

SENATE FINANCE COMMITTEE

April 17, 2018

9:04 a.m.

9:04:29 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Representative Andy Josephson, Sponsor; Megan Holland, Staff, Representative Josephson; Marie Marx, Director, Division of Workers' compensation Department of Labor and Workforce Development; Scott Jordan, Director, Division of Risk Management, Department of Administration; Cathy Schlingheyde, Staff to Representative Kreiss-Tomkins; David Tyler, Division of Fire and Life Safety, Department of Public Safety.

PRESENT VIA TELECONFERENCE

Marianne Burke, Self, Anchorage; Kevin Dougherty, Self, Eagle River.

SUMMARY

CSHB 38 (FIN) am(efd fld)

WORKERS' COMP: DEATH; PERM PARTIAL IMPAIR

CSHB 38(FIN) was HEARD and HELD in committee for further consideration.

HB 400 FEES FOR FIRE PREVENTION MEASURES

HB 400 was HEARD and HELD in committee for further consideration.

#hb38

CS FOR HOUSE BILL NO. 38(FIN) am(efd fld)

"An Act relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to the payment of workers' compensation death benefits payable to a child of an employee where there is no surviving spouse; relating to the payment of workers' compensation death benefits for an employee without a surviving spouse or child; and relating to notice of workers' compensation death benefits."

[9:05:36 AM](#)

REPRESENTATIVE ANDY JOSEPHSON, SPONSOR, explained that it was not unusual for members to get concepts for legislation from random sources. He recalled that when he was first elected he met an individual that had wanted him to propose legislation to ban blue headlights. He discussed the motivation for sponsoring HB 38, and referenced a 2014 email from a woman who had lost her daughter through an electrical accident in Midtown Anchorage. The young woman had died in the workplace, and the Occupational Safety and Health Administration had fined the employer. The surviving mother learned that there was no remedy for the family above funerary expenses up to \$10,000 because the deceased was not married and had no dependent children.

Representative Josephson continued to discuss the genesis of the bill. He informed that there were 13 to 15 states that had specified that a death benefit should be paid to single workers without children. The State of Louisiana was the highest most generous state for survivor benefits, and afforded a \$140,000 death benefit. He clarified that the bill addressed deaths at work, which were accidents and could often occur because of negligence of an employer. He stated that in the context of workers' compensation, the issues of negligence and liability were dispensed.

Representative Josephson had been working on the bill for about 4 years. He recounted that in the House Labor and Commerce Committee the bill originally had a \$130,000 benefit, which had then been reduced to \$70,000 as currently written in the bill. He thought it was important to note that of the approximately 20 individuals that died at work in Alaska per year, normally about 3 or 4 of the individuals were single or childless workers. The total that would be benefitted through the provision of the bill was about \$210,000.

[9:09:53 AM](#)

Representative Josephson continued to discuss his bill. He did not think the single childless worker provision of the bill was hugely fiscally impactful. He referenced the National Council on Compensation Insurance (NCCI), which reviewed the legislation and had concluded that the bill would only increase workers' compensation four tenths of one percent in Alaska. In researching the legislation, the sponsor had found that there was a provision in law that had not changed since 1968, when it was determined that a dependent (such as a parent with a disability) of a single childless individual that died at work would be awarded \$20,000. Considering inflation, the amount would exceed \$100,000; but the bill established the payment as \$100,000, and the death benefit for a single childless person without dependents was \$70,000.

Representative Josephson wanted to give the committee a sense of whether the proposed benefit amounts were proportional. He used the hypothetical example of a young parent with children that would (upon death) receive approximately \$850,000 in workers' compensation payments over the ensuing years. He pointed out the disparity between compensation for those with children and those without. He summarized that the bill would create a death benefit for single childless people.

Representative Josephson stated that the second more expensive part of the bill would update the permanent and partial impairment (PPI) benefit. Currently the state used the value figure of \$177,000; and used a percentage calculation to determine the value of a loss of limb or function. He used the example of an injured person that experienced the loss of an arm. Under current law the

injured person would receive approximately \$100,000. Under the bill, such an individual would receive closer to \$150,000.

[9:13:39 AM](#)

Representative Josephson explained that the change would not make Alaska the most generous state in the event of a permanent or partial disability; but would put the state in the average range rather than the bottom third. He continued discussing the second provision of the bill. He reiterated that the bill created a death benefit for single childless people, increased the death benefit for individuals with dependents other than children, and increased the PPI.

Senator Stevens understood that under current law, it was not possible to sue for wrongful death. He wondered if the bill would open more possibilities for lawsuits.

Representative Josephson answered in the negative. He relayed that there had been discussion in committee and on the House floor about opening Title IV (the civil lawsuit code) and allowing people suffering grievous injuries from gross negligence to sue. The bill did not change the code, but simply expanded (for a few people per year) a death benefit that did not currently exist. He emphasized the situation in which an unmarried childless person suffered death at work (potentially through the fault of the employer) and received no benefits beyond the exclusive remedy of funeral coverage.

[9:17:53 AM](#)

MEGAN HOLLAND, STAFF, REPRESENTATIVE JOSEPHSON, discussed the presentation "HB 38: WORKERS' COMPENSATION BENEFITS IN THE CASE OF PERMANENT PARTIAL IMPAIRMENT AND DEATH" (copy on file).

Ms. Holland informed that Section 1 of the bill named the legislation in honor an individual that had died in the workplace.

Ms. Holland turned to slide 3, "PERMANENT PARTIAL IMPAIRMENT (PPI) INDEX CPI ADJUSTMENT":

Section 2

- AS 23.30.190(a), adjusts the Whole Person Value for inflation
 - Increase of 44.35% from \$177,000 to \$255,506
- This value was originally set at \$135,000 in 1988, and was last adjusted for inflation 18 years ago
- How are PPI benefits calculated?
 - Percentage of disability x \$177,000
 - Percentage of disability determined by the American Medical Association Guides to the Evaluation of Permanent Impairment

Section 3

- Requires that the Whole Person Value used to calculate PPI benefits be adjusted for inflation on an annual basis

[9:19:54 AM](#)

Ms. Holland showed slide 4, "WHY INCREASE THE PPI INDEX?":

- Inflation has degraded this value for 18 years
- Depending on the body part, Alaska ranks around the 30th percentile compared to other states
- The Alaska AFL-CIO unanimously passed a resolution in 2016 asking the legislature to adjust this value for inflation

Ms. Holland displayed slide 5, "NOTICE OF DEATH BENEFITS":

Section 4

- Requires that in the case of work-related death, the employer must notify the personal representative of the employee's estate of:
 1. Compensation available
 2. Statute of limitations for obtaining Workers' Compensation benefits
 3. Where to obtain legal and grief counselors
- Requires that the employer notify immediate family members or dependents if the personal representative is unknown

Ms. Holland that the requirements outlined in Section 4 were already standard practice.

Ms. Holland reviewed slide 6, "DEATH BENEFIT FOR FINANCIALLY DEPENDENT FAMILY MEMBERS":

Section 5(4)

- If there is no surviving spouse or financially dependent children, immediate family members are eligible for a death benefit of 42% of spendable weekly wages
 - Capped at \$20,000
 - Has not been adjusted for inflation since 1968
 - HB38 conservatively increases this value to \$100,000
 - If adjusted for inflation, this value would fall somewhere between \$140,000-150,000
 - Why raise the cap?
 - \$20,000 in wages cannot do in 2018 what it did in 1968

Ms. Holland spoke to slide 7, "NEW DEATH BENEFIT":

Section 5(6)

- Creates a new death benefit in the case that the deceased worker has no surviving spouse or children, and no financially dependent family members
- Currently the only benefit provided to family members of deceased workers of this type is up to \$10,000 in funeral costs
- \$70,000 payable in a lump sum to a surviving parent if there is one, \$35,000 to each if there are two, or \$70,000 divided equally amongst all legal parents if there are more than two.
- If there are no surviving parents, the estate of the deceased would receive the \$70,000 death benefit
- This amount was taken from a similar benefit provided in the state of Louisiana

Ms. Holland detailed that there were 13 other states that had a similar death benefit to what was being proposed in the bill.

[9:23:27 AM](#)

Ms. Holland discussed slide 8, "WHY CREATE A DEATH BENEFIT FOR WORKERS WITHOUT DEPENDENTS?"

- "Grand Bargain" of Workers' Compensation means families cannot sue for wrongful death
- Families of all other types of workers receive some sort of compensation
- 13 other states provide similar death benefits

- Their reason: remaining financial obligations often follow unexpected death
- Nominal fiscal impact
- Provides a solution without compromising the existing system of Workers' Compensation

WHY NOT OPEN THIS TO LITIGATION?

- Undermines foundational structure of our Workers' Compensation system
- Lawsuit already allowed in cases with "intent to harm"
- No other state allows litigation in Workers' Compensation cases with gross negligence
- Unfair to employers who pay premiums for protection against potential financial burden of lawsuit
- Benefits don't "flow" to dependent family members
- Jeopardizes both the stability of employers and families of the deceased

Ms. Holland spoke to slide 9, "DEATH BENEFITS FOR CHILDREN OF THE DECEASED":

Section 6

- Under current statute, children of deceased workers are only eligible for benefits as long as they are considered a child under AS 23.30.395(8)
- HB38 extends the eligibility for children of the deceased worker to five years after the person is no longer consider a child under AS 23.30.395(8)
- Why?
 - Widow(er)s receive benefits for 12 years following the death of the deceased employee
 - A child of the deceased may receive benefits for an incredibly short period of time

Ms. Holland discussed hypothetical scenarios concerning death benefits for children of deceased workers, and the need for Section 6 of the bill.

[9:27:14 AM](#)

Ms. Holland read slide 10, "FISCAL IMPACTS." She noted that there were essentially two separate portions of the bill with differing fiscal impacts.

Ms. Holland turned to slide 11, "PPI INCREASE":

- Increase in Whole Body Value for calculating PPI payouts by 44.35%
- Based on a 10-year average, this is projected to increased PPI payouts by \$512,850
- Cost passed on via increased receipt authority to the Division of Risk Management
- DVR would increase its payroll deductions accordingly to garnish necessary funds
- Subsequent Increase in Second Injury Fund (SIF) fees of \$30,771
- SIF fees calculated as 6% of total benefits paid the previous FY
- Increase of PPI benefits of \$512,850 leads to increase in second injury fund fees by 6% of \$512,000, or \$30,771
- If the SIF were to be phased out, these fees would continue to decrease until they ceased to be necessary

Ms. Holland directed attention to the fiscal notes and discussed a projected increased payout of PPI benefits (based off a 10-year average) which would amount to \$512,850. The cost would be passed on via receipt authority to the Division of Risk Management, which would increase its payroll deductions accordingly to cover the cost. She noted that the bill would affect payouts to the Second Injury Fund (SIF). The fund fees were calculated at 6 percent of the total benefits payed in the previous fiscal year. The bill resulted in an increase of SIF fees of approximately \$30,000. She noted that the costs would decrease if the SIF were phased out.

Representative Josephson referenced HB 79, legislation which would end the Second Injury Fund (SIF).

Co-Chair MacKinnon asked for the sponsor to give a high overview of the SIF.

Representative Josephson explained that the SIF created an incentive to hire previously injured workers.

Vice-Chair Bishop echoed the comments of Representative Josephson.

[9:30:12 AM](#)

Ms. Holland reviewed slide 12, "FATAL DEATH BENEFITS":

1. Death benefit for deceased workers without surviving spouse, children, or financially dependent family members:

- Difficult to determine cost by fiscal year - can't predict workplace deaths
- Only one state employee has died due to a work-related injury in the past five years
- DRM could absorb costs associated with these deaths due to their infrequency

2. Increase to benefit for financially dependent family members and extension of eligibility for children

- Zero fiscal impact
- Fiscal note states zero fiscal impact for fatal death benefits

Ms. Holland considered that the fiscal impacts for the death benefit change provision were nominal. She had spoken with the Division of Risk Management about the newly proposed death benefit and its potential fiscal impact. Because workplace deaths were so infrequent, and the bill only addressed those in the case of unmarried childless individuals, the division would most likely be able to absorb the costs of the new benefit without much fiscal impact. If there were to be a spike in the specific type of death addressed by the proposed benefit, the fiscal ramifications would be different.

Senator von Imhof asked how the new provisions would translate to increased rates for businesses if the bill were to pass.

Ms. Holland had asked the Division of Workers' Compensation to prepare a document [entitled " FY19 CORA Projection with HB38 Additional PPI Cost Estimate] to reflect how increased costs would be passed to respective departments to cover the increase (copy on file). She furthered that the increase was done based on the amount of personnel as well as the frequency of injury claims. She reviewed various projected increases for departments. She acknowledged that the bill would increase the total cost of the system by approximately 2.3 to 2.8 percent.

[9:34:04 AM](#)

Senator von Imhof thought Alaska was the fifth highest workers' compensation premium state, and the bill would add more to a very high-cost system. She thought workers' compensation affected how and when businesses could hire employees. She asked about a potential increase in monthly payments.

Representative Josephson stated that NCCI had prepared an analysis of the bill, which indicated that the combined fiscal increase from the bill would be 2.3 percent to 2.8 percent. He emphasized that .4 percent was attributed to the proposed increase in death benefits, and the vast majority of the increase was contained in the proposed PPI update. He referenced a supporting document that gave information on the state's improving status (as a workers' compensation provider) and the overall decrease in workers' compensation cost.

Representative Josephson shared the concerns of the committee regarding the expense of workers' compensation, and thought it was impacted by the high cost of medical care in the state for non-workers' compensation injuries. He thought there was a belief with some merit that workers' compensation patients could be very lucrative for doctors. He referenced independent efforts (such as legislation) to rein in some of the expenses and submitted that the bill had merit beyond the considerations of expense.

Representative Josephson continued to address Senator von Imhof's comments. He reminded that the proposed death benefit provision only affected three families per year.

[9:37:52 AM](#)

Senator von Imhof expressed sympathy for the loss of a child. She stated that she represented small business and needed to consider things from its viewpoint. She discussed the state's fiscal challenges. She mentioned the endeavor to keep a fully funded Permanent Fund Dividend.

Vice-Chair Bishop requested a chart that showed the number of deaths by occupation. He thought the committee might be surprised to see the breakdown.

Representative Josephson thought that state employees in the Department of Transportation and Public Facilities represented 31 percent of total workers' compensation

claims, while the Department of Health and Social Services represented almost 20 percent of claims. He mentioned individuals working at the Alaska Psychiatric Institute getting injured while working with patients. The Department of Corrections represented 15 percent of claims; while Department of Public Safety had almost 9 percent of claims, which he thought was surprisingly low.

Vice-Chair Bishop appreciated the information but wanted more information on workers' compensation in various industries.

Ms. Holland recalled that the effective date had failed to pass the House floor. The original version of the bill had an effective date of January 1, 2019. If the legislation were to pass the legislature, the bill would become effective much sooner than originally intended, thereby increasing costs.

[9:42:02 AM](#)

Co-Chair MacKinnon asked about the death of an individual that was single and childless. She asked if the bill proposed to divide a benefit of \$70,000 between parents. She asked if there was consideration of live-in partners and other family members that might not be included in the bill definitions.

Representative Josephson stated that because of increased marriage freedom, consideration of live-in partners was less of an issue. He recalled that former Governor Tony Knowles had required medical coverage for same-sex partners. He stated that under Title 13 (probate code), it was possible for people to die with debt, which was a factor considered in the development of the bill. The bill would help the family pay debts of the deceased. In the event that there was no surviving parent, the benefit would work its way through probate and could possibly go to siblings. He stated that the bill also worked to conform to the Title 23 definition of parent. He discussed different iterations of a parent respective to the deceased.

Co-Chair MacKinnon explained that she was referencing a potential estrangement from parents, and the bill proposed a benefit for parents over a chosen partner. She did not think all the variables were being considered.

Co-Chair MacKinnon discussed the subject of naming legislation after individuals. She discussed the emotional content of public testimony and debate, and the challenge of considering the ramifications of the legislation.

[9:47:34 AM](#)

Representative Josephson specified that the named portion of the bill in Section 1 would be uncodified. He stated he had not had exposure to the bill topic prior to being contacted by the parent of a deceased single childless worker. He reminded that the bill only affected 3 to 4 people per year that passed away at work. He thought the PPI update was critical.

Representative Josephson thought it was difficult to have a perfect system in the circumstance of estrangement of families. He added that other states had similar laws as the bill proposed with regard to death benefits for parents.

[9:49:17 AM](#)

AT EASE

[9:50:12 AM](#)

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Ms. Holland asked to briefly address the subject of a death benefit to parents of a single childless worker with no dependent family members. She stated that there were four options: one surviving parent would receive \$70,000, two surviving parents would each receive \$35,000, three or more legal surviving parents would equally divide \$70,000, and if there were no surviving parents the death benefit would go to the estate of the deceased. She noted that there could be an easy fix to the bill. In the State of Wisconsin there was a similar death benefit, which accounted for estrangement of parents.

Co-Chair MacKinnon referenced an occurrence in Juneau in which a man lost his fiancé. She discussed hypothetical scenarios in which individuals had non-married relationships that could be more financially involved than the parents that were designated for survivor benefits.

Co-Chair MacKinnon OPENED public testimony.

9:55:45 AM

MARIANNE BURKE, SELF, ANCHORAGE (via teleconference), testified in support of the bill. She referenced her visit to the capital the previous week. She relayed that her daughter was a new electrical apprentice that had been electrocuted due to her employer's negligence. She referenced the United States Constitution and due process. She lamented the lack of legal remedy for her daughter's life. She thought HB 38 would give some remedy to families that lost children to accident or negligence on the job. She urged the committee to pass the bill.

9:59:58 AM

Ms. Burke addressed the proposed \$70,000 death benefit. She would have used funds to honor her deceased daughter. She referenced Senator von Imhof's previous remarks about small business. She asserted that businesses were not paying a fair share. She stated she had met many injured workers that were not being satisfactorily compensated.

Ms. Burke referenced Co-Chair MacKinnon's remarks about extended family and domestic partners. She thought immediate family was more affected by the death of an individual. She did not feel she had received due process for her daughter's death.

Co-Chair MacKinnon expressed sympathy and regret for Ms. Burke's loss on behalf of the committee.

10:04:14 AM

KEVIN DOUGHERTY, SELF, EAGLE RIVER (via teleconference), spoke in support of the bill. He noted that he had been general counsel with the Alaska Laborers Union since 1981. He was thankful that the rate of fatalities in the state had decreased. He thought the previous testifier's comments were valuable. He discussed the issue of single childless deceased workers. He acknowledged that the committee needed to consider the cost of the bill. He referenced a document authored by the Division of Insurance that discussed the decrease in approved premium rates (copy on file).

Mr. Dougherty referenced NCCI and its consideration of the bill. He discussed workers' compensation coverage of children and parents. He discussed Alaska probate law. He

thought it would be a mistake not to move forward with the bill because of family definitions.

10:09:53 AM

Co-Chair MacKinnon mentioned a letter of support from the AFL-CIO (copy on file).

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon asked for a high-level overview of the bill.

Ms. Holland addressed a Sectional Analysis of the bill (copy on file):

Section 1: Provides that the act may be known as the Abigail Caudle Act.

Section 2: Increases the base amount for calculating the compensation for the permanent partial impairment from \$177,000 to \$255,506.

Section 3: Provides that the director shall annually adjust the PPI benefit for inflation.

Section 4: Requires that in the event that an injury causes death, the employer is required to notify the employee's personal representative of the compensation available, the statute of limitations, and where to obtain a list of legal counsel and grief counselors who may be able to assist.

Section 5: Increases the maximum aggregate amount of death benefits payable to parents, grandchildren, or siblings dependent on the deceased at the time of injury from \$20,000 to \$100,000. Adds a new paragraph providing that in the event there is no surviving spouse or children, and no eligible financial dependents of the deceased at the time of injury, that the amount of death benefits available will be \$70,000, and is payable in a lump sum to the parents if they are alive, or to the estate of the decedent if they are not.

Section 6: Extends the timeframe under which a child of the deceased is eligible for death benefits from

until they are no longer considered a child, to five years after the person is no longer considered a child under AS 23.30.395(8).

Co-Chair MacKinnon asked if there was retroactivity in the bill.

Ms. Holland answered in the negative.

[10:13:47 AM](#)

Senator von Imhof wanted to learn more about the "grand bargain" under which families could not sue for wrongful death, and the fact that no other states allowed for litigation in workers' compensation cases for gross negligence.

MARIE MARX, DIRECTOR, DIVISION OF WORKERS' COMPENSATION DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, thought it would be helpful to provide some history on workers' compensation. She noted that severe injuries had increased drastically during the industrial revolution. Injured workers would sue and receive a high reward or receive nothing. Employers were put out of business by significant awards to the injured party. Subsequently, 50 states put forth a contract to keep employers in business while providing benefits to injured workers. Through workers' compensation, injured workers receive prompt limited benefits that cover medical costs, lost wages, reemployment benefits (if eligible), and death benefits. There was no allowance for pain and suffering or punitive damages. In exchange, workers could not sue the employer and it was a no-fault system.

Ms. Marx explained that the workers' compensation system was set up to ensure that benefits flowed smoothly and quickly to injured workers. She thought it worked well in most cases. She noted that there were about 20,000 injuries reported each year, and in the vast majority of cases the benefits flowed to the injured worker. No states allowed to sue for negligence but suing for intentional conduct was allowed.

[10:17:00 AM](#)

Senator von Imhof asked about the situation of the testifier when her daughter was electrocuted through

alleged negligence. She asked about a hypothetical scenario under which the company did not change its policies and the same negligence caused the death of another worker. She wondered if a company would be able to continue unsafe practices to the detriment of workers.

Ms. Marx stated that there were consequences outside of workers' compensation that addressed employer's standards of safety. She relayed that there were things in place to incentivize employers to maintain safe work environments. She reiterated that workers' compensation was a system of benefits that was set up only to make sure an injured worker received medical costs and lost wages and did not put employers out of business.

Vice-Chair Bishop stated that if negligence was willful, the matter was treated differently.

Senator von Imhof asked if there were consequences outside workers' compensation to address negligence.

Ms. Marx answered in the affirmative.

Co-Chair MacKinnon stated that according to the previous testifier there was not another recourse for her set of circumstances. She was not sure of the particular set of circumstances surrounding the loss of life.

Vice-Chair Bishop about the definition of adult under Section 6.

Ms. Marx stated that the definition of child was defined in the Workers' Compensation Act.

Vice-Chair Bishop asked at what age was a person no longer a child.

Ms. Marx stated that unmarried dependent children received benefits to age 19 or older while in high school or doing their first four years of trade school, technical school, or college. The time period could be longer if a child was dependent through a disability.

[10:21:08 AM](#)

Co-Chair MacKinnon asked if the bill proposed to extend the age up to 24 with the same caveats.

Ms. Marx answered in the affirmative.

Vice-Chair Bishop asked about the estimated cost to the private sector.

SCOTT JORDAN, DIRECTOR, DIVISION OF RISK MANAGEMENT, DEPARTMENT OF ADMINISTRATION, was not sure of the increase would to the private sector.

Co-Chair MacKinnon stated that the committee wanted to understand how the employer's workers' compensation payments would be adjusted.

Vice-Chair Bishop agreed.

Ms. Marx stated that the price estimate discussed by the committee was from NCII, which was an organization that priced out changes to workers' compensation systems. She relayed that NCII had priced out a 2.8 percent increase (\$8 million total) for the entire bill including private and public entities.

Co-Chair MacKinnon informed that there was a letter of opposition in the member's packets (copy on file). She asked members to reach out to small businesses in their districts to get feedback.

Ms. Marx clarified that the estimated increase in the base premiums was 2.8 percent.

Co-Chair MacKinnon stated that the committee would like to understand the dollar amount impact to employers and how it was calculated.

Vice-Chair Bishop wanted to illustrate that it was pennies on the dollar for employee costs in the private sector.

Senator von Imhof stated that it was pennies on the dollar currently, although Section 3 of the bill provided an annual increase due to inflation. She thought a chart reflecting the cost to employers would be helpful, with consideration of the size of business and inflation. She asserted that actions taken in the present would have future consequences.

[10:26:56 AM](#)

Co-Chair Hoffman asked if it was true that it was not only businesses that paid workers' compensation costs, but there was a portion paid by the employee.

Ms. Marx relayed that workers' compensation was paid to injured workers by self-insured employers and insurers.

Senator Olson asked if it was true that there were no recoverable dollars for the family of the deceased in the case of a death of a worker that was single and childless.

Mr. Jordan stated that the only benefit available for single childless workers without dependents was a \$10,000 funeral expense benefit.

Senator Olson expressed surprise that the statute had not been changed previously.

Mr. Jordan thought workers' compensation was there to compensate an employee for an injury; or in the case of a death, to compensate the dependents of the worker. If there were no dependents, there was no one to compensate.

[10:29:36 AM](#)

Vice-Chair Bishop reminded that no one went to work wishing to not come home at the end of the day. He had been severely injured on the job in 1975 and had survived the injury with the aid of a co-worker.

Co-Chair MacKinnon thanked Vice-Chair Bishop for his story.

Co-Chair MacKinnon acknowledged that there was a balance between families that suffered great losses and employers that were trying to put people to work. She thought there was reluctance to advance legislation because it could be amended in any way on the floor. She discussed collaboration and discussed the importance of working to accomplish positive change.

[10:32:53 AM](#)

Co-Chair Hoffman asked what other states had done about inflation in workers' compensation benefits.

Ms. Marx did not have information what other state statutes provided for inflation. She offered to provide the information at a later time.

Co-Chair MacKinnon drew attention to a packet of information from the Legislative Research Division (copy on file), which she thought might contain some research information.

Co-Chair MacKinnon informed that the fiscal note was inaccurate because the effective date of the bill had not passed.

Co-Chair MacKinnon set the bill aside. She stated the committee would work on a new fiscal note as well as issues that were brought up in committee. She stated that proposed amendments were due by the following day. She asked members to inform her of concerns as early as possible. She stated that she did not support the inflation-proofing concept, for reasons stated earlier in the meeting. She was concerned about costs inflating in future years.

CSHB 38(FIN) was HEARD and HELD in committee for further consideration.

[10:36:32 AM](#)

AT EASE

[10:37:18 AM](#)

RECONVENED

#hb400

HOUSE BILL NO. 400

"An Act relating to the collection of fees by the Department of Public Safety for fire and explosion prevention and safety services."

[10:37:18 AM](#)

Co-Chair MacKinnon informed that the committee was hearing the bill for the first time.

CATHY SCHLINGHEYDE, STAFF TO REPRESENTATIVE KREISS-TOMKINS, informed that the bill arose from a statutory recommendation of the House Finance Subcommittee on the Department of Public Safety, and was introduced as a House

State Affairs Committee bill. The bill tried to address concerns in the Division of Fire Safety pertaining to building inspections. The goal of the division was to inspect all buildings every two years, however buildings off the road system were being inspected every 3 to 5 years due to insufficient travel funding. The bill would allow the division to collect fees for the spectrum of services it provided in order to help fund travel. Currently the division could collect fees for building plan checks, but not for building inspections or permitting for installation of fire suppression systems.

Ms. Schlingheyde referenced Section 1 of the bill, which gave authority to collect the fees, and Section 2 set up the receipt authority to receive the funds.

Co-Chair MacKinnon asked about the frequency of building inspections.

Ms. Schlingheyde relayed that the goal of the division was to inspect buildings every two years.

Co-Chair MacKinnon asked if there was a list of needed improvements created at the time of inspection. She considered that building inspections every two years could be burdensome. She asked how building owners were held accountable after buildings were inspected.

DAVID TYLER, FIRE MARSHAL, DIVISION OF FIRE AND LIFE SAFETY, DEPARTMENT OF PUBLIC SAFETY, stated that there was accountability for building owners, but not to the degree desired by the division. He discussed the inspection process, which included a notice to correct and a timeline if any deficiencies were found. He stated that the only more severe actions available were a misdemeanor charge or closing the building down. He stated that it was difficult to get to remote areas for inspections, and second inspections were even more difficult.

Mr. Tyler relayed that the division was trying to find more efficient ways to verify that follow-up work had been done without having to physically go to the building site. He stated that the division's goal was 1,500 inspections per year, and the division was responsible for approximately 3,000 buildings. He thought the division could complete inspections for 500 buildings in 2018 due to travel restrictions. In some cases, buildings had gone 6 to 8

years without being inspected, because of the remote location.

[10:41:53 AM](#)

Co-Chair MacKinnon asked about the order to correct.

Vice-Chair Bishop observed that the insurance industry should be concerned if inspections were not being completed in a timely manner. He discussed liability.

Mr. Tyler wished there was more interest from the insurance industry.

Co-Chair Hoffman asked why rural facilities were not inspected. He wondered if the division had a rotating schedule for inspections based on the area of the state. He discussed equity. He thought the disparity should have been addressed already.

Mr. Tyler asserted that the disparity had been addressed and recounted that between 2001 and 2007, there had been over \$50 million worth of loss in public schools. He referenced a fire in Hooper Bay, which was preventable and started from kids played under the school. He recalled 76 fires during the time period. In 2008, the division had received an increment to help with travel and had full staffing. Over the following five years, there had been \$1.4 million worth of loss. Subsequently there were vacancies and staffing issues, as well as travel cuts. He stated that there was currently up to over \$2 million per year in fire loss. He wanted additional funding. He recalled that the division had accomplished 1,300 to 1,400 inspections per year in its most successful period; and numbers indicated the work was successful preventing fires.

[10:45:42 AM](#)

Senator Olson commented on the serious nature of fire in rural Alaska, where there was not sufficient fire-fighting capacity. He referenced financial losses, and a large fire in Hooper Bay. He discussed a fire in Nome at the Polaris Hotel, in which there was loss of life. He wondered how the event could have been prevented.

Mr. Tyler stated that the division could have done more follow up inspection. The division had known that the fire

alarm in the hotel was not functioning. The division had issued an immediate order to correct and had been assured that the matter had been corrected by the building owners. The matter had not been corrected, but he was not able to go into further detail. The division was taking legal action on the matter and the case was currently in the office of special prosecution.

Senator Olson commented that the issue brought up by Mr. Tyler was very concerning. He referenced an amendment he had offered to the operating budget, related to fire prevention. The amendment had been defeated. He thought the legislature was obligated to look at the possibility of increasing the amount of funding for inspections to curtail the loss of life and public facilities that would end up being paid for by the state.

[10:47:56 AM](#)

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop asked if there were any independent third parties that completed the same inspections as the division, that would be acceptable to the division.

Mr. Tyler informed that there were companies that did inspection work and maintenance on fire alarm systems and fire suppression systems. The division permitted and licensed the contractors and checked the work of the contractors.

Co-Chair Hoffman referenced the Nome fire, and asked if it would have been possible to use the fire chief in Nome to ascertain whether the correction order had been followed and completed.

Mr. Tyler stated that the division was working on a process to work with the local fire authorities. The new system would allow the division to use an outside company to work with vendors to do fire inspections. The system would provide for immediate information on compliance, with no charge to the state or local communities.

[10:50:29 AM](#)

Senator Micciche asked if Mr. Tyler could provide information on the role of local fire personnel, insurance inspectors, fire marshals, and gaps he envisioned in the system. He thought it would be helpful to have a longer discussion.

Mr. Tyler stated that there was a deferral program for when communities could complete inspections and fire investigations. He listed communities (including Ketchikan, Juneau, Anchorage, Fairbanks) that were participating. He believed local government could do the work better than the state could, and the state could do the work better than the federal government. There was an annual fire building officials' forum to discuss common issues, which was also used for co-development process. He thought travel restrictions were a big hole in the process.

Co-Chair MacKinnon stated the committee would not cover the fiscal note due to lack of time.

Senator Stevens was distressed to learn of the losses in public schools in 2001. He considered that raising fees would only cost the state money. He asked if there was prioritization of public schools over other structures.

Mr. Tyler stated that the division prioritized schools, and other higher-risk occupancies (such as daycares, churches, and community centers) when doing inspections.

Co-Chair MacKinnon asked if the fire marshal provided notice before arriving to inspect a building.

Mr. Tyler stated that there was a pre-inspection form sent ahead of time for building owners to consider. The goal of the division was compliance rather than enforcement.

Co-Chair MacKinnon expressed a concern that the department was left to itself to set the fees proposed in the bill. She asked the department to provide a fiscal note that correctly reflected the revenue.

HB 400 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon set the bill aside.

Co-Chair MacKinnon discussed the agenda for the afternoon.

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ADJOURNMENT

10:55:16 AM

The meeting was adjourned at 10:55 a.m.