

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 25, 2019

3:17 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Adam Wool, Co-Chair
Representative Zack Fields
Representative Sara Hannan
Representative Louise Stutes
Representative Dave Talerico

MEMBERS ABSENT

Representative Josh Revak

COMMITTEE CALENDAR

HOUSE BILL NO. 30

"An Act relating to the exclusiveness of liability of an employer in the case of death; relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to notice of workers' compensation death benefits; 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 providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 79

"An Act relating to participation of certain peace officers and firefighters in the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska; relating to eligibility of peace officers and firefighters for medical, disability, and death benefits; relating to liability of the Public Employees' Retirement System of Alaska; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 30

SHORT TITLE: WORKERS' COMP: DEATH; PERM PARTIAL IMPAIR
SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

02/20/19 (H) PREFILE RELEASED 1/11/19
02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) L&C, FIN
03/25/19 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 79

SHORT TITLE: PEACE OFFICER/FIREFIGHTER RETIRE BENEFITS
SPONSOR(s): REPRESENTATIVE(s) KOPP

03/06/19 (H) READ THE FIRST TIME - REFERRALS
03/06/19 (H) L&C, FIN
03/20/19 (H) L&C AT 3:15 PM BARNES 124
03/20/19 (H) Heard & Held
03/20/19 (H) MINUTE(L&C)
03/22/19 (H) L&C AT 3:15 PM BARNES 124
03/22/19 (H) Heard & Held
03/22/19 (H) MINUTE(L&C)
03/25/19 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 30.

ELISE SORUM-BIRK, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 30, on behalf of Representative Josephson, prime sponsor.

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, offered comments on HB 79.

ACTION NARRATIVE

[3:17:50 PM](#)

CO-CHAIR ADAM WOOL called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Fields, Hannan, Stutes, Talerico, and Wool were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

HB 30-WORKERS' COMP: DEATH; PERM PARTIAL IMPAIR

[3:18:38 PM](#)

CO-CHAIR WOOL announced that the first order of business would be HOUSE BILL NO. 30, "An Act relating to the exclusiveness of liability of an employer in the case of death; relating to the payment of workers' compensation benefits in the case of permanent partial impairment; relating to notice of workers' compensation death benefits; 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 providing for an effective date."

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The committee took a brief at-ease at 3:18 p.m.

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REPRESENTATIVE STUTES moved to adopt the CS for HB 30, Version 31-LS0280\U, Marx, 1/24/19, as the working document. There being no objection Version U was before the committee.

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REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor of HB 30, paraphrased parts of the sponsor statement [included in the committee packet], which read in its entirety as follows [original punctuation provided]:

In 2011, a 26-year-old electrical worker, Abigail Caudle, lost her life to employer- workplace negligence. Hers was a wrongful death warranting compensation. Under current Alaska statute, when a worker without children, a spouse, or dependents dies due to a work-related injury, their family only receives reimbursement for the cost of the funeral, and under worker's compensation law, are unable to sue for wrongful death.

House Bill 30 (HB 30) rectifies this issue and others in the state's current system and brings Alaska's compensation levels for injury, illness or death of workers into the present.

HB 30 specifies that when an employee dies without having a spouse or minor children, parents of the deceased can elect to either take legal action against the employer or receive a death benefit compensation of \$120,000. If there are no surviving parents, this benefit is payable to the estate of the deceased. Unmarried, childless workers are the only class of worker that does not receive some form of death benefit compensation. HB 30 allows parents of the deceased appropriate compensation and helps alleviate the burden of any debt of the deceased. It is time for Alaska to join the 13 other states offering compensation to families of workers who die from a work-related injury or illness but have no eligible dependents.

HB 30 addresses the problem of inadequate financial support for older children after their single parent dies on the job. Currently, financial support is cut off when children turn 18. The bill provides for support payments to extend for five years after a child reaches legal adulthood.

HB 30 encourages equitable compensation for workers suffering from permanent injuries or illnesses by adjusting the base Permanent Partial Impairment (PPI) values for inflation and provides for an annual adjustment based on the Anchorage Consumer Price Index. The Permanent Partial Impairment index has not been adjusted in 18 years.

HB 30 conservatively increases the aggregate wage benefits for financially dependent parents, grandchildren, brothers and sisters of the deceased from a limit of \$20,000 to a limit of \$150,000. This amount hasn't been adjusted for inflation in a staggering 53 years.

The current values for these benefits are egregious and warrant serious change. I invite you to discuss

this issue with me further and urge you to support this legislation.

CO-CHAIR WOOL sought clarification on the benefit if the deceased had a spouse or child.

REPRESENTATIVE JOSEPHSON answered that scenario becomes a variable depending on how old the child is and whether the spouse remarries. If the spouse remarries the benefit could be as short as two years. He further stated that the maximum benefit that a family [with dependents] could receive is in the range of 850,000 dollars spread out over many years.

CO-CHAIR WOOL asked where that payment would come from.

REPRESENTATIVE JOSEPHSON answered workers' compensation insurance.

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REPRESENTATIVE FIELDS recalled that in the past, fines have been somewhat inconsistent in terms of determining the value of a human life when it comes to workplace death. He said that he remembers them being very low for many years until the most recent deaths, which were the result of negligence, and finally resulted in a meaningful penalty. He asked if this was true.

REPRESENTATIVE JOSEPHSON replied that he would follow up on that. He returned to the second part of the bill, explaining that it increases the beneficiaries' compensation from 20,000 dollars, which was implemented in 1966, to 150,000 dollars on account of inflation. The third feature of the bill updates the Permanent Partial Impairment (PPI) ratings. He explained when someone loses their hand an economic value is placed on that limb, noting that the value of a human hand hasn't changed in 19 years.

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CO-CHAIR LEDOUX offered her understanding that there would be no difference in benefits between an individual who loses a limb that their job depends on and an individual who loses a limb that their job doesn't depend on; for example, a surgeon who loses a hand and an economist who loses a hand. She asked if this was correct.

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ELISE SORUM-BIRK, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of Representative Josephson, prime sponsor of HB 30, acknowledged that Co-Chair LeDoux's understanding was correct. She stated that PPI in Alaska is a specific percentage multiplied by 177,000. She referred the committee to a chart provided in the committee packet. The chart displayed the PPI benefit comparisons and percentages based on body part. For example, the amputation of a dominant arm is considered a 60 percent impairment. She said it doesn't consider whether the individual needed their arm for their profession, just that the individual lost their [dominant] arm at all.

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REPRESENTATIVE JOSEPHSON confirmed Ms. Sorum-Birk's understanding. He explained that the PPI needs some adjustment as well. He asked the committee to consider an additional feature of the bill, directing them to page 2, lines 8-10 of the CS. Essentially, it allows the family of the deceased to elect between workers' compensation or taking legal action. He noted there are several other states that have similar laws, including Arizona and Minnesota. He said it can be a complicated issue and suggested that the committee focus on certain critical aspects during future hearings, such as attorney fees for personal injury action.

REPRESENTATIVE JOSEPHSON directed attention to the PowerPoint presentation [included in the committee packet] entitled, "HB 30 The Abigail Caudle Act." He informed the committee that Abigail Caudle was a young electrical worker who lost her life in the workplace with no compensation (slide 2). One of the current bill's major goals is to extend death benefits to single workers with no dependents and provide parents/estates of these workers a financial or legal remedy (slide 3).

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CO-CHAIR LEDOUX directed attention to page 2, lines 7-14 of the CS and asked if an injury such as total paralysis would warrant legal action against the employer.

REPRESENTATIVE JOSEPHSON replied legal action could only be taken when someone dies.

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REPRESENTATIVE FIELDS stated it's time the legislature sent a strong message that employers should take every effort to prevent employees' death on the job given there hasn't been adequate punishment in the past.

CO-CHAIR WOOL questioned whether workplace death was an infrequent occurrence.

REPRESENTATIVE JOSEPHSON answered very infrequent.

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CO-CHAIR LEDOUX directed attention to page 2, lines 13-14 of the CS. She questioned whether the word "wilful" means intentional or reckless. She offered her understanding that "wilful" would imply more than simple negligence and asked if that was correct.

REPRESENTATIVE JOSEPHSON answered absolutely. He said that word was chosen because the state of Arizona also uses it in statute.

REPRESENTATIVE JOSEPHSON, responding to a follow-up question from Co-Chair LeDoux, stated that "wilful" indicates more than recklessness. He added this language raises some concern in that it could be a point of "tremendous litigation."

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REPRESENTATIVE FIELDS offered his belief that "wilful" was an appropriate word choice

REPRESENTATIVE JOSEPHSON directed attention to slide 3 and related that increasing the PPI rates for inflation is a top priority in HB 30. Adjusting the rate of death benefit paid to non-child dependents, which was last updated in 1966, is another major goal. He noted the current bill also allows dependent children to continue to receive benefits for five years following legal adulthood.

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CO-CHAIR WOOL questioned whether 5 years was chosen arbitrarily.

REPRESENTATIVE JOSEPHSON said that it was, in a sense, arbitrary. The Affordable Care Act (ACA) was a point of reference, as it treats "college-age people" as being eligible for their parents' healthcare.

REPRESENTATIVE JOSEPHSON returned to the presentation. Under current law single workers without dependents are the only class of worker who receives no death benefit - parents cannot sue or collect workers' compensation; however, HB 30 amends AS 23.30.055 [Exclusiveness of liability] to allow the parent or estate of the deceased a choice between taking legal action against the employer or receiving compensation through workers' compensation. HB 30 also adds a new subsection under AS 23.30.215(a) to provide a death benefit for single workers without dependents of 120,000 dollars payable to parents or estate (slide 4). PPI rates have not been adjusted for inflation since 2000. HB 30 adjusts the amount of 177,000 dollars to 255,854 dollars to account for inflation and ties this figure to the Anchorage Consumer Price Index (slide 5). Under AS 23.30.215(a)(4) the death benefit paid to a dependent father, mother, grandchild, brother or sister is a maximum of only 20,000 dollars - an amount set in 1966. HB 30 amends this statute to adjust for inflation and sets the new maximum amount at 150,000 dollars (slide 6). Representative Josephson further noted that the current bill made it through the House last year and then died in the Senate Finance committee.

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REPRESENTATIVE HANNAN asked how the benefit would be calculated if Abigail Caudle had been married without children.

REPRESENTATIVE JOSEPHSON replied it would be based on her spendable weekly earnings, adding that her husband would have enjoyed some sort of maintenance for a period of time.

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MS. SORUM-BIRK, in response to Representative Hannan, stated that the compensation would be 90 percent of the workers' spendable, after-tax weekly wages. She added that the statutory limit is 12 years.

REPRESENTATIVE HANNAN asked if there are any states that compensate a workers' death regardless of marital status.

REPRESENTATIVE JOSEPHSON answered yes.

REPRESENTATIVE HANNAN sought to understand the rationale for differentiating between married and unmarried couples when determining compensation.

REPRESENTATIVE JOSEPHSON said Representative Hannan's point was noted; however, that particular issue doesn't pertain to the current bill. He added that an individual must be married and not just cohabiting [to receive benefits] under HB 30.

REPRESENTATIVE HANNAN pointed out that there are many groups in Alaska that allow benefits despite marital status and asked why the current bill uses it as the determining factor for compensation.

REPRESENTATIVE JOSEPHSON noted that marriage is not the only determinant as dependents are also taken into consideration.

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CO-CHAIR WOOL mentioned that the current bill isn't to be construed as a penalty; alternatively, it is compensation for someone's loss of wage-earning ability. It also takes into consideration what that effect might be on their dependents.

REPRESENTATIVE JOSEPHSON established a scenario in which both an employee and a customer die after the elevator breaks in a large department store. He explained under current Alaska law, if the employee was single and had no children, he or she would only receive a 10,000-dollar funeral reimbursement, whereas the customer's estate could receive millions of dollars. He expressed concern with the difference in compensation between the two.

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CO-CHAIR WOOL announced that HB 30 was held over.

HB 79-PEACE OFFICER/FIREFIGHTER RETIRE BENEFITS

[3:54:18 PM](#)

CO-CHAIR WOOL announced that the final order of business would be HOUSE BILL NO. 79, "An Act relating to participation of certain peace officers and firefighters in the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska; relating to eligibility of peace officers and firefighters for medical, disability, and death benefits; relating to liability of the Public Employees' Retirement System of Alaska; and providing for an effective date."

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REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, as prime sponsor, stated HB 79 is a new defined benefits bill that was modeled after some of the most successful pension plans in the nation. He opined advancing the current bill would provoke a discussion that is long overdue. He continued by highlighting testimony from public safety agencies that addressed a divide between Tier 3 and Tier 4 employees. Essentially, he said, Alaska has become a "five-and-out" training ground that's costing agencies and the state millions of dollars in lost training expenses. Representative Kopp implored committee members to consider if the legislature is adequately addressing public safety concerns. He offered his understanding from hearing previous testimony that the primary issue driving the recruitment and retention problems within public safety agencies is the current Tier 4 system, adding HB 79 is a solution that doesn't increase the liability to the state. He shared his belief that if HB 79 advances and turns out to be successful, it would improve employee retention as well as the public safety of Alaskans and ultimately, the state could apply it to a broader group of employees.

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The committee took a brief at-ease at 3:59 p.m.

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CO-CHAIR WOOL acknowledged that the previous public testimony was persuasive and compelling.

REPRESENTATIVE HANNAN expressed concern that the current bill does not go far enough, adding she would like to see a stronger health plan and more employees covered. She mentioned she would like to see young Alaskans stay in Alaska. She further noted that she intends on supporting HB 79 but would have hoped that it went further to incorporate more employees.

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CO-CHAIR LEDOUX stated she was around during the former defined contributions bill and that she was one of the few Republicans in the House that voted against it. She agreed with Representative Hannan that she would also like to see HB 79 cover more employees. Nonetheless, she said she viewed the

current bill as a "pilot project" and encouraged others to give it a chance to work.

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REPRESENTATIVE FIELDS shared his support and stated that he would be curious to see what would happen if there were a broader pool of public employees.

CO-CHAIR WOOL thanked Representative Kopp and said he shared the sentiments of his colleagues. He offered his belief that a smaller "pilot project" like this might be more palatable and then changes could be made later.

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REPRESENTATIVE KOPP acknowledged the importance of proving that this model works in order to demonstrate a path "towards a better tomorrow" for other employees.

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The committee took a brief at-ease at 4:07 p.m.

[4:08:11 PM](#)

CO-CHAIR WOOL announced that HB 79 was held over.

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ADJOURNMENT

There being no further business before the committee, the House Labor & Commerce Standing Committee meeting was adjourned at 4:08 p.m.