

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MARIE MARX, Director, Division of Workers Compensation, Department of Labor & Workforce Development (DLWD), answered that the remedy for an injury without workers' compensation, is through litigation. She remarked:

Workers' compensation is an insurance program that provides prompt, efficient, limited benefits to an employee, and in exchange for providing those benefits, the injured worker gives up their right to sue and gives up their right to pursue pain and

suffering and punitive damages and so forth. So it's a limited benefit system, and they call it the great compromise, 'cause that's what it really is - it's a compromise that really resulted from the industrial ... revolution when there were severe injuries and resulting lawsuits that put employers out of business. So before workers' [compensation] is in place, it would be the tort remedy and whatever damages are pursued through that.

MS. MARX explained that under HB 126, a worker whose injury falls within the coverage could receive medical costs, indemnity benefits, death benefits, and reemployment benefits. The indemnity or wage loss would be calculated based on the workers' gross weekly earnings, and would be capped at \$1,239 per week.

REPRESENTATIVE RAUSCHER offered his understanding that under HB 126, there is no cost to state unless a covered worker gets hurt; the costs of the injury could result in a slight rise in premiums across the many state employees.

MS. MARX responded that the State of Alaska as the employer would not incur additional premiums: Any benefits paid would be the costs. She expressed that there is no way to know what costs or benefits will be paid in any future case.

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REPRESENTATIVE SADDLER drew attention to the zero fiscal notes provided by the Department of Administration, Department of Labor, and Department of Military & Veterans' Affairs. He offered his understanding that a zero fiscal note is provided as confirmation that the legislation would have no financial impact, but this piece of legislation has an uncertain financial impact. He opined that based on previous testimony which identified that the costs are unknown, an indeterminate fiscal note would be more appropriate. He requested a new fiscal note to reflect the uncertainty of costs.

Ms. MARX responded that the Division of Workers' Compensation would not incur any additional costs to administer the coverage under HB 126.

REPRESENTATIVE SADDLER remarked, "If this is free, great, let's cover everybody all the time, if it's free ... but I suspect it is not."

MS. MARX deferred the question to the Division of Risk Management.

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REPRESENTATIVE SADDLER noted that there is value in providing workers' compensation to the organized militia members, and the fiscal notes should reflect the certainty of the costs. He remarked, "If we don't know what that cost will be, I think that deserves an indeterminate fiscal note."

SCOTT JORDAN, Director, Division of Risk Management, Department of Administration, responded that Representative Saddler's comments are not incorrect. He explained that the Division of Risk Management can calculate the salaries and projected costs of most state employees and can generate a rate; however, the division does not have accurate data on members of the organized militia and is unable to generate a rate. He agreed that if there was a claim, then there would be a premium for that agency for that claim, but it can't be calculated beforehand.

REPRESENTATIVE SADDLER expressed that if there is no way to calculate [the costs], then the fiscal impact is indeterminate. He mentioned that militia members would be in circumstances with a higher chance of injury than most state workers. He drew attention to page 1, lines 5-9, of HB 126, which read as follows:

(a) A member of the organized militia who has been ordered into active state service by the governor under AS 26.05.070 or ordered into training under AS 26.05.100, and who suffers an injury or disability in the line of duty, is an employee of the state for purposes of this chapter.

MR. JORDAN noted that HB 126 would add coverage during training and organized militia members are already covered while on active duty.

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CHAIR TUCK asked whether a rate was previously determined for the coverage of members of the organized militia during active duty. He asked if any injuries have increased workers' compensation payments.

MR. JORDAN answered that organized militia members have been on the books for so long that he is unsure whether rates were calculated before he started working with the department in 1998. He offered his understanding that similar groups of people covered by workers' compensation were taken into account when the division started generating premiums. He proposed that workers' compensation costs were likely considered as a whole, not individually. He remarked, "There's no way for us to individually count these people because they're not reported on the [full-time equivalents] (FTEs)."

CHAIR TUCK offered his understanding that members of the organized militia are considered part of the collective and the costs would be absorbed by the collective. He asked how soon the state would see an increase in workers' compensation rates based on the proposed provision.

MR. JORDAN responded that Chair Tuck is correct that members are calculated as a whole. He explained that if a claim were filed and concluded in fiscal year 2017 (FY 17), then the claim would be on the FY 18 premiums amortized over five years.

REPRESENTATIVE SADDLER said that he tries to be weary of "little foxes that spoil the vineyards." He noted that the House Special Committee on Military and Veterans' Affairs can make policy decisions, but the costs might need to go to the House Finance Committee.

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REPRESENTATIVE SADDLER moved to attach an indeterminate fiscal note to HB 126. [The motion was subsequently referred to as Amendment 1.]

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REPRESENTATIVE LEDOUX objected to the motion. She stated that departments, not committees, decide a bill's fiscal note.

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CHAIR TUCK offered his understanding that fiscal notes have been changed in committee through dialogue.

REPRESENTATIVE LEDOUX responded that her attempt last year to "zero out" a fiscal note was overruled by the Speaker [of the House].

CHAIR TUCK pointed out that neither the future premiums for workers' compensation coverage nor the costs of litigation and medical expenses without workers' compensation coverage can be accurately predicted, but it is clear that the costs without coverage would be much more than the premiums. He mentioned an example where one person's claim was larger than the entire annual budget for the [Alaska State Defense Force]. He asked, "Do we really want to put ourselves at that type of risk ..., and what is the cost of that risk?"

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REPRESENTATIVE SADDLER identified that the fiscal notes are all the initial versions and have not been updated. He stated that a potential amendment could add death and disability benefits, and the costs would need to be re-evaluated if the amendment is adopted.

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REPRESENTATIVE PARISH stated his opposition to changing the fiscal notes, because they were prepared by professionals and because all envisioned scenarios show that the state's exposure would be lower with workers' compensation coverage.

CHAIR TUCK announced that the forthcoming vote would only be for members in the room.

[1:23:10 PM](#)

A roll call vote was taken. Representatives Saddler and Reinbold voted in favor of the motion to attach an indeterminate fiscal note to HB 126 [subsequently referred to as Amendment 1]. Representatives Spohnholz, LeDoux, Rauscher, and Tuck voted against it. Therefore, the motion failed by a vote of 2-4.

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REPRESENTATIVE SADDLER asked if Alaska State Defense Force (ASDF) members and [Alaska] National Guard members are currently covered while on active duty.

MR. JORDAN answered that both are covered as state employees and would receive the same benefits as state employees, including workers' compensation.

REPRESENTATIVE SADDLER asked, "The [Alaska] National Guard ... when [members] are undergoing training, are they currently covered by workers' compensation as state employees?"

MR. JORDAN offered his understanding that they are not covered.

REPRESENTATIVE SADDLER asked if ASDF volunteers are covered during training.

MR. JORDAN answered that they are not covered.

REPRESENTATIVE SADDLER asked if death benefits would be given if an Alaska National Guard member died during active service.

MR. JORDAN answered yes. If members were activated by the governor, then they have benefits as state employees; if members were activated by the federal government, then they would be covered by the federal government.

REPRESENTATIVE SADDLER asked if there is death coverage for ASDF members while in active duty or training.

MR. JORDAN responded that members currently have death benefits if activated by the governor but do not have death benefits for training missions.

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CHAIR TUCK moved to adopt Amendment 2, labeled 30-LS0357\D.1, Wallace, 2/22/17, which read as follows:

Page 1, line 8:

Delete "or disability:

Insert ", disability, or death"

[1:26:58 PM](#)

REPRESENTATIVE SADDLER objected for the purpose of discussion.

CHAIR TUCK explained that Amendment 2 would add death benefits to the coverage for members of the organized militia during training.

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MS. MARX said that language in Amendment 2 mirrors language in military code.

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REPRESENTATIVE REINBOLD asked if the reason for a zero fiscal note is because there is no anticipation of a death.

MS. MARX offered her understanding that Representative Reinbold's question pertains to the fiscal note from the Division of Risk Management which would pay the benefits; the Division of Workers' Compensation would administer benefits and would not have any increased operational costs under HB 126.

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MR. JORDAN stated that there is no anticipation of death [during training], although it is possible. He noted that ASDF training missions have only had one injury, so it is difficult to calculate possible costs. He explained that workers' compensation costs go up and down by millions of dollars each year, but the premiums stay fairly consistent as the risk is spread among all the departments. He commented that a death would be tragic and although it would be expensive, the costs would be spread out. He stated that DMVA would not incur such costs on its own.

REPRESENTATIVE REINBOLD asked if [Amendment 2] would result in any financial increase to the state. She commented that government is continuing to grow with unintended costs; she mentioned that although there have been massive investments, the state still has poor statistics.

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MS. MARX pointed out that workplace fatalities are rare and have been decreasing; there were 17 work-related deaths statewide last year. Although the number is lower than previous years, she stated her hope that the state gets to zero work-related deaths.

REPRESENTATIVE REINBOLD asked if the number includes both the public and private sectors.

MS. MARX answered that it includes all work-related deaths suffered by public or private employees in Alaska. She stated that she does not have the breakdown but would obtain the information.

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CHAIR TUCK explained that Amendment 2 would change only section 1 of HB 126 in order to conform to other statutory language.

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CHAIR TUCK asked Representative Saddler if he maintained his objection to Amendment 2.

REPRESENTATIVE SADDLER answered yes and he indicated he would like a roll call vote.

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REPRESENTATIVE PARISH spoke in support of Amendment 2 to make statutory language consistent.

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A roll call vote was taken. Representatives Rauscher, Saddler, Reinbold, Spohnholz, LeDoux, and Tuck voted in favor of Amendment 2. Therefore, Amendment 2 was adopted by a vote of 6-0.

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REPRESENTATIVE SADDLER asked for clarification regarding Amendment 1.

CHAIR TUCK explained that he had treated Representative Saddler's previous motion for an indeterminate fiscal note as being Amendment 1.

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REPRESENTATIVE SADDLER said that HB 126 would "plug a potential hole." He asked that the impacts of HB 126 would be and the risks it would address.

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MR. JORDAN answered that up to 76 ASDF members doing training missions would be covered for an additional 24 to 28 days per year.

REPRESENTATIVE SADDLER characterized that the coverage is quite small compared to the full scope of the State of Alaska workforce.

MR. JORDAN agreed.

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REPRESENTATIVE SPOHNHOLZ said that the volunteers who sign up to actively volunteer with ASDF are doing the state a great service. She expressed that insuring ASDF members while they prepare for an emergency offers members the security needed if something happened that might jeopardize their livelihood and would give members confidence that their service would not jeopardize their families. She reported that in Alaska, homelessness and bankruptcies are often caused by healthcare crises that put people in financial desperation. She conveyed that HB 126 a way to ensure that those serving Alaska through the ASDF wouldn't have to face that risk.

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REPRESENTATIVE RAUSCHER offered his support of the bill although he noted that there might be future costs involved.

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REPRESENTATIVE REINBOLD stated that it is important to have the volunteer defense force covered in an emergency. She remarked:

However, I'm going to say that this is an inconsistent message. We just had Department of Military & Veterans' Affairs [Finance] Subcommittee closeout and the only cut that we made was a small token of money to help empower our rural communities to prepare for natural or manmade disaster. And ... I think that was a terrible mistake in our [House] Military and Veterans' Affairs [Finance Subcommittee] and I would just ask you, Mr. Chairman, to please reconsider what happened there. But with that I'm definitely going to be supporting this.

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CHAIR TUCK responded that he is not the chair of the aforementioned subcommittee: The action has been taken and any future amendments can be brought forward to the House Finance

Standing Committee. He stated that it is an unfortunate cut to a program, but that cut is unrelated to the proposed legislation.

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REPRESENTATIVE SADDLER, upon remarking that HB 126 is good and covers unlikely but potentially bad risk, moved that HB 126 be sponsored by the committee.

CHAIR TUCK clarified that HB 126 was already a committee bill.

REPRESENTATIVE LEDOUX noted that the committee, [by a vote of 4:2 during its organizational discussion on 1/26/17], had granted the chair permission to draft any bill on behalf of the committee.

CHAIR TUCK said he would entertain a motion to object to the committee sponsorship of HB 126. [The previous motion by Representative Saddler for committee sponsorship of HB 126 was treated as withdrawn.]

REPRESENTATIVE SADDLER moved to express his opposition to HB 126 being sponsored by the committee. He added, "I was trying to express support for the bill, but I'm being maneuvered into saying, 'No.' But okay, that's the motion required, then ... that's my motion."

CHAIR TUCK asked Representative Saddler to restate the motion.

REPRESENTATIVE SADDLER said, "I move that the House Special Committee on Military and Veterans' Affairs not adopt HB 126 as a committee bill."

REPRESENTATIVE LEDOUX objected to the motion. She expressed that since there had already been a vote on the matter, the appropriate [action] would be to move to rescind [the committee sponsorship].

REPRESENTATIVE SADDLER explained that he simply had been trying to express the committee's explicit approval of HB 126 as opposed to the universal [approval related to committee sponsorship of legislation]. He said, "So, for the good of the bill and for the process of the committee, I withdraw my motions."

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CHAIR TUCK commented that the majority of the committee's questions pertain to the costs associated with HB 126. He stated that without insurance, the department has a high risk: one injury cost the department its entire budget [for ASDF]. He noted that HB 126 would not cost the state any additional money and would eliminate future financial risks to the state.

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REPRESENTATIVE LEDOUX moved to report HB 126, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 126(MLV) was moved out of the House Military and Veterans' Affairs Special Committee.

[1:45:04 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 1:45 p.m.