

4-2-82

5B831

(LAC)

(RE APOC)

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 2, 1982
12:58 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SB 831 An Act relating to insurance; and providing
for an effective date.

PREVIOUS ACTION

SB 831 Senate Action: First reading 3/4/82.
Reported from Labor & Commerce 3/18/82.
Reported from Rules 3/22/82; taken up
immediately. Passed second reading 3/22/82;
advanced to third reading by unanimous
consent. Passed Senate 3/22/82.

House Action: First reading 3/22/82.
Referred to Labor & Commerce.

Statutory Reference: AS 21.09.260. After
adoption of committee substitute by House
Labor & Commerce, statutory reference also
includes AS 36.94.010.

Action Taken: Committee substitute adopted;
bill reported out.

ACTION NARRATIVE

Tape #53
Recording
Number 000

The meeting was called to order by Chairman
Martin at 12:58 p.m. Members present were:
Representatives Martin, Bylsma, Randolph,
and Rogers. Rep. Gardiner was absent.

Rep. Martin brought SB 831 before the
committee, and presented HCS SB
832 (L&C) to the committee. He then read
the following statement of the committee's
position regarding wrap-up insurance

policies:

"It is the committee's feeling at this time that the current policy of Alaska Power Authority pertaining to the sole contracting of wrap-up insurance coverage for hydroelectric projects is not in the best interests of the state. We feel that the intent of many regulations and the normal procedures have been circumvented to establish the sole contract wrap-up insurance program as it is known today. We wish that Alaska Power Authority and the Division of Insurance do more in-depth studies before entering into sole contracts, and bring their documented information to the legislative body before entering into any more such contracts. We therefore ask Alaska Power Authority and the Risk Management Insurance Division to make null and void its current contract and to reestablish its previous policy for construction bids. I have asked the committee to look at SB 831, in which we have two new sections which prohibit such contracts."

Number 027

Rep. Rogers then moved that the committee adopt HCS SB 831 (L&C) and report the bill out of committee. There was discussion. There being no objection, the motion passed.

Number 038

As there was no further business to come before the committee, the meeting was adjourned at 1:02 p.m.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 31, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Gardiner

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

General meeting with Alaska Power Authority and Division of Risk Management regarding insurance practices.

WITNESS REGISTER

Dick Pettinger
Alaska Chapter, Associated General Contractors
Box 4-2500
Anchorage, Alaska
276-5354
Position Statement: Opposed APA wrap-up insurance program (APCOP).

Eric Yould, Director
Alaska Power Authority
334 West Fifth
Anchorage, Alaska 99501
277-7641
Position Statement: Explained why APA opted to use net of insurance.

John Haywood, Director
Division of Risk Management
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2180
Position Statement: Explained why Division of Risk Management supported use of net of insurance by APA.

Daryl A. Cody
Daryl A. Cody Company
201 Danner Street
Anchorage, Alaska 99502
Position Statement: Opposed to APA's use of net of insurance.

Representative Sutcliffe
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
465-3715
Position Statement: Asked questions of witnesses.

Don Koch, Director
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Explained his division's involvement in
APA's selection of method of insuring.

Kenneth Moore, Director
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position Statement: Testified with Koch regarding division's
involvement in APA's selection of method of
insuring.

Ken Vassar
Department of Law
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Explained his role in providing legal advice
to APA.

Commissioner Ernst W. Mueller
Department of Environmental Conservation
and
Vice Chairman, Board of Directors
Alaska Power Authority
Pouch O
Juneau, Alaska 99811
465-2600
Position Statement: Defended Board's decision to use net of
insurance.

PREVIOUS ACTION

There were no bills before the committee. This was an
informational meeting.

ACTION NARRATIVE

Tape #49
Recording
Number 000

The meeting was called to order by Chairman

Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, and Rogers. Rep. Randolph was absent. Representatives Cotten, Sutcliffe, Grussendorf, and Haugen also attended the meeting. Rep. Martin explained the purpose of the meeting, which was to explore policy decisions regarding sole contract of insurance by the Alaska Power Authority.

Number 015

Dick Pettinger, Alaska Chapter, Associated General Contractors, said his association represented 675 construction-related firms. He said the Chapter opposes the Alaska Power Authority wrap-up insurance program known as APCOP. Pettinger said that, nationally, the association has been opposed to this type of insurance program for years. He described stands taken by the AGC in the past.

Number 040

Pettinger asked why regulation or statute permitted a wrap-up insurance program. He asked why APA instituted the program. He said that all bids on the Tyee project included insurance costs, and asked why APA did not notify the public of their intent before imposing the program on the project. He said APA said this program would be cost saving to the rate payer.

Number 054

Pettinger said one of the contractor's tools is removed by this type of insurance program. He explained how safety factors affect the cost of insurance. He said a company with a better safety factor would normally submit a lower bid. Pettinger said APCOP penalizes the safety-conscious contractor. He said that APA assuming insurance means the contractor would not be held responsible for claims. He questioned the ability of APA to ensure proper safety procedures. He questioned the savings as a result. (Pettinger promised to provide the committee with a copy of his written testimony.)

Number 084

Pettinger said major disadvantages are that owner controlled programs are disliked by most contractors. He said administration is a disadvantage due to the length of the project and turnover of personnel. He felt insurance company agents' interests may be diverse, hence there could be a conflict of interest with one company serving all

parties. He felt this could lead to claims control problems and legal difficulties, as well. He spoke about consolidating policies. Pettinger said the true cost of insurance is often not determined for 5-7 years after completion of a project. Pettinger felt with wrap-up insurance, the owner often becomes involved in many insurance disputes that normally take place between the general contractor and the subcontractor.

Number 123

Pettinger said the best incentive for risk control lies with self insurance programs. He felt APCOP would result in the opposite. He objected to government intervention into the private sector. He requested immediate elimination of APCOP.

Number 135

Rep. Martin asked when the situation first came to his attention; Pettinger responded that it was early in November, and added that the contract was let in August. There was discussion.

Number 165

Eric Yould, Director of Alaska Power Authority, and John Haywood, Director of the Division of Risk Management, then came before the committee. Yould said that APA had two options with respect to insurance: 1) bidding under normal procedures, with the contractor providing his own insurance; or, 2) bidding net of insurance (also referred to as a wrap-up program). Yould said the Division of Risk Management provided information that indicated benefits to APA in keeping the cost of insurance premiums down if they provided their own insurance. He said it is their intent to proceed with an owner-insured program. He said the Division of Risk Management used the state's present insurance brokers to provide coverage; AGC then objected to the program.

Number 216

Yould said at the last board meeting on March 21, the issue was reviewed. Division of Risk Management came before the board and indicated advantages to the state to take part in the program. The AGC opposed this, and Jeff Barry, Labor & Commerce committee aide, posed questions. He said many of the questions presented by Barry on behalf of the Committee should have been addressed to Risk Management, and said that Risk

Management had assisted in answering the questions.

Number 238

Yould said the next project is Terror Lake. He said bid opening is planned for April 26. He said APA would request two bids from each contractor--one reflecting costs with net of insurance, and one with the owner providing his own insurance. He said the board would then decide which type of insurance to use.

Number 250

Rep. Rogers asked when bid opening for Tye Lake occurred; Yould responded it was September 25, and that the board met on October 2. Rep. Rogers asked if the bids were for net of insurance or if they included costs of insurance; Yould responded the bids included insurance, and that they subsequently requested the winning contractor to remove insurance costs from his bid. Rep. Rogers asked if the other bidders had an opportunity to respond to the bid as modified; Yould said they did not. Rep. Rogers suggested this might have created a different lowest responding bidder. Yould said there was litigation against the bid award for another reason, and that no one else litigated. He said the board went forward with the bid on October 2, but did not sign the agreement until December 2. There was discussion to clarify the dates. Haywood said the program was in place at the time the bidder was asked to back out his insurance costs. He said the contractor voluntarily agreed to back out insurance costs. After that, at Risk Management's recommendation, they felt it would make sense to draft a memorandum of agreement, but the program was in effect at that time.

Number 219

Rep. Rogers said that the state is managing the contractor's risks. Haywood said they were talking about a situation where the state has a joint interest in workers compensation, general liability, and builders risk. He said the workers compensation statute has proven that state entities are liable in the event of a claim without adequate insurance. He said that since World War II, most major public construction authority programs have been handled by wrap-up programs. Rep. Rogers referred to the statute which requires a

contractor to submit proof of workers compensation insurance at the time of bid.

Number 360

Rep. Martin said Harrison Western was the fourth lowest bidder, and that they did not comply with the law in submitting proof of insurance. Haywood said he wasn't involved in opening of the bids, but he understood that Harrison Western was the second lowest bidder. He said at the time the insurance certificates came in, the decision had been made to go with the APCOP program. Yould said he understood Harrison Western did have insurance at the time of the bid. Rep. Rogers asked if they required notice of current coverage of workers compensation prior to awarding bids. Yould wasn't certain.

Number 402

Rep. Rogers was concerned about a couple issues where APA appeared to be circumventing or violating law. He asked if interim financing had been arranged for both Swan Lake and Tyee. Yould said it was. Rep. Rogers asked what would happen if revenue bonds could not be sold and the legislature did not make an appropriation. Yould said advisors and underwriters advised that long term bonds could be issued if necessary. Rep. Rogers asked what the obligation of the state would be if bonds went to 0%. Yould said APA is liable, but that the state would not let its credit be impaired. Rep. Rogers was concerned about an agency of the state making obligations on behalf of the legislature. He asked if there would be a capital reserve account. Yould said there would be, with bond proceeds. Rep. Rogers asked if Swan Lake had received complete legislative authorization. Yould said it had. Rep. Rogers asked if it was the same interim financing issue. Yould said there was a straight bank loan. Rep. Rogers said the Authority said it wouldn't incur debt service that would make the power provided more expensive than diesel. He asked how the APA could ensure this. Yould said the legislature could change the program.

Number 480

Rep. Rogers said current law speaks to a uniform power rate. He asked, if the rate goes above the ceiling, how both the law and the contractual obligation could be met.

Yould said it was not the intent of the legislature to increase the cost of power. Rep. Rogers said the legislature required 10% of the capital costs annually unless there was \$5-billion appropriated. Yould said the cost would still be lower than the cost of diesel. He said this was analyzed, and they do not foresee a situation where the cap will come into play. He said people will always have to remain in the system to pay their share of the debt service. Rep. Rogers asked if Yould was agreeing there is a ceiling. Yould said at least on their portion of the debt service. Rep. Rogers requested clarification. Yould responded that in the event the bond market goes, up, it is questionable whether revenue bonds could be sold to cover the program.

Number 554

Rep. Rogers asked if APA has an attorney. Yould responded that Ken Vassar, Department of Law, did legal work for them. He said Vassar doesn't review all the contracts, that they have other attorneys. He said the contract was reviewed by the Department of Law under the Transportation Section, but was primarily reviewed by private counsel.

Number 575

Rep. Martin asked if Division of Insurance had been consulted. Haywood said yes. He said owner wrap-up is a common way of handling major construction projects all over the country for the past 25 years. He said Alyeska was an owner wrap-up program. He said they met with the Division of Insurance several times before going into the program. Haywood said there had been a question of whether special regulations would need to be adopted, and that it had been decided they were not. He said they set the cutoff at \$50-million projects for a wrap-up program.

Number 614

Rep. Martin asked if Commissioner Hudson had given permission for a wrap-up program. Haywood said the risks of the state of Alaska would tap a majority of the world-wide marketplace capacity. He said the contract was on the basis of professional services, and would be kept in effect for 3-5 years. He said this was done early in 1981, and that Marsh & McLennan and Coroon & Black/Dawson were selected.

Number 654

Rep. Martin asked why these companies should get paid for an insurance program when the memorandum of agreement was dated three months after the insurance coverage went into effect. Haywood said the insurance was there by October 15. Rep. Martin asked if that was when they decided Harrison Western did not have coverage. Haywood responded that their lack of insurance was not an issue, and that they did not meet other specifications. Rep. Martin asked at what time the Commissioner signed the sole source contract. Haywood said the contract was put together for Tye Lake insurance. He said insurance is a contract of "utmost good faith". He compared it to car or homeowner's insurance that is ordered by telephone. He said this was the same situation--the coverage was put into place as of 10/1, contracts followed. He said this is standard practice.

Number 734

Rep. Martin said he understood the contractor could not get insurance because they were a high insurance risk. He pointed out, in addition, that it was not a \$50-million contract. Haywood said it would be a \$90- to \$100-million contract when it was done. He said Terror Lake, with one prime contract for a \$175-million project, was a better example than Tye, which was bid in three phases.

Side B, Number 005

Rep. Rogers asked if Coroon & Black would then get the insurance contract on Tye, Terror Lake, and Susitna. Haywood said they didn't have a contract like that. Rep Rogers asked if they could extend the contract to all projects. Haywood said it was part of the selection process.

Number 027

Haywood said they need four to five months lead time to give the broker time to put together the program needed. He said they now have two projects on-line: Terror Lake and Tye. He said this is a Risk Management service, it is not separate.

Number 042

Rep. Rogers asked, since the contractor bears no cost of insurance, what is the incentive for a good safety program. Haywood says statistics show they run safer jobs. He said they build safety specs into the project, centralize safety coordinating

and facilities on the job, and report losses to the National Safety Council, so insurance modification factors continue to run. There was discussion of incentive for a good safety program.

Number 076

Haywood said the state isn't forcing safety on the contractor. He said statistics show these jobs are run safely. He said Rep. Rogers was missing the humanism. He said there are so many hidden costs related to an injury that no well-managed contractor would risk that. Rep. Rogers pointed out that a poorly-managed contractor might.

Number 111

Rep. Martin asked what public entities use wrap-up programs. He noted that it seems that private agencies are moving away from it. Haywood said wrap-ups are going as strong now as ever. He said the cutback in federal funds is slowing down major wrap-up programs. He passed out a partial list of owner-controlled programs and documented savings. (This list is available for inspection from the committee.)

Number 130

Rep. Martin asked if Commissioner Hudson signed a document to authorize this. Haywood said it went through contract review in the Department of Administration. Rep. Martin said the insurance was done after the fact. He said that, by regulation, the company selected was not qualified as it had no insurance included in the bid. Haywood said insurance was included in the bid.

Number 148

Rep. Bylsma said, in the contract with the insurance company, they provide APA and prime contractors with a safety incentive formula prior to conception. He asked how they could do this if the job was contracted before the insurance was in force. Haywood said the intention of the agreement is that language for policy be in the contract. He said it is designed for a project where language is included in the bid specification. Rep. Bylsma asked what the safety incentive formula is. Haywood responded that APA got a return of \$100,000 to use on other projects, and \$200,000 to use as incentive programs with contractors on the basis of good performance. Rep. Bylsma asked if the contractor and APA split that money. Haywood said the incentive is

based on losses.

Number 195

Rep. Bylsma said that, on 10/2, premium return was mentioned. He said he was led to believe it would come back to the state, not the contractor.

Number 215

Daryl Cody, president of Daryl A. Cody Company, a business consulting firm with offices in Anchorage and Washington state, said one of his specialties is assisting contractors in the acquisition of surety bonds and construction insurance. He listed his qualifications.

Number 250

Cody described wrap-up programs that were attempted to be instituted in Washington state in the 1960s that were stopped because what they suggested as savings was over anything they could justify. He said he has been injured by the action of APA, as they took insurance out of one of his clients' hands. He said he is co-chairman of the Insurance Taxing and Bonding Committee of the Alaska Chapter of AGC, and that he holds an office in the national AGC.

Number 280

Cody said he favors the free enterprise system. He is opposed to anything unnecessary, which is his first reason for opposing APCOP. He said it takes the normal insurance buying process away from the contractor. He said cost of insurance is a major consideration in putting bids together.

Number 297

Cody was opposed to government involvement in business where no need or purpose is served, as in this case. He said the state and the APA are in the private sector, where they aren't wanted or needed. Cody said in APA's public relations program, they said they would save money. He saw no way they could save money over the way general contractors buy their own insurance. He commented on the document which was passed out to justify use of a wrap-up plan. He said they went back 25 years to find 25 projects. He referred to one project showing a 38% savings. He said these savings have no credibility, as the base used to show savings was subject to question. He did not feel the statistics were credible. He said wrap-ups don't save

money; he believed it would cost more.

Number 360

Cody referred to APA's inference that money would stay in Alaska. He said they hired two of the largest brokers in the world, and that all the effort has been centered around the Seattle offices of those firms. Cody felt these firms could be considered non-Alaskan firms. Cody said the net of insurance does not save costs; it interferes with contractors' normal insurance buying processes; that contractual liability becomes confused because of the grey areas created by the net of insurance. He said the state is exposing itself beyond the protection of insurance, which is an additional cost.

Number 409

Rep. Sutcliffe asked if the state has liability by providing the wrap-up. Cody said they assumed a risk greater than they were insuring. There was discussion. Rep. Rogers asked if the builders risk could be larger than the state is insured for. Cody said, if for any reason coverage is denied by the carrier, the state is liable. He said the state is acting as an insurance intermediary. Rep. Bylsma asked if that would be different if the general contractor had private insurance. Cody said yes, the contract specifies the contractor is liable.

Number 470

Cody referred to exhibits attached to his prepared testimony.

Number 500

Rep. Rogers tried to clarify the order of events. Cody said the tone of the message to the contractor regarding the change order (after the court battle) was: "Here is the contract. We'll sign it if you sign the change order."

Number 550

Rep. Bylsma asked what law Washington had passed regarding wrap-up insurance. Cody said the committee has a copy of the law on file. The law prohibits an agency of state or local government in directing the purchase of surety bonds on a state or local project. He said the law was passed in 1967 or 1968.

Number 584

Rep. Sutcliffe asked, if the state of Washington had built and owned projects as Alaska will, if there was a wrap-up

insurance program and if the state couldn't totally fund the project, would there be any implication that the insurance companies would pay out so much it would reflect back on the state? Cody could not think of a situation where overall financial feasibility of projects could be affected. He believed brokers and Risk Management people capable of handling risk and risk management. He questioned their right to involve state government in private business, and the right of the contractor to protect himself as he wishes to be protected.

Number 625

Rep. Martin asked who paid for the public relations firm hired, and asked if there was any relationship between any of the board members of APA and the public relations firm hired. Cody assumed APA paid for the services. He said that, as of ten days ago, the firm was still working on the project.

Number 642

Rep. Martin announced that the hearing would be continued on Friday, when a bill or resolution might be introduced.

Number 645

Dor. Koch, Chief of Market Surveillance, Division of Insurance, and Ken Moore, Director of the Division of Insurance, came to testify before the committee. Moore said formal hearings were held in 1971 regarding the pipeline. Two years ago, when the pipeline was out and running, private enterprise approached them about having a wrap-up. As of August 26, the Division had published a worksheet of guidelines.

Tape 50, Number 003

Koch said he contacted other states to find out their attitudes toward wrap-up programs. He got very little response, and said that some did not know what it was. He commenced work last summer because of a potential wrap-up on the pipeline and on other projects. Rep. Martin said he understood there was a wrap-up on the marine ferries. Koch said there had been only one that he was aware of: the Alyeska pipeline, a private project.

Number 030

Rep. Martin asked Koch what advice he had given Risk Management and APA. Koch recalled discussions of self-insurance and wrap-up insurance. He said the discussion

was fairly general, and that he had given no advice.

Number 044 Rep. Martin asked if Koch foresaw the state being solely responsible for paying workers compensation claims. Koch was not sure. He believed that should be considered.

Number 058 Rep. Martin asked if the Division of Insurance had any overview responsibility, or if Risk Management was independent. Moore said Division of Insurance had no responsibility at all over Risk Management. Koch said they regulate provider coverage.

Number 071 Rep. Martin asked if they had evaluated the program. Koch said they had not. He said if they were directed to look at it, all they would be required to say is whether or not it covers workers. He said they don't have the expertise to say if it is an appropriate program for those circumstances; that this is not one of the Division's roles.

Number 093 Rep. Bylsma asked what effect elimination of wrap-up would have on workers compensation (he used Washington state as an example). Moore said it could have an effect. Koch said that whether compensation was a prime consideration when the legislation was created would be a factor.

Number 110 Rep. Martin asked if the Division could evaluate the policy--percentage of risk and true value to the state. Koch said they did not have the expertise, and that they would have to contract that out if they were requested to provide such an evaluation.

Number 125 Ken Vassar, attorney in the Department of Law, came before the committee. Rep. Rogers asked if he had reviewed the power sale agreement. Vassar had not. He responded to Rep. Rogers that he had not reviewed the interim financing agreement, either. Vassar said the APA has outside counsel, and he believed they had reviewed the documents in question. Rep. Rogers asked if Vassar had reviewed any of the insurance issues discussed. Vassar said he had. Rep. Rogers went over the occurrence of events:

07/27 APA met with Marsh & McLennan

08/06 Response of Marsh & McLennan with details
08/11 Bids come in
Aug/Sep APA chooses bidder
10/02 APA board meets & approves concept of APCOP
10/06 Change order issued
11/09 Press release regarding APCOP
11/23 and 12/02--sign memorandum of agreement

Vassar said this was not standard procedure. He was not familiar with the timeline. He said the decision to use the program was entered after the bid. He said this constitutes a change of circumstances. Vassar said the details came to the attention of the executive director after the bids were opened. There was discussion. Rep. Rogers asked if they were planning to review the sales agreement with Ketchikan and the interim financing agreement. Vassar said yes.

Number 190

Commissioner Ernst Mueller, vice chairman of the Board of Directors of Alaska Power Authority, said APA is a business in competition with private facilities. He feels it is his responsibility to investigate cost-cutting avenues. He said the only way to keep a cap on costs is to hire experts. Risk Management is one of their agencies used. He said decisions are rightfully in the hands of the Board. Mueller said that, at the meeting, there was sufficient justification to approve this approach. He said information to date has not changed his mind. He said the disadvantages of wrap-up insurance to general contractors are the same in the entire field of wrap-up programs, public and private. He said any decisions made about wrap-up programs should cover public and private contracts. Mueller said information to date indicates it is a good program.

Number 242

Rep. Rogers said, looking over the partial transcript of an APA board meeting, that Commissioner Webber had asked questions about board action and legislative approval, and that others had asked questions about liability, safety incentive, higher policy cost, and workers compensation; but that the Board had taken no action on these questions. Mueller said the Board could have delved more deeply into legal ramifications, and that there was no doubt

that this was an unusual procedure. He said it should have gone to bid differently, but the Attorney General did not seem to think it illegal. There was discussion.

Number 288

Rep. Rogers asked, regarding interim financing, if Mueller had ever seen the same situation (of the legislature being in a position to allow APA to default on interim financing, or approving funds to cover the financing). Mueller said he had not seen the same form. He said those building projects can't wait for a favorable bond market to do work. He said the Department of Revenue gives them money out of the general fund. He said one would have to speak to the APA Bond Council as to the processes involved. There was discussion of bonding. Rep. Rogers pointed out that there has been no legislative oversight of this project. Mueller agreed.

Number 358

Rep. Rogers asked if there were any inconsistencies in the Ketchikan power sales agreement in the ceiling versus statewide wholesale power cost rate. Mueller said they had asked Vassar to look at that to see if it conflicts with law.

Number 374

Rep. Bylsma said that, in the transcript of the 10/2 meeting, Slagle and Webber were talking about insurance when the Commissioner asked if the legislation was there. Slagle said he could not answer, "but we do it". Bylsma asked Mueller if he had questioned that. Mueller said they relied on the attorneys. There was discussion.

Number 400

Rep. Martin asked who was attending the 10/2 board meeting. Yould said he could provide a list of those attending.

Number 417

Rep. Martin noted, regarding a \$9-million contract to a Japanese firm, that \$570,000 was in advance. He asked if these monies had been authorized yet. Yould responded that they received bids to put in the submarine cable portion of Tyee. The Japanese firm was the lowest bidder. Insurance premiums have been provided for this portion of the program. Martin said this goes against the advertisement about keeping money in Alaska. He questioned

APA's procedure of insuring leased equipment but not insuring owned equipment, which would ensure that APA would get outside contractors because Alaskan contractors would own their equipment. Yould said this was to ensure that leased equipment would be insured. He said owned vehicles are already insured by the owner. Haywood said it was to insure items the owner has the greatest interest in. He said that owned equipment, vehicles, and aircraft are the contractor's responsibility. Martin said that was true, unless the contractor leases it. Haywood said to look at Tyee; they were concerned about someone grabbing a private plane or boat, crashing, and having no insurance. He said this could come back to the owner. Rep. Rogers said then it would make sense to rent or lease equipment, and that this would have an impact on future bids. He said there would be no reason to use one's own equipment, because the bid would be higher because of insurance on the equipment. Mueller disagreed, saying it would depend on the individual situation. Haywood said Tyee was not handled like a normal project. He said there was perhaps a valid concern regarding the conflict with competitive bid contracts. He referred to a companion program in place for contractors to use if they wished; the attorneys were not sure if insurance would affect low bids, so they elected to include subcontractors. He said they are not including aviation and watercraft coverage on future projects. There was discussion.

Number 597

Rep. Martin asked if the Japanese firm owned its equipment for cable laying. Haywood said it was leased on a time charter. Rep. Martin asked if the insurance covered them to and from the job. Haywood said it would cover marine exposure while bringing the cable to the jobsite.

Number 619

Rep. Bylsma questioned the length of the insurance contract. Haywood said there was no date because they were not sure when the exposure would end. Rep. Bylsma asked if they were insuring for the length of the program. Haywood said yes, that it was the same situation as when asking for a fixed price bid. He said change orders could increase or decrease the costs.

Number 654

Rep. Rogers said, regarding bids on various projects, that the difference between leased or owned equipment could make a difference in lowest bidder.

Number 678

Rep. Martin asked Mueller and Yould to clarify what legislation is needed to clarify this situation and make it legal. He said committee staff would prepare the opposite point of view. Yould said nothing precludes entering this type of program in Alaska. Vassar said the authority is broad enough under present law. Rep. Martin requested citation of specific authority. Vassar said nothing in the law expressly authorizes it; that it is general authority. There was discussion. Mueller said they asked many questions, wanting to clarify in their minds and ascertain if they had authority. There was more discussion.

Side B, Number 008

As Rep. Martin had announced that the hearing would be continued on Friday, April 2, and as there were no further witnesses wishing to testify, the meeting was adjourned at 3:35 p.m.

Absent:
Hardiner

4/2/82

Tape #

MTg w/APA + Dwr. Risk Mgmt

12:58

000

Call to order. M said had opp to evaluate problem.

Read stmt of committee's ~~to~~ ^{position} & presented CSSB 831,
with addn making wrap up pgms illegal. Requested
AAA

027

Rogers moved to report CSSB 831 out. Discussion.

No obj, motion passed.

038

1:02

Adjourned.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 4/2/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	_____ ✓ _____	_____	12:55	
Rep. D. Randolph	_____ ✓ _____	_____	12:56	
Rep. B. Rogers	_____ ✓ _____	_____	12:55	
Rep. T. Gardiner	_____ _____	_____ ✓ _____		
Rep. T. Martin, Chair	_____ ✓ _____	_____	12:55	

Subject Matter:

House Bill No. _____

Senate Bill No. _____

Special Orders:

SB 831 SENATE ACTION
DATE SEQ PAGE

03/04/82 01 0454
03/18/82 02 0605
03/22/82 03 0638

03/22/82 04 0643
03/22/82 05 0643
03/22/82 06 0643
03/22/82 07 0643

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SB 831 HOUSE ACTION
DATE SEQ PAGE

03/22/82 08 0885
04/02/82 09 1048
04/02/82 10 1048

**** ** **

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LEGISLATIVE ACTION

FIRST READING -- COMMITTEE REPORTS

LAC -- DP04

RLS -- OTHER03

TAKEN UP IMMEDIATELY

SECOND READING

ADVANCED TO 3RD READING BY UNAN CONSENT

THIRD READING

PASSED BY DIV 16-00-04

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LEGISLATIVE ACTION

FIRST READING -- COMMITTEE REPORTS

LAC -- DP04

F/NOTE EQUALS ZERO

RULES

RULES

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