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66

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST 3/25/83 Draft
Bill/Resolution No.: CSSE 66 (L&C)
Title: relating to insurance
Sponsor: S. L&C
Requestor: S. L&C

II. FISCAL DETAIL
Agency Affected: Commerce & Ec. Dev
Program Category Affected: Public Prot.
BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Source)		0	0	0	0	0

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director
Division: Insurance

Phone: 465-2515
Date: 3/25/83

Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development

Date: 3/25/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Original sponsor: Rules/Governor

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IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 66 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to insurance."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 21.39.155(a) is amended to read:

(a) The director may require carriers, except a reciprocal insurer formed under AS 21.75, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

* Sec. 2. AS 21.75.050 is amended by adding a new subsection to read:

(c) A domestic reciprocal insurer formed under this chapter by ~~two or more municipalities~~ ^{two or more municipalities} shall ⁽¹⁾ comply with (a) of this section or post a bond for an amount equal to the capital that would be required of a domestic stock insurer writing the same lines ^{of insurance} for which the reciprocal insurer seeks to be authorized, and ⁽²⁾ ~~have and~~ maintain a surplus of \$250,000 or a surplus sufficient to operate the reciprocal insurer for one year, whichever is greater.

* Sec. 3. AS 21.75.060(a) is amended to read:

(a) Two [TWENTY-FIVE] or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

* Sec. 4. AS 21.75 is amended by adding a new section to read:

Sec. 21.75.340. DEFINITIONS. In this chapter "municipalities" means a general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class

1 borough, incorporated under the laws of the state.

2 * Sec. 5. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by ^{municipalities} ~~the state or political subdivision of the~~
5 ~~state~~, public utilities, the Medical Indemnity Corporation of Alaska,
6 and the Health Care Providers Joint Underwriting Association estab-
7 lished under AS 21.88.010 - 21.88.900, who

8 (A) writes any kind of insurance to which AS 21.80.-
9 010 - 21.80.190 apply under AS 21.80.020 including the exchange
10 of reciprocal or inter-insurance contracts, and

11 (B) is licensed to transact insurance in this state;

Sofa
3-14-83

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 66 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 21.39.155(a) is amended to read:

9 (a) The director may require carriers, except a reciprocal
10 insurer formed under AS 21.75 ~~(AS 21.39.155(a))~~ as a condition of
11 writing a line of insurance dealing with workers' compensation, to
12 participate in an assigned risk pool if the director finds that manda-
13 tory carrier participation is in the public interest.

14 * Sec. 2. AS 21.75.050 is amended by adding a new subsection to read:

15 (c) A domestic reciprocal insurer formed under AS 21.75.010 -
16 21.75.330 or ~~AS 21.39.075(b)~~ by the ~~state or a political subdivision~~
17 of the state shall comply with (a) of this section or post a bond for
18 an amount equal to the capital that would be required of a domestic
19 stock insurer writing the same lines for which the reciprocal insurer
20 seeks to be authorized and have and maintain a surplus of \$250,000 or
21 a surplus sufficient to operate the reciprocal insurer for one year,
22 whichever is greater.

23 * Sec. 3. AS 21.75.060(a) is amended to read:

24 (a) Two [TWENTY-FIVE] or more persons domiciled in this state
25 may organize a domestic reciprocal insurer and make application to the
26 director for a certificate of authority to transact insurance.

27 * Sec. 4. AS 21.75 is amended by adding a new section to read:

28 Sec. 21.75.340. DEFINITIONS. In this chapter "state" or "poli-
29 tical subdivision of the state" means a department, agency, or office

AS 29.78.010(8)

1 of the state, borough, city, village, or school district, including
2 the University of Alaska.

3 * Sec. 5. AS 21.80.180(6) is amended to read:

4 (6) "member insurer" means a person, except an assessable
5 reciprocal insurer formed by the state or ^{municipality} political subdivision of the
6 state, public utilities, the Medical Indemnity Corporation of Alaska,
7 and the Health Care Providers Joint Underwriting Association estab-
8 lished under AS 21.88.010 - 21.88.900, who

9 (A) writes any kind of insurance to which AS 21.80.-
10 010 - 21.80.190 apply under AS 21.80.020 including the exchange
11 of reciprocal or inter-insurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 6. AS 23.30.075 is repealed and reenacted to read:

14 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
15 under this chapter, unless exempted, shall either insure and keep in-
16 sured for the employer's liability under this chapter in an insurance
17 company or association duly authorized to transact the business of
18 workers' compensation insurance in this state, or shall furnish the
19 board satisfactory proof of financial ability to pay directly the
20 compensation provided for. If an employer elects to pay directly, the
21 board may, in its discretion, require the deposit of an acceptable
22 security, indemnity or bond to secure the payment of compensation
23 liabilities as they are incurred.

24 (b) Under regulations adopted by the board, two or more munic-
25 ipalities may enter into an agreement to organize a self-insurance
26 group in order to pool their liabilities under this chapter. As used
27 in this subsection, "municipality" has the same meaning as set out in
28 AS 29.78.010.

29 (c) An employer who fails to insure and keep insured employees

1 subject to this chapter or fails to obtain a certificate of self-
2 insurance from the board, upon conviction, is punishable by a fine of
3 not more than \$1,000, or by imprisonment for not more than one year,
4 or by both. If an employer is a corporation, and an injury or death
5 occurs at a time when the corporation is not insured or certified as a
6 self-insurer, then all persons who, at the time of the injury or
7 death, had the authority to insure the corporation or apply for a cer-
8 tificate of self-insurance are subject to the penalties set out in
9 this subsection and are personally, jointly, and severally liable to-
10 gether with the corporation for the payment of all compensation or
11 other benefits for which the corporation is liable under this chapter.

12 * Sec. 7. AS 23.30.265(19) is amended to read:

13 (19) "self-insurer" means an employer who, instead of
14 insuring his liability under this chapter [AS IT PROVIDES], elects to
15 pay directly the compensation provided for, and who has furnished to
16 the board satisfactory proof of his financial ability to make the
17 direct payments; the term includes a member of a municipal self-insur-
18 ance group;
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Introduced: 1/24/83
Referred: Labor and Commerce
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 66

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal self insurance for
7 workers' compensation."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 23.30.075 is amended to read:

10 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
11 under this chapter, unless exempted, shall either insure and keep in-
12 sured for his liability under this chapter in an insurance company or
13 association duly authorized to transact the business of workers' com-
14 pensation insurance in this state, or shall furnish the board satis-
15 factory proof of his financial ability to pay directly the compen-
16 sation provided for. If an employer elects to pay directly, the board
17 may, in its discretion, require the deposit of an acceptable security,
18 indemnity or bond to secure the payment of compensation liabilities as
19 they are incurred.

20 (b) Under regulations adopted by the board, two or more munic-
21 ipalities, ^{or public utilities} may enter into an agreement to organize a self-insurance
22 group in order to pool their liabilities under this chapter. As used
23 in this subsection, "municipality" has the same meaning as set out in

24 AS 29.78.010, and "public utility" means a public utility,
25 certificated under AS 42.05.221 - 42.05.241.

26 (c) An employer who fails to insure and keep insured employees
27 subject to this chapter or fails to obtain a certificate of self-
28 insurance from the board, upon conviction, is punishable by a fine of
29 not more than \$1,000, or by imprisonment for not more than one year,
or by both. If an employer is a corporation, and an injury or death

1 occurs at a time when the corporation is not insured or certified as a
2 self-insurer, then all persons who, at the time of the injury or
3 death, had the authority to insure the corporation or apply for a cer-
4 tificate of self-insurance are subject to the penalties set out in
5 this subsection and are personally, jointly, and severally liable to-
6 gether with the corporation for the payment of all compensation or
7 other benefits for which the corporation is liable under this chapter.

8 [IF AN EMPLOYER IS A CORPORATION, ALL PERSONS WHO, AT THE TIME OF THE
9 INJURY OR DEATH, HAD AUTHORITY TO INSURE SAID CORPORATION OR APPLY FOR
10 A CERTIFICATE OF SELF-INSURANCE, AND THE PERSON ACTIVELY IN CHARGE OF
11 THE BUSINESS OF SUCH CORPORATION SHALL BE SUBJECT TO THE PENALTIES
12 PRESCRIBED HEREIN AND SHALL BE PERSONALLY, JOINTLY, AND SEVERALLY
13 LIABLE TOGETHER WITH THE CORPORATION FOR THE PAYMENT OF ALL COMPEN-
14 SATION OR OTHER BENEFITS FOR WHICH THE CORPORATION IS LIABLE UNDER
15 THIS CHAPTER IF SAID CORPORATION AT SUCH TIME IS NOT INSURED OR QUAL-
16 IFIED AS A SELF-INSURER.]

17 * Sec. 2. AS 23.30.265(19) is amended to read:

18 (19) "self-insurer" means an employer who, instead of
19 insuring his liability under this chapter [AS IT PROVIDES], elects to
20 pay directly the compensation provided for, and who has furnished to
21 the board satisfactory proof of his financial ability to make the
22 direct payments; the term includes a member of a municipal *or public*

23 *utility*
24 self-insurance group;

LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 66

Title "An Act relating to municipal self insurance for workers' compensation."

Requested by Rules Committee Date 1/7/83

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Admin. of Workers' Compensation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (see Fiscal Note Preparation Instruction, Section III)

No fiscal impact.

IV. DATE January 7, 1983

PREPARED BY Jacqueline L. McClintock
AGENCY Labor

ALASKA STATE LEGISLATURE - SENATE



SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835
—
POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

MEMORANDUM

TO: Senator Don Bennett, Co-Chair
Senator John Sackett, Co-Chair
Senate Finance Committee

FROM: Senator Dick Eliason, Chair
Senate Labor and Commerce Committee

DATE: May 9, 1983

RE: CSSB 66(L&C)---"An Act relating to insurance."

CSSB 66(L&C) allows the formation of a group of individuals interested in providing group self-insurance. These entities would participate in a reciprocal form of insurance and would be regulated by the Division of Insurance in the Dept. of Commerce and Economic Development.

The Alaska Rural Electric Cooperative Association, Inc., has a particular interest in this legislation. Since January 1, 1980, ARECA has successfully operated a group-self insurance certificate issued by the Workers' Compensation Board. However, in April of 1982, an Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes, it could be interpreted that group self-insurance was not authorized in this state. CSSB 66(L&C) allows group self-insurers to form and to operate in Alaska.

Passage of this legislation would permit ARECA and other organizations such as municipalities, to offer this cost-saving insurance benefit to its members. I request that the Finance Committee consider this legislation at your earliest convenience.

Thank you for your consideration.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 66 (L&C)
 Title: relating to insurance
 Sponsor: Labor & Commerce Comm.
 Requestor: Labor & Commerce Comm.

II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
 Division: Insurance Date: 4/6/83
 Approved by Commissioner: Richard A. Lyon Date: 4/8/83
 Department: Commerce & Economic Development

Distribution:

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3/8/83

COMMITTEE REPORT

SENATE

1/24/83

FURTHER: FINANCE

Date: 3/21/83

Mr. President:

The Committee on LABOR & COMMERCE has had S 60

An Act relating to municipal self insurance for workers' compensation

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 16 same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

[Handwritten signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Handwritten signature]

[Handwritten signature]

CHAIRMAN

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 29, 1983
1:00 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: *Senator John Sackett
Senator Don Bennett

*Senator Sackett arrived within the first twelve minutes of the meeting.

COMMITTEE CALENDAR

CSHB 15(Loans)am

"An Act relating to commercial fishing loans (AS 16.10.300-
AS 16.10.370); and providing for an effective date."

SB 66

"An Act relating to municipal self insurance for workers' compensation."

1:30 TELECONFERENCE--Alaska Transportation Commission Sunset Review

SB 184

"An Act extending the termination date of the Alaska Transportation
Commission; and providing for an effective date."

WITNESS REGISTER

(CSHB 15)

Rep. Rick Uehling, Chair

House Loans Committee

Pouch V

Juneau, Alaska 99811

465-4821

Position statement: Discussed Letter of Intent

Rep. Peter Goll

Pouch V

Juneau, Alaska 99811

465-4925

Position statement: Discussed legal aspects of collection provisions
and residency.

Rep. Adelheid Hermann

Pouch V

Juneau, Alaska 99811

465-4942

Position statement: Expressed support for specific provision of HB 15.

Don Hostack, Director, Div. of Business Loans and Veterans' Affairs
Pouch D
Juneau, Alaska 99811
465-2510

Position statement: Provided specific information from Loan Division perspective.

(SB 184--ATC SUNSET REVIEW)

Bill Schneider, Associated General Contractors
Box 4-2500
Anchorage, Alaska 99501
276-5354

Position statement: Testified in opposition to SB 35 (not on calendar, but relates to SB 184).

Andy Hoge, Attorney representing Alaska Truckers Association
437 E, Suite 500
Anchorage, Alaska 99501
276-1726

Position statement: Supports continuation of ATC.

John Ulsher
6901 Dickerson Drive
Anchorage, Alaska 99501
337-7876

Position statement: Supports sunset of ATC.

Jay Bynum
Cordova, Alaska
(No address provided by teleconference network.)

Joe Gilbertson
Fairbanks, Alaska
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

James Bishop, Bishop Brothers Inc.
Box 2989
Kenai, Alaska
262-4245
Position statement: Does not support ATC as functions now.

Arthur Robinson
Box 3519
Soldotna, Alaska
262-9164
Position statement: Supports sunset of ATC.

Tim Gunderson
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

George Carter
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

Lois Cook, Director, Div. of Administrative Services
Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2505
Position statement: Department favors extension of ATC for one year.

The testimony of the following witnesses was not teleconferenced.

Charles Cole, Attorney (represents Alaska Interior Airways)
Fairbanks, Alaska
Position statement: Supports continuation of ATC.

Jim Wilson
P. O. Box 629
Juneau, Alaska 99802
586-3420, 586-6358
Position statement: Supports sunset of ATC.

PREVIOUS ACTION

(Senate Labor and Commerce only.)

SB 66: Please refer to Labor and Commerce Committee Minutes for Feb. 10 and March 24, 1963.

ACTION NARRATIVE

Tape #15
Side 1
Number 010

Senator Eliason called the meeting to order with members Senator Mulcahy and Senator Rodey in attendance. The first item on the agenda was CSHB 15(Loans)am, relating to fishing loans. The committee members considered a work draft of a Labor and Commerce Committee substitute.

Rep. Rick Uehling, Chair of the House Committee on Loans, testified on HB 15, dwelling on the Letter of Intent which was added as the bill passed out of the House. Because the fishery is seasonal, they feel that a two year residency requirement is legally defensible. At the request of the Chair, he also touched on the letter of intent as it relates to severability of that requirement should it be struck down in the courts, and he addressed the acceleration clause providing for immediate payback of the loan upon the borrower's ceasing to reside in the state. Rep. Uehling cited supportive documents from Attorney General Norm Gorsuch and from the Department of Law.

Number 238

Senator Sackett's presence was noted for the record.

Number 256

Rep. Peter Goll testified on CSHB 15, concentrating his testimony on the requirements outlined in the bill. He stated that chances of loan repayment are increased by the requirement that the loan recipient have three years of active fishing experience. He also discussed the continuing residency requirement (and accelerated repayment provision), the intent of which is that Alaska subsidized loans be directed to Alaska residents; he defended this aspect of the legislation with regard to legal questions which have been suggested, using documents from Legal Services and the Attorney General.

Number 464

Rep. Adelheid Hermann testified on CSHB 15, stating support for the remarks made by Rep. Goll, including his remarks on the severability clause. She had asked that House Research Agency staff to research whether or not California, Oregon or Washington had fishing loan programs now or in the past, and the result was that none of them had. She also posed a question, which she would like answered by the department administering the loan program, concerning whether or not they were actively engaged, or intended to engage in, an outreach program for the fishing loan program as discussed in the past.

Number 505

Don Hostack, Director of DCED's Division of Business Loans and Veterans Affairs, testified on CSHB 15, asked what residency requirement the Division would use to make loan determinations if the two year requirement were severed from the legislation. Senator Rodey responded that the Attorney General would offer guidance as the legal counsel for the Division, and that the existing two year requirement would be followed until ruled out by a court of competent jurisdiction. Mr. Hostack responded to questions from committee members about the fishing loan program concerning loans to rural area residents, termination of Alaska residency, and fraud investigation.

Number 647

(Senator Sackett left the meeting.)

Number 652

The committee took up Senate Bill 66, which had received previous hearings, and for which a Labor and Commerce Committee substitute had been prepared.

Number 705

Senator Eliason recessed the meeting in order to recover a quorum to do business on SB 66.

Number 707

Senator Eliason called the meeting to order to begin the teleconference on the Sunset Review of the Alaska Transportation Commission.

Bill Schneider (Anch), with the Associated General Contractors, testified in opposition to Senate Bill 35, a measure merging the APUC and the ATC. Senator Eliason pointed out that SB 35 was not calendered for discussion. (Teleconference network had accidentally sent SB 35 as part of package pertinent to the teleconference.)

Andy Hoge, attorney who represents Alaska Truckers Association, testified in favor of SB 184 and continuation of the Alaska Transportation Commission. He believes that the legislature should look closely at the performance review done by Legislative Audit, and said that as written testimony had already been submitted he would not read his statement. The Alaska Trucker's Association maintains that the ATC should be extended for four years and should concentrate effort in problem areas. The ATC should receive the money required to do their job.

Tape 15
Side 2
Number 6

Senator Rodey asked if Andy Hoge would favor an interim look at ATC by the Legislative Budget and Audit Committee, to which Hoge responded that a one or two year "sunset" disrupts the activity of the agency.

Number 62

Members of the committee reverted to SB 66, concerning municipal self-insurance for workers' compensation. Senator Rodey moved that the Labor and Commerce Committee Substitute for SB 66 be passed out of committee with individual recommendations. There being no objection it was so moved.

Number 81

John Ulsher (Anch) testified on the Alaska Transportation Commission, stating that he did not own a truck, but that it seemed that the trucking regulations were written for one reason, and accomplish another. He feels that the Commission has failed totally to accomplish the purpose for which they were created (among other things, to prevent cutthroat competition and protect the public). He touched on the subject of safety ("the responsibility of the owner") and stated that the Alaska Truckers' Association should sell its services to members (who would join Trucking Association) in a form of cooperative shipping; this would best serve the consumer. Does not support continuation of ATC as now functioning.

Jay Bynam (Cordova), owner of Bynam and Sons Towing, concurs with ATA (Alaska Truckers Association) in that a four year extension of ATC benefits all. To discontinue the ATC would open the way for cutthroat competition. Some regulation and control, he believes, is necessary.

Joe Gilbertson (Fairbanks) began his testimony with a brief history of transportation in Alaska, stating that Alaska always had a stable trucking industry. He favors termination of the ATC. Watching "what they were set up to do and what they actually do" he finds their activity "counterproductive all the way around" and believes they participate in restraint of trade. There are already too many state agencies, and he sees better ways to spend the money. He feels we can control and regulate better in a free-market society.

Number 370

J. Bishop (Soldotna), Chairman of the Board of Bishop Brothers, Inc., (primarily involved in seafood transport), does not support ATC as it is currently functioning. The theory of ATC is that it should protect a fragile Alaskan economy, and it seems necessary for someone to protect the public need for year-round transportation capability. That same mechanism should insure against industry practices which are contrary to the public interest. And it is in practice, and specifically regarding that last element, "which I feel that the ATC has failed miserably in its responsibility to protect the people of Alaska from monopolistic practices within air transportation in the state." Mr. Bishop further stated that the ATC should continue to operate only under circumstances where "they are moving against an entity with too much power in the state".

Number 530

Arthur Robinson (Soldotna), an attorney from the Kenai Peninsula, testified in support of allowing the ATC to terminate, as they are more concerned with the protection of established economic interests, like the air carriers, without regard to public needs. He suggested the creation of a public agency just to handle safety matters now handled by ATC, and to provide a protest forum in Alaska for what is basically a monopoly in the state.

Tim Gunderson (Fairbanks) is a twelve year resident involved in the trucking industry. He has been a Teamster for carriers in the state, and has been an owner-operator, and shareholder in an Interstate trucking company. At one time he might have supported continuation of the ATC, but, having been involved, he is today opposed to extending their ability to operate. Transportation should be on a competitive basis: the public is the best judge. A person who is insured and can show competency should be allowed to go into business. He urged the committee not to extend the termination date of the ATC.

Number 728

Richard Asay (Anchorage) testified in support of continuation of the ATC, which is helpful in keeping a vital transportation industry in the state. He has been in the trucking industry in Alaska for more than twenty years, and does not feel that deregulation is the answer.

Number 746

George Carter (Fairbanks), an 8½ year resident involved in trucking since 1968, does not support extension of the ATC, and would like to see it done away with.

Number 760

Lois Cock (Juneau), Director of the Dept. of Commerce and Economic Development's Division of Administrative Services, presented the department's position on the Alaska Transportation Commission. The department recommends the ATC be extended for a one year period in order to allow the department the opportunity to conduct a performance review. The review would assess the effect of deregulation which would take place if the ATC were allowed to terminate. The review would assess and provide for a motor safety program (including insurance) and would determine the effect of ATC termination on essential air service.

(NO FURTHER TESTIMONY WAS TELECONFERENCED.)

Charles Cole (Juneau), an attorney from Fairbanks, wished to testify on the ATC "but not necessarily teleconferencing". Therefore, the teleconference was concluded, and Mr. Cole, representing Alaska Interior Airways, testified in support of continuation of the ATC. He has, for twenty six years, been representing air carriers in Alaska. Prior to statehood the authorities consisted of the Civil Aeronautics Board and the International Commerce Commission. Those that called the shots were those who could afford to go to D.C. and woo the Federal authorities.

Number 84½

Mr. Cole provided a historical sketch of air transportation in Alaska, from territorial days to the present, touching on the Alaska Air Commerce Act of 1960, which provided some state regulation of commerce and transportation. He strongly recommends perpetuation of the Alaska Transportation Commission for four years. He pointed out that air transportation in Alaska has developed technologically and commercially over the years.

Tape 2
Number 010

Mr. Cole described what he perceives as the negative aspects of deregulation, stating that bankers will not finance airplanes in the presence of the spectre of deregulation, and that if there was no state agency to grant regulatory authority, we would lose that authority. He feels that regulation of air commerce has been a good thing, by and large, given the developments of the last several years.

Number 146

Mr. Cole responded to a previous speaker's charges that AIA had received favored treatment by the ATC, and offered a rebuttal to allegations of favoritism resulting in AIA having a monopoly. He concluded his testimony by emphasizing the need for stability in air commerce in Alaska, and the need to chart our own destiny. "Somebody has to look

out for the little guy", and AIA favors continuing the Alaska Transportation Commission for four years.

Number 310

Jim Wilson provided final testimony on the Alaska Transportation Commission, describing himself as a "local little guy" trying to get into the business and having trouble doing it. He favors "allowing the sun to set on the ATC." Now that there is an Aeronautics Act, the ATC has outlived its usefulness. He stated that three years ago he "worked for the big guys" and would have testified on the other side of the issue. He cited problems with restrictions on contract carriers in Alaska. He cited various problems he perceives with regulation, and described the current ATC as "political". He does not favor continuation of the ATC (as it is). Mr. Cole and Mr. Wilson conducted a brief dialogue.

Number 560

There being no further testimony, Sen. Eliason adjourned the meeting.

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 24, 1983
1:35 p.m.

Members Present: Sen. Dick Eliason, Chair
Sen. Bob Mulcahy
Sen. Pat Rodey

Members Absent: Sen. John Sackett*
Sen. Don Bennett

*Sen. Sackett arrived three minutes after the meeting was called to order.

COMMITTEE CALENDAR

SB 171

"An Act relating to compensation of state officials and employees."

SB 66

"An Act relating to insurance."

HB 224 (efd. added)

"An Act relating to the board of nursing; and providing for an effective date."

CSHB 218(Finance)

"An Act relating to the Board of Marine Pilots; and providing for an effective date."

WITNESS REGISTER

(SB 171)

Senator John Sackett

Pouch V

Juneau, Alaska 99811

465-3753

Position statement: Prime sponsor of SB 171; provided supportive testimony.

Cherie Shelley, Alaska Public Employees Association

340 N. Franklin St.

Juneau, Alaska 99801

586-2334

Position statement: Suggested clarification of language of bill to alleviate conflict with PERA.

(SB 66)
Don Koch, Division of Insurance, (DCED)
Pouch D
Juneau, Alaska 99811
465-2577

Position statement: Department of Commerce and Economic Development thinks it seems "a fair bill". Don Koch provided section-by-section explanation of proposed committee substitute.

Mike Thomas, American Insurance Association
Box 1211
Juneau, Alaska 99802
586-3340

Position statement: Proposed CS responds to most concerns; outlined remaining problem areas.

Dave Hutchens, Alaska Rural Electrification Cooperative Association
237 Fireweed, #301
Anchorage, Alaska 99503

Position statement: Draft (of CS) a product of compromises, would like to see Section 5 amended.

(HB 224)
Sammye Rink, President, Board of Nursing
c/o Occupational Licensing, (DCED)
Pouch D

Juneau, Alaska 99811
Position statement: Spoke in support of continuation of Board of Nursing and HB 224.

PREVIOUS ACTION
(Senate Labor and Commerce Only)

SB 66: Please refer to Senate Labor and Commerce minutes for Feb. 10, 1983.

ACTION NARRATIVE

Tape #14
Number 008

Senator Eliason, Chair, called the meeting to order at 1:35 with members Sen. Mulcahy and Sen. Rodey in attendance. He outlined the agenda and the committee took up Senate Bill 171, concerning compensation of state officials.

Number 040

Senator Eliason asked that the record reflect the presence of Senator Sackett.

Number 054

Senator Eliason explained that, due to a technical error, SB 171 had been printed incorrectly, and lacking the last section. The corrected version of the bill has been made available and is before the committee. Senator Eliason summarized the intent of SB 171 and invited Senator Sackett, prime sponsor of SB 171, to further explain the measure. Senator Sackett stated that he introduced the bill as a result of a number of things which occurred this year. He said that a number of state salaries have passed the \$100,000 figure. At some point there must be a "reduction in amounts and total services...it is my feeling that a lid has to be put on it." Senator Sackett stated that it seemed that the most obvious limitation should be the salary of the chief executive officer (Governor). He cited information before the committee which listed the State positions (in all branches of government and the University of Alaska) for which salaries exceed that of the Governor.

Number 100

Sen. Eliason noted that a fiscal note accompanied SB 171. Sen. Sackett explained that this was attributable to the last section of the bill, which provides for conducting an annual cost of living survey. Sen. Sackett noted that what he is trying to do in other legislation is to put all state programs under a single system with reference to a cost of living differential to be considered in establishing pay ranges. SB 171 is consistent with that goal.

Number 170

Sen. Rodey and Sen. Sackett discussed application of SB 171 to highly paid, technical tradespersons and professionals employed by the state.

Number 220

Sen. Sackett concluded his remarks by noting that allowances had to be made for such employees, however the bill addresses the positions in which an employee has a \$95,000-\$100,000/year salary, plus auto, plus expense accounts bringing it up to as much as \$120,000, and a lid has to be put on it.

Number 255

Cherie Shelley, representing the Alaska Public Employees' Association, stated that the language of SB 171 is contrary to PERA (Public Employment Relations Act) which provides that employees may bargain for all conditions of employment. APEA represents probably fewer than 12 people who would be affected by the bill, most of whom live in the Bush, (e.g. Nome has 9 step cost of living differential, and employee has longevity increase) and some of whom receive overtime. The bill is not clear on whether provisions would apply to overtime, or just base monthly salary. She asked that the measure identify what constitutes a base salary. She noted that University employees are not in classified service, and suggested that the bill could state that it does not apply to classified employees (represented by APEA). With respect to the Cost of Living differential, Cherie Shelley stated that APEA contracts follow what is in statutes set forth by legislature.

Number 362

Sen. Rodey asked Cherie Shelley how accurate the Bureau of Labor statistics were for this purpose, to which she responded that they were pretty accurate and done more than once a year.

Number 376

Sen. Rodey moved that the bill be passed from committee with individual recommendations. There being no objections, it was so moved.

Number 390

Senate Bill 66, relating to insurance, was taken up for consideration.

Sen. Elason reviewed committee action on SB 66 at the Labor and Commerce hearing February 10, 1983, when testimony had been received from several parties. The committee had asked that certain members of these factions work together to resolve disagreements and develop language for a proposed committee substitute. The proposed committee substitute was taken up at this March 24 meeting.

Number 398

Don Koch, from the Division of Insurance, produced a letter from Commissioner Dick Lyon giving the Department's (Commerce and Economic Development) position on SB 66 and outlining the changes they wished to see incorporated in the substitute measure. The proposed CS continues the regulation of insurers (group self-insurers) in the insurance code, and applies the requirements for formation of an insurer to a group of municipalities. The requirements that would apply to municipalities, as well as public utilities, have been eased. (The Department's changes were incorporated in the proposed CS.) They believe "that this is a reasonable stance which provides adequate public protection for claimants and policyholders." Don Koch said that he was not sure everybody was happy with it, but that it seems a fair bill. He then walked committee members through a section-by-section analysis of the proposed committee substitute.

Number 444

Don Koch's sectional analysis touched on the following points:

Section 1: Removes reciprocal insurers from assigned risk pool.

Section 2: Aimed at municipalities; reduces financial requirements by permitting the use of a bond in lieu of cash surplus and by reducing the amount of operational surplus necessary.

Section 3: Reduces the number of entities required to form a reciprocal insurer.

Section 4: Defines "municipality" (not defined in Insurance Code).

Section 5: The subject of controversy---Amends statute to except from the definition of "member insurer" the reciprocal insurers formed by municipalities and public utilities. Exempts certain reciprocals from the Guaranty Association.

Number 600

Mike Thomas, representing the American Insurance Association, testified on SB 66, and presented a letter from the law firm of Monagle, Eastaugh, and Bradley on behalf of AIA; the letter contained a statement of policy on proposals of this type (which create new entities which are self-insurers). He stated that many questions which arose during the Feb. 10 hearing are handled by the proposed substitute. The following are not: AIA feels that by exempting reciprocals from the "assigned risk" pool, commercial insurers are bearing the burden of this "residual market mechanism", in addition to losing the part of the market which makes up the new reciprocals. AIA also disagrees with the portion of the proposed CSSB 66 which provides that some reciprocals are exempt from the Guaranty Association (Section 5); perhaps a separate solvency mechanism for self-insureds and proposed municipal reciprocals should be considered. AIA also feels that with respect to formation of a reciprocal, 10 entities should be a minimum requirement, rather than the two proposed in the CS.

Number 744

Dave Hutchens, representing the Alaska Rural Electrification Cooperative Association, provided testimony on SB 66, stating that the draft CS is a product of compromises. He went through the bill providing a sectional commentary, dwelling primarily on Section 5: he stated that he had not been aware of the provisions proposed in Section 5 concerning public utilities, and would like to see the language amended to address remaining concerns. He would most of all like to see the bill move from committee.

Number 800

Committee members acknowledged Dave Hutchens concerns with the bill, and agreed to have the CS redrafted to reflect accommodation of those concerns. The new section excepts reciprocal insurers formed by municipalities or public utilities from the definition of "insolvent insurer" in AS 21.80.180.

There was no further discussion of SB 66. The redrafted CS would be ready for committee action at the next meeting.

Number 820

The next item on the agenda was HB 224, providing for the extension of the operation of the Board of Nursing, which is up for "sunset" review. Sammie Rink, President of the Board of Nursing, provided brief testimony, indicating that the Board had attempted to reach goals and objectives suggested by the Legislative Budget and Audit Committee in an audit released four years ago, and had succeeded in almost every area. The goals which they failed to reach, cited in the recent audit, were not accomplished due to lack of funds, specifically, \$16,000 they needed for a survey in order to complete their regulations.

Sen. Mulcahy moved that HB 224 be passed from committee with individual recommendations. There being no objections, it was so moved.

The committee took up HB 218, providing for the extension of the Board of Marine Pilots. The Committee had already heard testimony on this matter when SB 145 came before the committee for consideration on March 10. Harry Treager, from the Division of Occupation Licensing, had expressed a willingness) to testify further if the committee members wished.

Sen. Rodey moved that HB 218 be passed from committee with individual recommendations. There being no objections, it was so moved.

Sen. Eliason adjourned the meeting.

SENATE LABOR & COMMERCE
STANDING COMMITTEE
February 10, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SB 66 "An Act relating to municipality self insurance for worker's compensation."

WITNESS REGISTER

Dave Hutchens, Executive Director
Alaska Rural Electric Cooperative Assn, Inc.
237 E. Fireweed, #301
Anchorage, Alaska 99504
586-2660

Position Statement: Supports measure as introduced and proposed amendment.

Jackie McClintock, Workers' Compensation Division
Department of Labor
P. O. Box 1149
Juneau, Alaska 99811
586-2790

Position Statement: No objection to concept, however questions where (what agency, division) best administered.

Don Koch, Insurance Division (Chief of Market Surveillance
section)

Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2577

Position Statement: Takes issue with SB 66; if passed as is, it would create conflict in law.

Marilyn Miller, Alaska Municipal League
204 N. Franklin
Juneau, Alaska 99801
586-1325

Position Statement: Municipal League is interested, and supports concept of SB 66, although feels municipalities already have this power.

Michael Thomas, American Insurance Association
Box 1211
Juneau, Alaska
586-3340

Position Statement: Please consider amending "reciprocal statute" to read "less than 25". Does not support SB 66, but supports reciprocal exchange instead.

Dick Block, Alaska National Insurance Co.
Box 3440
Anchorage, Alaska 99510
248-2642

Position Statement: Does not support passage of bill; existing statutory authority provides for reciprocal exchange. Amend?

PREVIOUS ACTION

SB 66 No previous action to record on SB 66.

ACTION NARRATIVE

TAPE# 4
Recording
Number 010

Senator Eliason, Chair, called the meeting of the Senate Labor & Commerce Committee to order at 1:35 pm, with members Senator Rodey and Senator Mulcahy in attendance. The agenda consisted of SB 66 relating to municipal self-insurance for workers' compensation.

Number 025

Dave Hutchens, representing the Alaska Rural Electric Cooperative Association, Inc., proposed an amendment to SB 66. Although he supports the measure as introduced, he would like to see it broadened to include public utilities as well as municipalities in order to provide for their grouping together for self-insurance purposes. He outlined the background of the Alaska Rural Electric Cooperative, Inc., in this matter (their self-insurance certificate was made void by the Workers' Compensation Board and they are presently self-insured under the authority of the Superior Court rather than the Workers' Compensation board, a situation which needs to be remedied.

Number 092

Senator Rodey asked some questions about REAs (Rural Electric Associations, which are

private corporations, being grouped together with municipalities.

Dave Hutchens replied that he saw no conflict, and that the proposed language covered public utilities, not just REAs. The public utilities, Mr. Hutchens stated, are stable entities existing by state authorization, certificated as fit to serve the public.

Number 167

Senator Sackett arrived.

Number 183

Senator Eliason noted Senator Sackett's arrival for the record.

Number 198

Jackie McClintock, Director of the Workers' Compensation Division at the Department of Labor, stated that her division does not object to the concept of SB 66, but that the matter poses the question of where (what division) it would best be administered: under the Workers' Compensation Act/Board, or under the Insurance Code? Noting that Don Koch would cover the latter aspect, Jackie McClintock discussed the particulars of having such a program administered through the Workers' Compensation Division. She further stated that Don Koch would be preparing alternative language for the bill.

Number 248

Don Koch, Chief of the market surveillance section of the Department of Commerce & Economic Development Division of Insurance, stated that if passed, SB 66 would create a conflict in law. If a group of municipalities were to seek self-insurance certification from the Worker's Compensation Board, the Division of Insurance would stop it, for the municipalities would, in effect, have become insurance companies. Don Koch suggested changes which would alleviate problems he sees with the bill, one of which is to amend existing statute including removing the impediment caused by the statutory minimum number of municipalities required in order to arrange an exchange agreement (AS 21.75.060 requires at least 25), and to leave the provision in the Insurance Code. A second alternative would be to leave the provision in the Workers' Compensation section of the statutes and modify it, adding a new subsection to AS 21.03.021 to read: "(b) This title does not

apply to a municipal self insurance pool or a public utility pool formed in accordance with AS 23.30.075(b)." If the first alternative were exercised, \$1 million would have to be provided to capitalize it.

Number 345

Senator Rodey commented that the major municipalities already have their own plans, so that this legislation attempts to provide for small municipalities, and through the exchange agreement under existing law the needs of such municipalities might be met.

Don Koch pointed out that only when these municipalities could find 24 other entities seeking a plan would their problem be solved.

Number 394

Senator Mulcahy pointed out that large municipalities are capable of doing it alone, whereas small municipalities would have to pool their resources to do it or be "borderline". Don Koch made it clear that if the committee did not wish the Insurance Code to apply to SB 66 they must include exclusion in 21.03.

Number 425

Marilyn Miller, representing the Alaska Municipal League, stated that the Municipal League is interested, and supports SB 66. She mentioned several of the self-insured municipalities in the state, and stated that the League feels that municipalities already have the power SB 66 seeks to grant in Title 29 (AS 29.48.310, Article 10, section 1). She further stated that the remarks made by Mr. Koch were new to her, and that she would not comment on them. With regard to Dave Hutchens' proposal to include utilities, Marilyn Miller stated that they (AML) had no wish "to jeopardize their (the utilities') chances, but that they did not want to jeopardize the chances of the bill passing.

Senator Sackett said, "I take it you want this bill?" to which Ms. Miller responded, "Yes, we were under the impression this would solve our problems and didn't know about" the issues raised by Mr. Koch.

Number 527

Senator Eliason asked if Ms. Miller and Don Koch would get together and put together proposed amendments to cover the options. They agreed.

Number 532

Michael Thomas, representing the American Insurance Association, asked the committee to think about policy questions. He clarified the difference between self-insurance and a group or reciprocal exchange insurance. A reciprocal exchange has several provisions the entity must meet (not present in SB 66), several formal requirements (such as the surplus requirement) not present in SB 66. "I'm not saying that the intention isn't there, but there's no mention of it yet." The reciprocal statute includes a number of provisions to assure strength and security of coverage. If the system were expanded to private groups, the "concern becomes much greater..." He asked that the committee please consider amending the reciprocal statute to provide for less than 25 municipalities.

Number 658

Dick Block, representing the Alaska National Insurance Company, stated that for seven years, his testimony always preceded that of Michael Thomas and Mr. Thomas always began his testimony by saying "I incorporate Mr. Block's comments". Mr. Block opened his testimony by saying, "I incorporate Mike's comments." He outlined a fundamental principle, which is that the concept of "group self-insurance" is a misnomer. Self-insurance is to assume one's own loss. "Group self-insurance" is insurance, and although the term sounds good it is inaccurate and just a reason to try to exempt it from regulation. Public policy is that all insurance is regulated; there must be strength behind the program to protect the persons covered by the program to protect the persons covered by the program. The period of time for which the entity is responsible is quite long, and may "mean a lot of money". There is a need to recognize that the Workers' Compensation system is an integrated system including an assigned risk pool. There needs to be a mechanism for employers who are unable to afford it, hence the assigned-risk pool. If someone is excused from participating in the insurance program they are also excused from the assigned-risk pool. There is also the matter of the Insolvency Relief Fund---if group self-insurance is approved, there is nothing to guarantee their solvency and they

don't pay into the pool. If there is to be a tax (Premium Tax) it should be equitably distributed. If the creation of an insurer not subject to the Insurance Code is permitted, they pay no premium. The state has encouraged the growth and entrance of new insuring entities, and the issue is one of parity. Existing statutory authority contains the solution to the problem, contended Mr. Block, and he agreed that the number of entities required for a reciprocal exchange may need to be reviewed.

Number 829

Dave Hutchens returned to the stand to make some closing comments on reciprocal exchange as it applies to utilities, specifically REAs, and to respond to comments made by the Alaska Municipal League: "Our program has operated for three years...ought to give us squatters' rights...Ginny Chitwood assured me they (AML) would support this amendment."

Number 000

CHANGE TAPE TO SIDE 2.

Number 020

Senator Eliason addressed Dick Block's point about equity, and Dave Hutchens responded, "We buy insurance for risk of above \$200,000 per occurrence. We feel that we're vastly different than an insurance company. The financial strength of the self-insurer is not the issue as much as the size."

Number 070

There being no further testimony, the meeting was adjourned.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99802
Phone: (907) 465-2700

February 7, 1983

The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason;

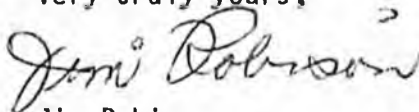
Proposed legislation in Senate Bill 66 allows municipalities to pool their workers' compensation liabilities and claims handling under a group self-insurance concept. It has been suggested that the language of this bill be broadened to include public utilities. Neither the Department nor the Workers' Compensation Board object to the concept of group self-insurance for municipalities or public utilities; however, the groups must be subject to regulatory criteria similar to other self-insured employers to insure that the group is financially able to cover its liabilities to employees.

The effect of group self-insurance is potential savings in employer premium costs. This would be particularly advantageous to small municipalities or public utilities which do not have the financial ability to individually self-insure their risks, but could pool their liabilities under a group fund. ARECA, at one time, was issued a self-insurance certificate which was not renewed when the Attorney General advised that the Workers' Compensation Board did not have the authority to grant this self-insurance. The Board had no problems with ARECA during the period of self-insurance and their safety record was good.

I would suggest that the committee contact the Division of Insurance on this issue, since it can be argued that a "group self-insured" falls more under the jurisdiction of Title 21 than Title 23.

Thank you for the opportunity to comment.

Very truly yours,



Jim Robison
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

DIVISION OF INSURANCE

March 23, 1983

Honorable Richard I. Eliason
Chairman
Committee on Labor and Commerce
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

RE: Position Paper SB 66

The Administration has carefully reviewed the ramifications of SB 66 and concludes that the public would best be served by a committee substitute that deletes the content of the current bill and replaces it with the enclosed changes which are similar to those forwarded to you on March 1, 1983.

SB 66 would allow two or more municipalities to pool their workers' compensation liabilities in a self-insured pool. The terms "self-insured pool" and "group self-insured" are anomalous terms. Self-insurance for two or more entities is insurance. The insurance code would normally apply to such situations. The bill as written, however, does not treat the combination of municipalities as an insurer. It would be more consistent with the general approach of the insurance code to treat this combination of municipalities the same as other combinations of other entities.

We recommend that SB 66 be replaced with a CS that would continue the regulation of insurers (group self-insurers) in the insurance code and apply the requirements for formation of an insurer to a group of municipalities. The requirements that would apply to municipalities, as well as public utilities, can be reasonably eased in view of the nature of those entities. The recommended easing would incorporate four changes. These are:


1. Reduction of the financial requirements for municipalities by permitting the use of a bond in lieu of cash surplus and by reducing the amount of operational surplus necessary;

March 23, 1983

2. Removal of any assigned risk liabilities that might otherwise accrue to an insurer formed by a group of municipalities or public utilities;
3. Reduction of the number of entities required to form a reciprocal insurer; and,
4. Removal of any liabilities in the Alaska Guaranty Association for insolvencies of other insurers if the insurer formed by a group of municipalities or public utilities is an assessable reciprocal insurer.

We believe that this is a reasonable stance which provides adequate public protection for claimants and policyholders.

Very truly yours,



Richard A. Lyon
Commissioner

RAL/cw#2113

Enclosure

cc: Art Peterson
Department of Law



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 278-3235

January 26, 1983

Senate Labor and Commerce Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

RE: Senate Bill 66

Gentlemen:

I am sure that permitting the Alaska Municipal League to establish a group self-insurance program, as Senate Bill 66 now does, is in the public interest. However, we very strongly urge that this bill be expanded at least to include the utility industry. Our association has successfully operated a group self-insurance program for three years, but our program faces termination unless favorable legislation is enacted this year.

In 1979, the Alaska Rural Electric Cooperative Association applied to the Workers' Compensation Board for a self-insurance certificate for our member utilities. The certificate was issued effective January 1, 1980 and was renewed for a year effective January 1, 1981. Our program has been completely successful in meeting its obligations to the employees of its participants and in saving the participants substantial sums of money in insurance costs. Other associations, including the Municipal League, expressed interest in adopting group self-insurance programs modeled after ours.

At the beginning of 1982, our certificate was renewed for only a few months, and we were told that the Board was "reviewing the situation." In February 1982, Ms. Jacqueline McClintock of the Department of Labor requested an Attorney General's opinion regarding the legal status of group self-insurance programs in Alaska. In April, the Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes and it is in some other jurisdictions, it can be interpreted that group self-insurance is not authorized in this state.

Based on this opinion from the Attorney General, the Workers' Compensation Board terminated our certificate effective September 30, 1982. We appealed this action to the Superior Court, and we were successful in obtaining a stay of the Board action pending appeal. At the present time we are self-insured as a group by order of the Superior Court.

DEMOCRACY IN ACTION

Alaska
MUNICIPAL
League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

February 10, 1983

To: Senator Richard Eliason, Chair
Senate Labor & Commerce Committee
and all members of the Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: SB 66

The Alaska Municipal League supports SB 66 which says regulations may be adopted allowing municipalities to organize a self-insurance group in order to pool their liabilities. The League feels municipalities have that power now because of the strong cooperative agreement clause in Title 29:

"29.48.010 Municipalities have the following general powers, subject to other provisions of law:

- (4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;"

AS 29.48.310 and .320 also speak to the liberal construction of powers of boroughs and cities.

In addition to Title 29, the Alaska Constitution, Article X, Section 13, states "Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter." Article X, Section 1, also speaks to "maximum local self government".

(over)

hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors inside and outside this state;

(3) the systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers with respect to any kind of insurance, or with respect to a subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(5) in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not more than the most recent five-year period for which experience is available;

(6) when there is an established program to inspect new and existing dwellings and the program has been certified by the director as likely to reduce the incidence of fires in inspected dwellings, then in any rate plan used in this state, dwellings which have been found by the inspection to meet the standards established by the program shall have credits applied to the rate in amounts approved by the director.

(b) Except to the extent necessary to meet the provisions of (a)(1) of this section, uniformity among insurers in matters within the scope of this section is neither required nor prohibited. (§ 1 ch 120 SLA 1966; am §§ 1, 2 ch 34 SLA 1977)

Effect of amendments. — The 1977 amendment, in subsection (a), deleted "and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a

period of not less than the most recent five-year period for which experience is available" from the end of paragraph (2) and added paragraphs (5) and (6).

Sec. 21.39.155. Assigned risk pool. (a) The director may require carriers, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

(b) The assigned risk pool and the procedures to be followed in administering the pool shall be established by regulation. (§ 1 ch 252 SLA 1976; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "workers' compensation" for "workmen's compensation."

Sec. 21.39.175. Statistics. Any insurer providing malpractice coverage for health care providers shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the insurer shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics, including the supplemental reports, shall be made available to the State Medical Board. (§ 38 ch 177 SLA 1978)

Editor's notes. — As to the purpose of the 1978 amendatory act, see § 1, ch 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

Sec. 21.39.180. Definitions. In AS 21.39.010 — 21.39.180 "dwelling" means a residential structure containing not more than four family living units. (§ 3 ch 34 SLA 1977)

Chapter 42. The Insurance Contract.

Section	Section
75. Reimbursement of losses	350. [Repealed]
80. Power to contract — Purchase of insurance by minors	355. Coverage for cost of services provided by nurse midwives
130. Grounds for disapproval	360. [Repealed]
320 — 340. [Repealed]	370. Separate accounts
345. Required provision for coverage for newly born children	

Sec. 21.42.040. Interest of named insured.

NOTES TO DECISIONS

Applicability of section. — See Moran v. Kenai Towing & Salvage, Inc., Sup. Ct. Op. No. 1056 (File Nos. 1924, 1934), 523 P.2d 1237 (1974).

property damage, to which the maximum and minimum insured amounts apply;

(5) the maximums provided for in column (A) are net of applicable reinsurance;

(6) the deposit of surplus in the amount specified in columns (G) and (H) must thereafter be maintained unimpaired; the deposit is subject to the provisions of AS 21.24.019 — 21.24.130. (§ 1 ch 120 SLA 1966; am § 1 ch 127 SLA 1970; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1970 amendment, in subsection (b), added "Marine, Wet Marine, and Transportation" at the end of column (A), added "50" at the end of column (B), added "50" at the end of column (C), added "annual" at the end of column (D), added "\$1,000" at the end of column (E), added "\$25,000" at the

end of column (F), added "\$100,000" at the end of column (G), substituted "(6)" for "(7)" in column (H) and added "\$200,000" at the end of that column.

The 1980 amendment substituted "Workers'" for "Workmen's" in column (A) of subsection (b).

Sec. 21.69.490. Dividends to stockholders.

Cross references. — For exception to the requirements of this section, see AS 21.22.100(c).

Chapter 75. Reciprocal Insurers.

Article

1. General Provisions (§§ 21.75.010 — 21.75.290)
2. Cooperative Insurance Coverage (§§ 21.75.300 — 21.75.330)

Article 1. General Provisions.

Section	Section
30. Name, suits	
50. Surplus funds required	
55. Surplus funds for cooperative insurers	
230. Nonassessable policies	

Sec. 21.75.030. Name, suits. (a) A reciprocal insurer shall

(1) have and use a business name; the name shall include the word "reciprocal" or "interinsurer" or "interinsurance" or "exchange" or "underwriters" or "underwriting" or "association";

(2) sue and be sued in its own name.

(b) In addition to the requirements of (a) of this section, a cooperative insurer organized under AS 21.75.300 — 21.75.330 shall include the word "cooperative" in its name. (§ 1 ch 120 SLA 1966; am § 3 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment added subsection (b).

Sec. 21.75.050. Surplus funds required. (a) A domestic reciprocal insurer formed in accordance with the provisions of AS 21.75.010 —

21.75.33 equal to be required the recipient (b) A less than be required the recipient 150 SLA

Effect amendm

Sec. erative otherw 21.75.3 tains domes surpiu

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21.75.330 shall have and maintain a surplus no less than an amount equal to the total of the capital and one-half of the surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal insurer seeks to be authorized.

(b) A foreign reciprocal insurer shall have and maintain a surplus no less than an amount equal to the total capital and surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal seeks to be authorized. (§ 1 ch 120 SLA 1966; am § 4 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Sec. 21.75.055. Surplus funds for cooperative insurers. A cooperative insurer organized under AS 21.75.300 — 21.75.330, if it has otherwise complied with the applicable provisions of AS 21.75.010 — 21.75.330, may be authorized to transact insurance if it has and maintains surplus funds equal to one-half of the capital required for a domestic reciprocal insurer under AS 21.75.050(a) and such additional surplus as the director considers sufficient. (§ 5 ch 150 SLA 1978)

Sec. 21.75.230. Nonassessable policies. (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital and surplus required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the director shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for as long as all the surplus remains unimpaired.

(b) Upon impairment of the surplus, the director shall immediately revoke the certificate. The revocation shall not render subject to contingent liability a policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after the revocation no policy may be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The director may not authorize a domestic reciprocal insurer to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish the liability of all its subscribers and in all the policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of those subscribers which may acquire the policies in that state, and need not extinguish the contingent liability applicable to policies theretofore in force in that state. (§ 1 ch 120 SLA 1966; am § 6 ch 150 SLA 1978)

of a stock insurer for authority to transact a like combination of kinds of insurance. (§ 1 ch 120 SLA 1966)

Sec. 21.75.060. Organization of reciprocal insurer. (a) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate of authority, a declaration setting out

(1) the name of the insurer;

(2) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained in this state;

(3) the kinds of insurance proposed to be transacted;

(4) the names and addresses of the original subscribers;

(5) the designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) the names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) the powers of the subscribers' advisory committee, and the names and terms of office of the members;

(8) that all money paid to the reciprocal (insurer) shall, after deducting any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) a copy of the subscribers' agreement;

(10) a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate filed with and approved by the director;

(11) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by § 50 of this chapter is on hand;

(12) a copy of each policy, endorsement, and application form if then proposes to issue or use.

(c) The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds. (§ 1 ch 120 SLA 1966)

Sec. 21.75.070. Certificate of authority. (a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The director may refuse, suspend or revoke the certificate of authority, in addition to other grounds, for failure of the at-

Sec. 21.80.170. Termination and distribution of funds. (a) The commissioner shall by order terminate the operation of the Alaska Insurance Guaranty Association as to any kind of insurance covered by AS 21.80.010 — 21.80.190 with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which

(1) is a permanent plan which is adequately funded or for which adequate funding is provided; and

(2) extends, or will extend to the Alaska policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to the policyholders and residents than the protection and benefits provided with respect to the kinds of insurance under AS 21.80.010 — 21.80.190.

(b) The commissioner shall by the same order authorize discontinuance of future payments by insurers to the Alaska Insurance Guaranty Association with respect to the same kinds of insurance so long as the assessments and payments continue, as necessary, to liquidate covered claims of insurers adjudged insolvent before the order and the related expenses not covered by the other plan.

(c) If the operation of the Alaska Insurance Guaranty Association is terminated as to all kinds of insurance otherwise within its scope, the association, as soon as possible thereafter, shall distribute the balance of money and assets remaining (after discharge of the functions of the association with respect to prior insurer insolvencies not covered by the other plan, together with related expenses) to the insurers which are then writing in this state policies of the kinds of insurance covered by AS 21.80.010 — 21.80.190 and which had made payments to the association, pro rata upon the basis of the aggregate of the payments made by the respective insurers during the period of five years next preceding the date of the termination order. Upon completion of this distribution with respect to all of the kinds of insurance covered by AS 21.80.010 — 21.80.190, AS 21.80.010 — 21.80.190 shall be considered to have expired. (§ 1 ch 121 SLA 1970)

Sec. 21.80.180. Definitions. In AS 21.80.010 — 21.80.190, unless the context requires otherwise,

(1) "account" means any one of the three accounts created by AS 21.80.040;

(2) "association" means the Alaska Insurance Guaranty Association;

(3) "commissioner" means the commissioner of the Department of Commerce or his representative;

(4) "covered claim" means an unpaid claim, including one unearned premium, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which AS 21.80.010 — 21.80.190 apply issued by an insurer, if the insurer becomes an insolvent insurer after August 6, 1970, and (A) the claimant or insured is a resident of this state at the time of the insured event;

or (B) the property from which the claim arises is permanent. y located in this state; "covered claim" does not include any amount due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise;

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900, either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

(6) "member insurer" means a person, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900, who

(A) writes any kind of insurance to which AS 21.80.010 — 21.80.190 apply under AS 21.80.020 including the exchange of reciprocal or inter-insurance contracts, and

(B) is licensed to transact insurance in this state;

(7) "net direct written premiums" means direct gross premiums written in this state on insurance policies to which AS 21.80.010 — 21.80.190 apply, less return premiums thereon and dividends paid or credited to policyholders on direct business; "net direct written premiums" does not include premiums on contracts between insurers or reinsurers. (§ 1 ch 121 SLA 1970; am §§ 43, 44 ch 102 SLA 1976)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alaa. Const., art. II, § 14.

Effect of amendments. — The 1976 amendment inserted the language beginning "except the Medical Indemnity Corporation of Alaska" and ending "under AS 21.88.010 — 21.88.900" in paragraph (5)(A) and in the introductory language of paragraph (6).

Editor's notes. — Section 48, ch. 102, SLA 1976, provides: "AS 01.10.030 applies to this Act except that if any portion of AS 21.88.110 — 21.88.180 is held invalid all of AS 21.88.110 — 21.88.180 shall be void and the Medical Indemnity Corporation of

Alaska shall assume all duties and liabilities incurred by the Health Care Providers Joint Underwriting Association before the declaration of invalidity; and except that if the requirement that health care providers purchase medical malpractice insurance from the Medical Indemnity Corporation of Alaska is found to be invalid, secs. 41, 42, 43, and 44 of this Act are void; however, the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association shall continue to discharge and assess to pay claims incurred before the declaration of invalidity." AS 21.88.110 — 21.88.180 were repealed by § 40, ch. 177, SLA 1978.

NOTES TO DECISIONS

Applicability of AS 21.80.010 — 21.80.190. — AS 21.80.010 — 21.80.190 were applicable to a claim against a policyholder for personal injuries as a result of an automobile accident from the time his insurer became insolvent. King v.

Jordan, Sup. Ct. Op. No. 1956 (File Nos. 3400, 3401, 3673), 601 P.2d 273 (1979).

AS 21.80.010 — 21.80.190 on their face limits "covered claims" to those asserted by claimants or insureds. White v. Alaska Ins. Guar. Ass'n, Sup. Ct.

Op. No. 1813 (1979).

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1983

SUBJECT: Municipal self insurance
(SB 66)

TO: Senator Richard I. Eliason
Attn: Sheila Peterson

FROM: Thomas A. Sofo ^{TAS}
Legislative Counsel

You have asked whether the municipal self insurance groups described in sec. (b) of AS 23.30.075 in SB 66 would be subject to regulation by the division of insurance. Although legislation in previous years has been suggested which incorporated parallel provisions in the insurance code for assessing self insurance capabilities of self insurers generally under the Alaska Worker's Compensation Act, the bill as presently drafted, would not subject the municipal self insurers to regulation by the division of insurance. Self insurance is only mentioned in AS 23.30.075 and 23.30.-090. In each case, it is the Worker's Compensation Board which has the discretion to accept or deny a plan of self insurance, whether individual or group.

TAS:ljb

Explanation - Assigned Risk Pool

Assigned risk pool is where an individual obtains insurance - workers' comp or auto - when he/she is not able to obtain insurance elsewhere. Person applying must be current with prior insurance premiums.

Every insurance policies are handled by 5 insurance carriers. The premiums pay loss. If it comes up short, the short-fall is pro-rated among all insurance carriers. Workers' comp works this way.

Automobile insurance risks are covered by all. Automobile insurance - the risk is shared.

Explanation - Capital required for reciprocals

If writing to cover only one form of insurance, the capital requirement would be \$500,000 (capital) + \$500,000 (surplus) = \$1 million for non-assessable groups. Assessable groups would need 1/2 of amt. or total of \$500,000.

If coverage is for 2 or more kinds, \$750,000
(capita) + \$750,000 (surplus) is needed for
non-assessable. Assessable is 1/2 amount.

①

Summary of CSSB 66

Section 1 - This section exempts reciprocal insurers from the assigned risk pool. The rationale is that a reciprocal insurers only a specialized group of individuals with similar activities, and should be responsible with their own classification of insurance

Description of an assigned risk pool.

Assigned Risk Pool

Since insurance is required to be carried by all employers, but insurance companies are not legally obligated to provide insurance to a particular employer, it was necessary to create a mechanism for poor risks, or risks that underwriters chose not to write voluntarily, to obtain their workers' compensation insurance. In Alaska an assigned risk pool has been established, and any employer who cannot obtain their insurance through negotiation with an insurance company may obtain their insurance from the assigned risk pool at standard rates. The net cost of operating the assigned risk pool, that is, the amount by which losses from pool risks exceed premium from pool risks, is paid by assessment of all other insurance companies pro-rata to their writings of workers' compensation insurance. In short, the cost of underwriting pool risks is borne by the workers' compensation system.

Section 2 - This section states or allows a municipality to post a bond equal to the amount necessary for capitalization

minus \$250,000 which must be cash.
The required capital for a domestic stock insurer would be \$1 million if only one form of insurance is covered, for example workers' comp, and \$1.5 million if two forms of insurance are covered.

Section 3 - The number of persons needed to form a reciprocal was reduced to two.

Section 4 - The new definition of municipality is included. It was felt this definition encompassed the municipalities who could participate, i.e. those with taxing powers.

Section 5 - Defines "member insurer" to exclude an assessable reciprocal which in turn takes an assessable reciprocal out of the Guaranty Act.

The Guaranty Act is established to protect insurers if an insurance company folds up. An assessable reciprocal is responsible for its own insurers & therefore should not be responsible for others.

AS 21.80.180 (5) should probably be amended to exclude municipalities, public utilities from "insolvent insurer". If this were done then the municipalities + utilities would neither participate in the Guaranty nor would they be protected by it.

Dick Block
Ak National
Insurance
Company

Note that your work draft excludes the reciprocal from AS Section 21.80.180 (6) (A), (Who Must Pay an Assessment for an Insolvency) but does not exclude them from AS 21.80.180 (5) (A) (Who's Insolvency Must Be Protected By The Guarantee Association.) It is my position that the municipal reciprocal must be included as part of the Guarantee Association both as to assessability and coverage, or excluded from the Guarantee Association both as to assessability and coverage. Because of the highly political nature of such a program and because I do not believe that the minimum criteria for forming a municipal reciprocal provides adequate protection for the long term growth and stability of such an organization, I would elect to have them not included in the Guarantee Association and exempt them from assessment.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

Bill Sheffield, Governor

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 1, 1983

The Honorable Richard I. Eliason
Chairman
Committee on Labor and Commerce
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

Re: SB 66

Thank you for your request of February 16, 1983. We are responding to your request in the format of a committee substitute for SB 66. The changes are relatively straightforward. The CS would keep the regulation of insurers in the insurance code.

Part 1 of your request corresponds to Sec. 3 of the CS appearing on page 2, lines 1-5. It is a one-word change.

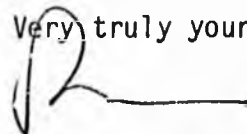
Part 2 of your request corresponds to Sec. 2 of the CS appearing on page 1, lines 15-25. This is a new section that would allow municipalities to replace a substantial portion of their cash start-up obligation with a bond but still require sufficient funds to operate for at least one year.

Part 3 of your request is reversed from discussions on the subject. Assessable groups could arguably be permitted to avoid participation in the Guaranty Act while the nonassessable groups could not. We have taken the liberty to respond in that light and further limited the drop-out provision to governmental and public utilities forming an assessable reciprocal. The corresponding section in the CS is Sec. 4 appearing on page 2, lines 6-18.

Part 4 of your request corresponds to Sec. 1 of the CS appearing on page 1, lines 8-14.

Finally, you may wish to consider an effective date clause in view of the interest of the various parties in an ability to use these changes at the earliest possible date.

Very truly yours,



Richard A. Lyon
Commissioner

08-H2LH

RAL/saH/29



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

February 16, 1983

Dick Lyon, Commissioner
Department of Commerce
and Economic Development
Fouch D
Juneau, Alaska 99811

Dear Commissioner Lyon:

On February 10, 1983, the Senate Labor and Commerce Committee heard testimony on SB 66, an Act relating to municipal self-insurance. During the hearing a question was raised regarding the appropriate placement of the program in the statutes (and within the administrative branch)---either Title 21 (Insurance/Dept. of Commerce and Economic Development) or Title 23 (Labor and Worker's Compensation/Dept. of Labor).

A meeting was held the following Tuesday, February 15, with Jackie McClintock (Division of Workers' Compensation, DoL), Don Koch (Division of Insurance, DCED), Ginny Chitwood (Alaska Municipal League), Dave Hutchens (Alaska Rural Electric Cooperative, Inc.) and Sheila Peterson of my staff, to further explore this issue. Although the present SB 66 is written to allow "group self-insurance" to be regulated by the Workers' Compensation Board, those attending the meeting discussed the possibility of making modifications to allow "group self-insurance" under the reciprocal arrangement provided for in existing statute. (See AS 21.75.010-290.)

The four areas identified as requiring statutory changes are:

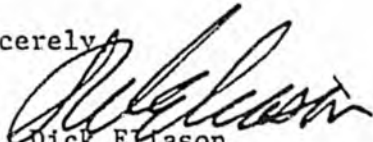
- 1) reduction of the number of entities required to form a reciprocal exchange (from 25 to 2);
- 2) language change to permit entities, such as municipalities, the right to post a bond for part of the necessary capitalization;
- 3) language change to require participation of assessable groups in the Alaska Insurance Guarantee Assn., while not requiring non-assessable entities to participate; and

4) language change to delete the necessity of reciprocal exchanges participating in the assigned risk pool.

Please consider this letter as a request to prepare language for a proposed Labor and Commerce Committee Substitute for SB 66 in response to the above concerns.

Thank you in advance for your assistance.

Sincerely,


Sen. Dick Eliason

cc: Don Koch, Division of Insurance
Jackie McClintock, Division of Workers' Compensation

Re: SB 66 - Relating to Municipal Self-Insurance

Attached is Div of Insurance's suggested solution of group self-insurance.

Sec. 1 - Reciprocal insurer is removed from the assigned risk pool

Assigned risk pool is where an individual obtains insurance - workers' comp or auto - when he/she is not able obtain insurance elsewhere. The person must be current with prior insurance premiums.

Rationale for change - Reciprocal is designed to handle only one class of risks, ie municipalities, logger activities, etc. Their members should not be required to pick-up exposure which they don't cover themselves.

Sec. 2 - Allows govt or govt agencies, state or political subdivisions to post a bond for the necessary capital.

The required capital for a domestic stock insurer would be \$1 million if only one form of insurance is covered, for example workers' comp, and 1.5 million if two forms of insurance are covered.

If municipalities decide to post a bond for the above mentioned amount, the municipalities would need a surplus of cash for the amount of \$250,000.

Sec. 3 - Changes the necessary number of persons to form a reciprocal from the existing 25 persons to 2 people.

Sec. 4. - Defines "member insurer" to exclude an assessable reciprocal which inturns takes an assessable reciprocal out of the Guaranty Act.

The Guaranty Act is established to protect insurers if an insurance company folds up. An assessable reciprocal is responsible for its own members insurers & therefore should not be responsible for others.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1983

SUBJECT: Municipal self insurance
(SB 66)

TO: Senator Richard I. Eliason
Attn: Sheila Peterson

FROM: Thomas A. Sofo ^{TAS}
Legislative Counsel

You have asked whether the municipal self insurance groups described in sec. (b) of AS 23.30.075 in SB 66 would be subject to regulation by the division of insurance. Although legislation in previous years has been suggested which incorporated parallel provisions in the insurance code for assessing self insurance capabilities of self insurers generally under the Alaska Worker's Compensation Act, the bill as presently drafted, would not subject the municipal self insurers to regulation by the division of insurance. Self insurance is only mentioned in AS 23.30.075 and 23.30.-090. In each case, it is the Worker's Compensation Board which has the discretion to accept or deny a plan of self insurance, whether individual or group.

TAS:ljb

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99802

Phone: (907) 465-2700

February 7, 1983

The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Sheila Peterson, your Researcher, had requested a fiscal note on Senate Bill 66 if the bill were amended to include "public utilities." This amendment would not change the fiscal impact and a zero fiscal note would be submitted by the Department of Labor.

I will be happy to prepare a revised fiscal note when or if you have a committee substitute drafted which I assume would have a new title. Please contact me when the fiscal note is needed.

Sincerely,

Judy Knight

Judy Knight
Special Assistant
to the Committee

OF COUNSEL
M. E. MONAGLE

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

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F. O. EASTAUGH
J. B. BRADLEY
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March 24, 1983

The Honorable Richard Eliason
Chair, Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 66

Dear Senator Eliason:

This letter is submitted on behalf of the American Insurance Association after review of the proposed committee substitute for SB 66. I had asked the Association for a statement of policy relating to proposals to treat certain groups differently than either commercial insurers or existing reciprocals, and the Association's general statement on the subject is as follows:

Government regulation of insurance is an expression of the State's duty to protect insurance buyers and injured parties against the insolvency of insurers. The interest of the public in a solvency of insurers can best be vindicated by the incorporation of the following regulatory guidelines in any proposed legislation:

1a. Groups should be regulated by the Division of Insurance, not the Worker's Compensation Commission; and

1b. There should be insolvency mechanisms for all groups acting as insurers, but entities which do not fully meet all the requirements imposed on insurers should never be included in the industry's insolvency fund.

2. A group, before being allowed to form, should submit a set of by-laws or plan of operation. In

addition, the names of the members should be set forth along with an agreement executed by all the prospective members providing for joint and several liability.

3. Financial requirements should be established. These will vary by the size of the groups and by state, but should closely track the financial requirements for private carriers.

4. Groups should pay premium taxes and be assessed as are carriers for the support of various funds (such as second injury, administrative, unsatisfied judgment funds).

5. Groups should be subject to the same provisions of the insurance code as carriers regarding such things as actuarially sound reserves, surplus, licensing requirements and fees, unfair trade practices, financial statements, examination by the Division (including costs of examination), rates, liquidation, rehabilitation and dividends.

6. The groups should be made up of companies in the same business or industry. There should be a minimum number of companies in the group; ten is recommended. The groups should be required to be in existence for a period of time and for reasons other than establishing an insurance mechanism.

7. The Director of Insurance should determine if a group has the necessary in-house personnel to properly pay claims and provide loss control services. If the Director determines that a group does not have such personnel, he shall require the group to contract with a licensed service company to provide claim and loss control services.

8. All groups should be responsible for a fair share of any mandatory involuntary market mechanisms.

Applying these standards to the committee substitute, many of the concerns are fully responded to. Some, however, are not, and I would like to focus on those.

First, the bill exempts all reciprocals from sharing responsibility for picking up those persons who cannot obtain insurance in the market, by excepting reciprocals from any "assigned risk" pool. (Section 1, amending AS 31.39.155(a)). To the extent reciprocals are formed, the

The Honorable Richard Eliason
March 24, 1983
Page Three

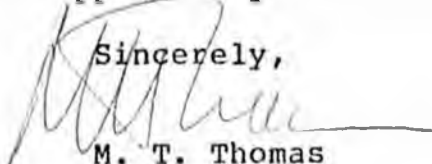
burden of this "residual market mechanism" becomes greater on the commercial insurers, who have of course already lost that part of the market which makes up the new reciprocals. Thus, rates to commercially insured persons will get a double whammy, as fewer carry more. There does not seem to be any policy reason to exempt one form of insurer from this burden, once the Legislature has determined that the cost of an assigned risk pool is something that should be borne by those who can obtain insurance.

The bill also exempts some reciprocals, those who issue assessable policies, from the Guaranty Association. (Section 5). To the extent that financial requirements are lessened (as in Section 2 of the bill, relating to municipal reciprocals), they should probably not be included in the Guaranty Association, since that would unfairly burden other members who have had to guard against insolvency by meeting more stringent capitalization standards. Ironically, by recognizing that assessable reciprocals are somewhat better able to stand on their own than non-assessable reciprocals, the bill puts only those who are more likely to have solvency problems on the backs of solvent insurers. Perhaps a separate solvency mechanism for self-insureds and any others, like the proposed municipal reciprocals, who have lesser financial standards, should be considered.

I note that the bill allows formation of a reciprocal by two persons, while the AIA position is that ten is a suggested minimum. I don't think there is any particular magic in either number, but it is obvious that the fewer the separately-managed entities participating, the closer the scrutiny of the regulator will have to be, since failure of one will have a much greater chance of bankrupting the joint effort.

Thank you for the opportunity to comment.

Sincerely,



M. T. Thomas

MTT/pl



Alaska National

INSURANCE COMPANY

A policy of service and protection

March 22, 1983

The Honorable Dick Eliason, Senator
Alaska State Senate
Pouch Y
Juneau, Alaska 99811

Attn: Sheila Peterson, Legislative Analyst

Dear Dick:

Sheila was kind enough to send me a working draft of CSSB 66 (I&C) which is marked "Sofo 3-14-83." Shortly after receiving this draft, I was called by Wes Coyner, who indicated that there were some mistakes made in the drafting; and, in fact, numerous portions of that working draft are not intended to be included. The changes which I was given are as follows:

- A. From line 10 strike "AS 23.30.075 (b)"
- B. From line 16 strike "AS 23.30.075 (b) by the state or a political subdivision" and insert instead "by a municipality"
- C. From page 1, line 28 to page 2, line 2 strike all of the definition and instead insert "municipality is defined as provided in AS 29.78.010 (8)"
- D. From page 2, line 5 strike "or political subdivision of the state, public utilities," and insert in line 5 "a municipality of" so that line 5 reads "reciprocal insurer formed by a municipality of the state ...".
- E. Strike all of Section 6.
- F. Strike all of Section 7.

My comments deal with the bill as modified.

BASIC THRUST OF THE BILL

The bill seems to permit municipalities to form a reciprocal insurer and changes the Reciprocal Law to permit two or more, as opposed to 25 or more persons, to form a reciprocal insurer. These basis policy changes are acceptable.

reciprocals in this State that certainly should not be exempted from the assigned risk pool. The more pertinent issue is should the municipal reciprocal be exempted from paying assessments for the assigned risk pool. On this point, I restate a portion of my January 21, 1983, letter to Representative Rick Uehling on a similar subject.

IT IS IMPORTANT TO MAINTAIN A PREMIUM BASIS
NECESSARY TO PROVIDE SUPPORT FOR SYSTEM OBLIGATIONS

There are several components to the complete workers' compensation system which are funded by assessment of insurance companies, and those assessments are a function of the premiums written. It was recognized that since all employers were required to purchase insurance, assessing insurance companies based on their pro-rata writings of workers' compensation insurance was an equitable and efficient means for funding collateral aspects of the workers' compensation system. If significant shares of premium were allowed to "escape" the system because insurance pools were allowed to exist under the sham name of "group self-insurance", then the assessment base would be reduced placing a larger burden on those employers remaining insured through traditional insurance markets and relieving other employers of their obligation to pay their fair share of these collateral program costs.

It is, of course, true that a truly self-insured employer does escape some of these obligations, and in other states there has been a tendency to require the truly self-insured employer to be subjected to assessment to the same extent they would be had they been insured through an insurance company. Though that is not the current State of Alaska law with respect to true self-insured employers, the problem should not be exacerbated by allowing the fiction of group self-insurance to permit substantial additional premium to be removed from the premium base.

Some of these collateral programs are:

Assigned Risk Pool

Since insurance is required to be carried by all employers, but insurance companies are not legally obligated to provide insurance to a particular employer, it was necessary to create a mechanism for poor risks, or risks that underwriters chose not to write voluntarily, to obtain their workers' compensation insurance. In Alaska an assigned risk pool has been established, and any employer who cannot obtain their insurance through negotiation with an insurance company may obtain their insurance from the assigned risk pool at standard rates. The net cost of operating the assigned risk pool, that is, the amount by which losses from pool risks exceed premium from pool risks, is paid by assessment of all other insurance companies pro-rata to their writings of workers' compensation insurance. In short, the cost of underwriting pool risks is borne by the workers' compensation system.

The bill goes further, however, and makes three other changes which I find objectionable in various degrees.

1. Allowing the capital and surplus to be satisfied with a bond. Every other insuring entity in the State of Alaska is required to post cash or other admitted assets in order to do business in the State. The reason, of course, is that only cash and immediately liquidable assets can be made available to pay claims to the extent claims and expense exceed premiums. To permit the requirement to be met with a bond, is to work an utmost hardship on claimants and creditors in the event the premiums are not adequate to meet expenses for operations and claims.

It should be noted that there is already a significant advantage afforded entities utilizing this new statute since any other carrier writing workers' compensation only in the State of Alaska, must have \$250,000 more in assets than is required of the municipal reciprocal. To compound the problem, by allowing this minimal capital and surplus to be put up in the form of a bond as opposed to admitted assets, permits both an unreasonably unfair level of competition among insurers and subjects the claimant to questionable protection for their rights under the Workers' Compensation Act.

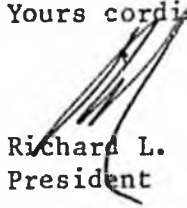
2. Section 5 attempts to exempt a municipal reciprocal from its obligations to pay an assessment to fund an insolvency by an insurance carrier formed under existing laws. There may be some argument to be made for excluding them from the obligation to pay assessments of the Guarantee Association, but only if the companion provision which is that the claims of an insolvent municipal reciprocal are not covered by the Guarantee Association, is also included.

Note that your work draft excludes the reciprocal from AS Section 21.80.180 (6) (A), (Who Must Pay an Assessment for an Insolvency) but does not exclude them from AS 21.80.180 (5) (A) (Who's Insolvency Must Be Protected By The Guarantee Association.) It is my position that the municipal reciprocal must be included as part of the Guarantee Association both as to assessability and coverage, or excluded from the Guarantee Association both as to assessability and coverage. Because of the highly political nature of such a program and because I do not believe that the minimum criteria for forming a municipal reciprocal provides adequate protection for the long term growth and stability of such an organization, I would elect to have them not included in the Guarantee Association and exempt them from assessment.

3. For some reason all reciprocals are exempted from assessment to fund the assigned risk pool. I believe that drafting Section 1 to exclude all reciprocals was an inadvertant error on the part of the drafters since there are commercial workers' compensation

I very much appreciate your allowing me an opportunity to comment on your work draft and hope that my comments are a value to you.

Yours cordially,



Richard L. Block
President

RB/krl



Alaska Public
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

TO: Senator Richard Eliason, Chairman
Senate Labor and Commerce Committee

FROM: Cherie Shelley, Executive Director
Alaska Public Employees Association

SUBJECT: SB 66

DATE: March 22, 1983

The Alaska Public Employees Association is concerned that the provision allowing municipalities to self-insure for workers' compensation will not adequately protect the interest of public employees in Alaska. Many municipalities lack the financial resources to cover large awards under the workers' compensation law. Such awards can total in the millions of dollars.

In cases where a municipality did not have the financial resources to compensate for employee injury or death, there would be no further recourse available to the injured party. Public officials, unlike the officers of a corporation, would not be liable for the payment of compensation or other benefits for which the municipality is liable under this chapter if the municipality is not insured or qualified as a self-insurer.

CS/rb

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
Anchorage, AK 99501
Telephone: (907) 274-1688

Juneau Field Office
227 4th Street
Juneau, AK 99801
Telephone: (907) 586-6305

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99802

Phone: (907) 465-2700

February 7, 1983

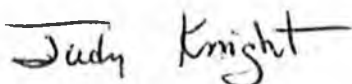
The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

The question has been posed if the term "obligations" should be substituted for the term "liabilities" in Senate Bill 66. After discussing with Assistant Attorney General Gary Amendola, it is our recommendation that "liabilities" is the more appropriate term and maintains consistency in the Alaska Workers' Compensation Act (AS 23.30). By inserting the new word, it may raise some doubt if obligations and liabilities are the same.

Thank you for the opportunity to comment.

Sincerely,



Judy Knight
Special Assistant
to the Commissioner

E. C. Box 1753
Eagle River, Alaska 99577
Phone: 694-4372
February 7, 1983

Senator Richard Eliason
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 66 - "An Act Relating to Municipal Self
Insurance for Workers Compensation."

Dear Senator Eliason:

I received a phone call from a lady in your office on Thursday.
This was in response to my POM of February 2, which stated:

"Suggest Line 21 & 22 should read 'To organize a self
insurance group in order to pool their (liabilities)
obligations under this Chapter.'

The term 'liability' may be construed to mean other coverages
than Worker Compensation."

Since this letter will be entered into written testimony in the
hearing February 10, 1983, I wish to make my reasoning clear.

Webster's NEW WORLD DICTIONARY defines "liability" as 1) The
state of being liable. 2) Anything for which a person is liable.
3) Usually in plural. A debt: As Account Payable, surplus,
losses..."

The Merritt Co. in the Glossary defines "liability" broadly. "Any
legally enforceable obligation. The term is most commonly used
in a pecuniary sense."

The entire Alaska Workers Compensation Act used the term "liability"
freely.

My concern is that when it is used in AS23.30, it should be defined
or changed. My POM made one suggestion. A favorable impression of
the Bill exists with or without a change of wording.

I am enclosing my Resume that will give my background.

Sincerely,

Bob Nestel (jaf)

Bob Nestel, CPCU, ARM
BN:jaf

cc: Senator Mulcahy, Senator Bennett, Senator Sacket, Senator Rodey

PROFESSIONAL RESUME

Robert W. Nestel
P. O. Box 1753
Eagle River, Alaska 99577

Message Phone: (907)279-9350 (CO⁴ Roger Cochran) or (907)243-5600 (Jon Deisher,
Vocational Rehabilitation)

Date of Birth: May 5, 1930

PROFESSIONAL DESIGNATIONS:

Chartered Property and Casualty Underwriter (CPCU)
Associate in Risk Management (ARM)

PROFESSIONAL BACKGROUND:

- July 1, 1981 to present.
- Self employed as a Risk Management Consultant.
- Developed questions and answers for the Division of Insurance Agents and Brokers Test.
- Educated persons in brokerage offices.

Risk Management Consultant to Matanuska-Susitna Borough

- June, 1981.
- Created information for renewal of Property and Casualty insurance policies.
- Updated values on all Borough-owned buildings and personal property.
- Developed plans for a comprehensive real-asset inventory with two nationwide firms.
- Assisted in property loss settlement of the Iditarod School in Wasilla. This loss was the largest arson loss in Alaska history.

Combs Insurance Agency, Inc., Palmer, Alaska

- November 1, 1980 to May 31, 1981.
- Licensed Surplus Lines Broker and Insurance Broker.
- Developed large commercial lines accounts.
- Assisted in preparation of insurance bids for City of Palmer, City of Wasilla and City of Valdez.

Great Land General Agency, Inc., Anchorage, Alaska

- June 1, 1979 to October 27, 1980.
- Licensed Surplus Lines Broker and Insurance Broker.
- Vice President with this large general agency.
- Supervisor and Underwriter on Admitted, Excess and Surplus Lines business.
- Selected companies for Property, Casualty, Ocean Marine, Inland Marine, Protection and Indemnity and Special Hazard Risks.
- Conferred with underwriters nationwide and in London on a daily basis.
- Developed unique and innovative underwriting techniques on special risks.

Rollins Burdick Hunder of Alaska, Inc., Anchorage, Alaska.

- December 15, 1975 to March 15, 1979.
- Licensed Surplus Lines Broker and Insurance Broker.
- Vice President for Risk Management.

Rollins Burdick Hunter of Alaska, Inc., Anchorage, Alaska (Continued)

- In charge of production of the following accounts:
 - Alyeska Pipeline Service Co. RBH took over the operations phase, including Liability and Worker's Compensation on a self-insured retention basis. Annual service fee in excess of \$40,000.
 - Anchorage School District. Property, Liability, Worker's Compensation. Premiums in excess of \$500,000.
 - Bristol Bay Borough and Bristol Bay Borough School District. Property, Liability and Worker's Compensation. Premiums in excess of \$50,000.
 - Crowley Maritime Corporation. Included all of Crowley's other corporate entities. Premiums in excess of \$1,000,000.
 - Kenai Peninsula Borough and Kenai Peninsula Borough School District. Property, Liability, Worker's Compensation. Premiums in excess of \$150,000.
- Supervised safety and loss engineering services for:
 - Alaska Carriers Association Inc.
 - Alaska International Air.
 - Anchorage Sand and Gravel
 - Gifford Aviation Inc.
 - City of Galena
 - Roman Catholic properties in Alaska
 - United Building Supply

Municipality of Anchorage (Formerly Greater Anchorage Area Borough)

- October 15, 1972 to December 14, 1975
- Licensed Surplus Lines Broker and Insurance Broker
- Risk Manager - duties included:
 - Self insuring and securing competitive prices on all Borough and School District exposures.
 - Recommending for Assembly approval employee benefit plans, including Medical, Dental, Vision, Deferred Compensation and a modified health maintenance organization.
 - Consultant to other Municipalities in Alaska for Risk Management including:
 - City of Cordova
 - City of Fairbanks
 - City and Borough of Juneau
 - Fairbanks North Star Borough
 - City of Kenai
 - Kenai Peninsula Borough
 - Kenai Peninsula Borough School District
 - Ketchikan Gateway Borough
 - City of Nome

Insurance Brokers of Alaska, Kenai, Alaska.

- October 15, 1971 to October 1, 1972.
- Licensed Insurance Broker.
- Developed large commercial accounts.

Leo Oberts Insurance, Inc., Kenai, Alaska.

- June 15, 1966 to October 1, 1971.
- Licensed Insurance Broker.
- Developed insurance programs for:
 - City of Kenai
 - Kenai Peninsula Borough
 - Kenai Peninsula Borough School District
 - Mukluk Freight Lines
 - McGann Enterprises
 - Northern Oil Operations
 - Oehler Construction

LaBow Haynes of Alaska Inc., Anchorage, Alaska

- March 15, 1965 to June 14, 1966,
- Licensed Insurance Broker
- Designed insurance programs for
 - Alaska Sales and Service
 - Arrow Lumber
 - Barrett and Lesh
 - Bristol Bay Borough and Bristol Bay Borough School District
 - Matanuska Maid
 - Spensard Building Supply

Oregon Nututal Insurance Co., Seattle, Washington

- January 1962 to March 14, 1964.
- Traveled the State of Washington.
- Increased premium volume in excess of 25% per year.
- Designed a special church package policy.

Badger Mutual Insurance Co., Milwaukee, Wisconsin

- June 15, 1955 to December 30, 1961.
- Field man in Indiana until transfer to Portland, Oregon in November 1977 to travel Oregon and Washington.

Lumberman Mutual Casualty Co., Chicago, Illinois

- September, 1952 to June 14, 1955.
- Auto underwriter for:
 - Nationwide auto risks
 - Canadian auto business
 - Large nationwide fleet accounts.
- Attended Mutual Insurance Institute.

PROFESSIONAL ASSOCIATIONS:

- Alaska Chapter of CPCU - President - 1979.
- Alaska Chapter of CPCU - Educational Chairman - 1980/81.
- Alaska Chapter of CPCU - Course Leader since 1972. Courses include:
 - Insurance 21, 22, 23; Risk Management 54, 55; Producer 81; CPCU I, II and III.
- Alaska Surplus Lines Association - President - 1980.
- Alaska Medical Malpractice Commission Member.
- Risk and Insurance Management Society - Member 1972/74.
- Central Alaska Independent Insurance Agents and Brokers Inc.

020 03- 0095791 FILE 1 02/02/83 17:13:37 ORIG LAOS IN= 0004 OUT= 0110
FROM: JUNE, AND LIO TO: POB, JNU INFO
TARGET: LJIH. SUDJ: POB

2/2/83, JUNE, AND LIO, MSG 5791

TO: SENATORS BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, V. FISCHER,
MULCHAY, ELIASON, AND RODAY

FROM: BOB NESTLE
P. O. BOX 1753
EAGLE RIVER, AK 99577 (H) 694-4372

SB 66 AN ACT RELATING TO MUNICIPAL SELF-INSURANCE FOR WORKERS COMPENSATION
LINES 21 AND 22 SHOULD READ "TO ORGANIZE A SELF-INSURANCE GROUP IN ORDER TO
POOL OBLIGATIONS UNDER THIS CHAPTER". THE TERM LIABILITIES MAY BE CON-
SIDERED TO MEAN THE OTHER WORKERS COMPENSATION.

Sheda - FYI

*stated liabilities
could mean
bodily injury/
property loss
select other
wording*

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 9, 1983

SUBJECT: Self insurance under SB 66
TO: Senator Richard I. Eliason
FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

Under section 1 of SB 66 two or more municipalities may, by agreement, organize a self insurance group to pool their worker's compensation liability.

You have asked whether, in our opinion, this conflicts with the prohibition on fictitious groups in the insurance code.

In my opinion it does not.

The relevant section in the insurance code is AS 21.35.190, which provides:

"FICTITIOUS GROUPS. (a) No insurer, whether an authorized or unauthorized insurer, may make available through a rating plan or form, property, casualty or surety insurance to a firm, corporation, or association of individuals, a preferred rate or premium bases upon a fictitious group of the firm, corporation, or association of individuals.

"(b) No form or plan of insurance covering a group or combination of persons or risks may be written or delivered inside or outside this state to cover persons or risks in this state at a preferred rate or on a form other than that offered to persons not in the group or combination and to the public generally, unless the form, plan of insurance, and the rates or premiums to be charged have been submitted to and approved by the director as being not unfairly discriminatory and not otherwise in conflict with (a) of this section or with AS 21.39.010 - 21.39.180 to the extent that AS

21.39.010 - 21.39.180 is, by its terms, applicable to it.

"(c) This section does not apply to mortgage guaranty insurance, life insurance, disability insurance, or annuity contracts.

"(d) This section does not apply to workers' compensation insurance when issued to an association of employers formed for purposes other than the purchase of insurance and which

- (1) has a constitution and bylaws;
- (2) incorporates a safety program;
- (3) as a group has preferred characteristics over similar risks written on an individual basis; and
- (4) has filed and received approval from the director for the rating program to be applied to the group."

As I understand the bill the worker's compensation coverage would be provided by a self insurance procedure rather than through an insurer. There is no general requirement that there be insurance coverage for worker's compensation liability. The only requirement is that imposed by the worker's compensation law itself under AS 23.30. Here the new language makes a specific exception to the insurance coverage requirement. It does not make the group insurers or insured for purposes of regulation under the insurance code (AS 21) so the provision has no application.

Further, even if AS 21 did apply, AS 21.36.190 under its own terms would not apply since a self insured group is not given a preferred rate or premium base. The liability is borne in its entirety by the group, as to the group itself there is not the risk spreading that is an essential element of insurance. Of course, there is a risk spreading within the group but this section applies to preferred rate or premium base to the group.

Additionally it seems probable that a governmental unit is a "firm, corporation or association of individuals" as that term is used in AS 21.36.190.

re: SB. 66

AS21.36.190 DOCUMENT= 1 OF 1 PAGE = 1 OF 3
CHAPTER = 21.36
SECTION = 21.36.190
TITLE = 21

HEADINGS TITLE 21.
Insurance.
CHAPTER 36.
Trade Practices and Frauds.

CITATION Sec. 21.36.190.

CATCH LINE

FICTITIOUS GROUPS.

TEXT

(a) No insurer, whether an authorized or unauthorized insurer, may make available through a rating plan or form, property, casualty or surety insurance to a firm, corporation, or association of individuals, a preferred rate or premium bases upon a fictitious group of the firm, corporation, or association of individuals.

(b) No form or plan of insurance covering a group or combination of persons or risks may be written or delivered inside or outside this state to cover persons or risks in this state at a preferred rate or on a form other than that offered to

AS21.36.190 DOCUMENT= 1 OF 1 PAGE = 2 OF 3

persons not in the group or combination and to the public generally, unless the form, plan of insurance, and the rates or premiums to be charged have been submitted to and approved by the director as being not unfairly discriminatory and not otherwise in conflict with (a) of this section or with AS 21.39.010 - 21.39.180 to the extent that AS 21.39.010 - 21.39.180 is, by its terms, applicable to it.

(c) This section does not apply to mortgage guaranty insurance, life insurance, disability insurance, or annuity contracts.

(d) This section does not apply to workers' compensation insurance when issued to an association of employers formed for purposes other than the purchase of insurance and which

(1) has a constitution and bylaws;

(2) incorporates a safety program;

(3) as a group has preferred characteristics over similar risks written on an individual basis; and

(4) has filed and received approval from the director for the rating program to be applied to the group.

HISTORY

(Sec. 1 ch 120 SLA 1966; am sec. 9 ch 206 SLA 1976; am sec. 1 ch

NACo insurance programs for counties now underway in 30 state associations

In January 1981, the National Association of Counties (NACo) set out to develop a wide-ranging insurance program for counties nationwide. Property and casualty, errors and omissions, worker's compensation and employee benefits were targeted as areas in which counties needed help to obtain adequate coverage at affordable rates.

NACo's first important step was to select Public Entities National Company (PENCO) to administer the program nationally. PENCO was selected through an intensive competitive process.

The selection of PENCO assured NACo access to a major national distribution process and to virtually all major markets. But, the program is designed to go much further. Every state has unique laws and regulations governing insurance.

Individual counties have unique risks that require tailored solutions. With this in mind, NACo and PENCO are working in partnership with state associations of counties to establish programs to target the specific needs state by state and county by county.

Because this three-party approach is unique, NACo had no real basis upon which to project participation. Tailored programs take a great deal of time to develop.

To date, more than 30 state associations of counties are working to set up coverage plans under the NACo program. More than 320 counties have purchased property and casualty coverage—over 10 percent of counties nationally. Programs are available, or nearly available, in states as far-ranging as Alaska and Maine, as well as from

Arizona to Georgia.

NACo recently announced a new errors and omissions (public officials' liability) program which provides coverage on an occurrence basis. This protects the official even after his term expires. Thirty-six counties already have opted for this relatively inexpensive coverage and more are coming in daily.

Even counties that are self-insured have taken advantage of NACo's program. More than 100 counties have purchased excess coverage from PENCO.

PENCO has done a truly remarkable job in developing such a massive national program in such a short time. PENCO liaison Doug MacLeod can be reached at 615/367-9707. For more information from NACo, call Chuck Oglebay or G. Marie Reid at 202/393-6226.

SMR June 82

FLORIDA

✓ The Florida Municipal Self-Insurers Fund recently declared \$1 million as a dividend from premium income for the 1979-1980 fund year. The dividends will be provided to 87% of the members, with the highest dividend being 32% of premiums to those with the lowest losses.

The fund has been able to secure a 10% decrease in the cost of administration and will pass this on to all renewal members for the 1981-1982 fund year. All new accounts will receive an 8% administrative savings. This decrease in the cost of workers' compensation coverage is the result of reductions in the cost of administrative services and reinsurance negotiated by the trustees. ■

New Massachusetts Safety Group

Beginning on July 1, 1982, the Massachusetts Interlocal Insurance Association (MIIA), a municipal safety group, began operations. The MIIA provides comprehensive workers' compensation and employers liability coverage to members of the Massachusetts Municipal Association (MMA). Other governmental units such as regional school districts, housing authorities and counties are also eligible for coverage in MIIA if they serve a MMA city or town.

Coverage is provided on a first dollar basis. A 10% up-front discount is offered to all members, with additional savings possible through a subsequent dividend. MIIA officials believe that savings of up to 35% of modified standard premium will be realized by safety group members.

Coverage in the program is underwritten by Old Republic Insurance Company on a fronted basis. Frank B. Hall provides claims handling and loss prevention services.

One of the most important components of the MIIA safety group program is the loss control program. The program aims to reduce safety hazards in the work environment thereby reducing the number and dollar amount of workers' compensation losses.

There is a one-time entry fee for participating in the insurance program. Those municipalities that joined MIIA prior to July 1, 1982 are considered "Charter Members" and paid 2% of their 1982 WC premiums. "Regular Members" joining after July 1, 1982 must pay 3½% of their 1982 WC premium to join the MIIA.

The MIIA also offers a special management services package for those communities that are self-insured. The package will include claims administration and loss control services. The self-insured program will be available as of January 1, 1983.

For additional information contact: MIIA Field Services Division, 131 Tremont Street, Boston, Massachusetts, 02117 — (617) 426-7272. ■

July 19-22. *Insurance Loss Control* conference in Itasca, Illinois, sponsored by the Alliance of American Insurers, the Insurance Loss Control Assn. and the National Assn. of Mutual Insurance Companies; \$120; three or more participants from same company, \$110. Loss Control Department, Alliance of American Insurers, 20 N. Wacker Drive, Chicago, IL 60606; (312) 558-3700.

August 2-6. *Basic Safety Management* seminar in Houston, sponsored by the International Safety Academy; \$535. ISA, 10575 Katy Freeway, Box 19600, Houston, TX 77024; (713) 932-9400.

August 10. *Accident Investigation and Analysis* seminar in Los Angeles, sponsored by the International Safety Academy; \$170. Also August 11 in Houston. ISA 10575 Katy Freeway, Box 19600, Houston, TX 77024; (713) 932-9400. ■

✓ IOWA POOL

LPMR June '82

The League of Iowa Municipalities (LIM) is concluding its first year of operating a pool providing workers' compensation and employers' liability coverage for participating cities. The 1981 contributions total \$400,000 and according to Larry Huntley, Administrator, are expected to increase to \$900,000 by the conclusion of the pool's second year. Coverage is currently provided to 75 of Iowa's 956 cities. Individual pool contributions range from \$275 to \$79,000.

The pool retains \$250,000 of every loss and purchases \$5 million of per occurrence excess insurance, written in two layers. In addition, the pool maintains \$1 million of aggregate excess protection. Aggregate coverage begins when losses exceed 70% of pool contributions for any policy year.

Mead Reinsurance provides the aggregate excess coverage and the first \$1 million per occurrence layer. The premium for these coverages is 15% of pool contributions. In addition, Mead also provides a "financial security en-

dorsement" to guarantee the pool's \$250,000 retention. This endorsement is provided at a cost of 1% of pool contributions.

The second layer of per occurrence excess protection is provided by the Old Republic Insurance Company. Old Republic covers \$4 million excess of the \$1 million Mead layer. The premium for this coverage is 1% of pool contributions.

Pool contributions are calculated by discounting the National Council on Compensation Insurance (NCCI) rates by 15%. Additional savings are likely, as the pool intends to distribute surplus to members. Dividends will be based on the individual member's loss experience and premium size. Initial loss experience has been favorable with the pool reporting a 32.1% loss ratio as of March.

Pool participation is limited to members of the League of Iowa Municipalities. Members with an experience modification factor of more than 1.00 are required to adopt a satisfactory safety program.

Loss control and claims administration services are provided by Hall Risk Management Services, Inc. Hall also provides brokerage services for the reinsurance placements.

For Additional Information Contact: Larry Huntley, League of Iowa Municipalities, Suite 100, 900 Des Moines Street, Des Moines, Iowa 50316 - (515) 265-9961. ■

Largest Dividend in History of KACo-KML Fund

Worker's Comp Fund Announces Dividend In Excess of Half Million Dollars!

Frankfort — The KACo-KML largest dividend in the fund's history. This dividend will be Member cities
Self Insurance Fund for have saved
Worker's Compensation
announced today.

*If your county is not participating in the KACo-KML Self
Insurance Fund for Worker's Compensation, please contact:*

Robert F. Hart, Jr.
KACo-KML Self Insurance Fund
P.O. Box 3024
Frankfort, Kentucky 40603
502/875-5874

Illness

UN-INSURED OR UNDER-INSURED?

*Don't let your city suffer high insurance rates
and uninsured losses!*

**80 CITIES HAVE SAVED A TOTAL OF \$1,030,000 WITH THE
ILLINOIS MUNICIPAL LEAGUE RISK MANAGEMENT ASSOCIATION**

— — — COVERAGES — — —

Property — 6.0 million per loss per location

General Liability & Auto Liability — 21 million any one occurrence

Inland Marine & Auto Physical Damage — 3.5 million blanket
per loss catastrophe limit

Workers Compensation — 15 million any one occurrence

*Enter the Program on the most cost effective date for you at a
savings of up to 25% on your current insurance premiums.*

FOR FURTHER INFORMATION CONTACT:

Springfield
P.O. Box 3387
Springfield, IL 62708
(217) 525-1220

Peoria
5835 Galena Rd.
Peoria, IL 61614
(309) 686-2050



Danville
320 Vermilion
Danville, IL 61832
(217) 446-1089

Chicago
210 West Illinois
Chicago, IL 60610
(312) 329-0292

Virginia Pool Declares First Dividend

The Virginia Municipal Group Self Insurance Association (VMGSIA) has declared its first dividend to members of the two-year old workers compensation pool which was started by the Virginia Municipal League. The dividend will average about 20% for the 46 members who participated in the 1980-81 fund year with 12 members receiving between 30% and 40%; 25 receiving between 20% and 30%, and only 9 receiving below 20%.

The dividend is composed of interest earnings and claims fund surplus. Virginia's Bureau of Insurance requires that approximately \$100,000 of the claims fund balance be retained for any claims incurred but not reported and for adjustments to current reserves.

Interest earnings are allocated on a pro rata basis calculated on the length of time the

member's premium was available for investment purposes. Members joining or making payments in the final 30 days of the fund year did not receive an interest credit.

Claims fund surplus is allocated on the basis of 60% of the individual member's claims fund balance net of expenses and reserves and excess losses. Excess losses are defined as the losses of those members whose claims exceeded their contribution to the claims fund. In the first year of the program, only five members had excess losses. The Association's Board feels that this distribution formula will encourage members with high loss ratios to improve their safety loss control programs in order to increase future dividends.

The pool which started in July 1980 increased its membership to 115 by June 1982, and annual premium rose from \$730,000 to over \$3.5 million. Membership includes cities, towns, counties, school boards and numerous special districts and agencies.

Anyone desiring more information about VMGSIA may contact Brad Harnes, deputy director of the league and administrator of the pool at Virginia Municipal League, Post Office Box 753, Richmond, Virginia 23206, (804) 649-8471.

July '82
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MASSACHUSETTS LEAGUE
ENTERS GROUP INSURANCE
FIELD IN WORKERS COMP

Massachusetts Municipal Association
launched its new
workers compensation
insurance subsidiary

on July 1, with 65 local governments participating and an annual premium volume of \$2.3 million.

Massachusetts Interlocal Insurance Association is the title of the MMA insurance subsidiary. It is defined as a workers compensation safety group, not a pool, since intergovernmental pooling is not authorized under state law. MIIA is governed by a seven-member board consisting of four local government officials and three members of the MMA staff, including executive director Jim Segel who serves as MIIA president.

Old Republic Insurance Company serves as the

fronting insurance company and issues the policy. Safety, claims and other services are provided under contract with Frank B. Hall of Boston, and MIIA contracts with MMA for certain administrative and marketing services

INSURANCE PLAN AVAILABLE FOR MISSISSIPPI LOCAL GOVERNMENT

Blair, Follin, Allen & Walker of Mississippi, Inc. announce the establishment of a local government insurance plan in Mississippi. It tracks a successful operations in Tennessee, Alabama, Georgia, Kentucky, Oklahoma, and Arkansas where over 800 public entities are insured under the plan. As general agents for the Home Insurance Group, they are offering broad Comprehensive General Liability, Automobile, Inland Marine, Public Officials Errors & Omissions Liability, Property and Workmen's Compensation coverages on a brokerage basis. Through other admitted carriers they can also place Law Enforcement Agency Comprehensive Liability and excess or umbrella liability.

In Mississippi, the plan is available only through members of the Independent Insurance Agents of Mississippi

or any agent of the Home Insurance Company.

The Comprehensive General Liability policy covers as named insureds all city officials, employees and volunteers. Bodily injury, property damage and personal injury liability is provided for all law enforcement personnel and firemen. Further, provide blanket contractual, blanket independent contractors and blanket "XCU" coverages. E.M.T.s are also covered under this policy as well as school teachers liability, including Corporal Punishment.

Automobile coverages include all fire trucks, police vehicles, buses and all other emergency vehicles.

Public Officials Errors & Omissions Liability coverage is designed to protect the personal assets of individuals

in public office. The cost of defense as well as judgments are covered under the policy. This program is tailored to meet the needs of each city and contains the broadest coverages available.

As part of the services the general agency will also assist your local agents in preparing bid specifications for distribution to agents and insurance companies of your choice. They are also available to analyze your current programs and offer suggestions for treatment of the special operational risks involved in city government.

In addition to the services provided above, they also offer the following support services in cooperation with the Home Insurance Company: (1) Safety Engineering and Loss Control; (2) Claims Service; (3) Research and Development.

NCACC Board Of Directors Hears Worker Comp Story

NEW BERN — Sixty-eight counties are enrolled in the Association's self-funded workers compensation program as of May 31, 1982, the Association's Board of Directors was informed at a regular meeting here June 18.

In addition, a representative of the Fred S. James and Company, which administers the program, said several more, that are up for renewal as of July 1, had indicated interest in joining.

As to return of first year-end surplus premium dollars to member counties, it was reported that the final decision on amount and timing of the "dividend" payment will be made by the Board of Trustees of the program.

The James representative reported slightly over 50 percent of each premium dollar will be required to meet all claims and administrative costs for the first year. He said James will recommend that approximately

half (or 20 to 25%) of the remaining 40 to 45 percent will be paid out as a dividend in January of 1983. The rest of that "surplus" will be paid out over the following two years, providing there are no unanticipated major claims. In the interim, interest on the undivided "surplus" will be added to the principal and paid out at the same rate.

Health Insurance

The Board adopted the recommendation of an advisory committee that the Association establish, conditional upon sufficient interest shown, a self-insured group plan for providing health and hospitalization benefits to employees of interested counties.

The plan will be marketed through the Fred S. James & Company. Initially, James will solicit each county to determine if there is sufficient interest (defined as a minimum of 1500 total employees to be covered in the group plan) to establish such a group plan. If so, the plan is scheduled to be implemented January 1, 1983.

Other Actions

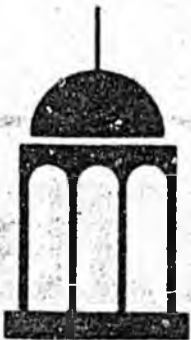
In other matters, the Board received a report from Executive Director Ron Aycok about plans for the forthcoming Annual Conference in Raleigh August 12-15 -- the 75th Annual Conference.

It also:

--adopted an official policy on Association interaction with affiliated organizations, based on a proposal from the Commission on Means and Alternatives which was presented after consultation with existing affiliates; and

--received a report from Field Administrator Robert Hester on his activities since joining the staff. He had visited, at that time, 46 counties to consult with county commissioners and county employees.

(Continued on Page 8)



TENNESSEE COUNTY NEWS

Vol. 5, No. 3



A PUBLICATION OF THE TENNESSEE COUNTY SERVICES ASSOCIATION

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July-August 1982



Insurance Fund Pays Off

Loudon County received a \$8,300 dividend check last month for their participation in the TCSA Workers Compensation Self-Insurance Program for 1981. From left are Buddy Jenkins, Loudon County purchasing agent; Louis Midden, Corroon & Black Benefits, Inc.; June Cusick, Loudon County Director of Accounts and Budgets; William Russell, Loudon County Executive, and Rutae Watson of R.M. Gray Insurance Company.

"The TCSA Workers' Compensation Self Insurance Fund has already saved Bradley County over \$19,438."



— Carl Colloms,

Bradley County Executive

"The cost of insurance is one area where county governments can realize substantial savings. Here in Bradley County, participation in the TCSA Workers' Compensation Self Insurance Fund is a big money saver. In the short time we have been members of the fund, we saved over \$19,438—many times more than our association dues. Of this amount, \$5,673 was direct savings to the county highway department. And we've been told to expect even greater savings next year, if our loss ratio continues to improve. Of course the savings are important, but so is service. Since the Fund was created by TCSA, our own state association, we expect prompt answers to our questions and ready access to Fund administrators. We get it . . . everytime.

"We're saving money and getting the best service around. And the Fund has unlimited catastrophe and frequency of loss excess coverage. That means Bradley County is fully protected. That's what I call the best insurance deal in town."

New ideas in risk management have opened new possibilities in the area of worker's compensation. Administered by Tennessee-based Corroon and Black, a nationally recognized insurance brokerage firm approved by NACo, and bid through local insurance agents, the TCSA Workers' Compensation Self Insurance Fund can help you stretch your tax dollars. More than 35 Tennessee counties are already enjoying substantial savings through their participation in the Fund. For more information, contact Dick Hammer, P.O. Box 78, Nashville, TN 37202; or call (615) 367-9702.



TCSA Self-Insurance Fund

VERMONT LEAGUE
ORGANIZES TRUST
FOR HEALTH INSURANCE

Vermont League of Cities and Towns has organized a non-profit corporation to provide health insurance benefits for municipal employees. The trust has contracted with Connecticut General Life Insurance Company to provide coverage under three different plans with varying levels of benefits.

The five-member board of directors of VLCT Municipal Health Insurance Trust, Inc., is named by the league board of directors, and the trust purchases administrative services from the league. Working with a consultant, the trust is seeking new ways of achieving health cost containment in the new program.

Details are available from Vermont League director Bob Stewart.

CONNECTICUT POOL
SHOWS GROWTH IN
MEMBERS, PREMIUMS

The number of public agencies participating in the Connecticut league's workers compensation pool has tripled since the program was founded in 1980.

Connecticut Interlocal Risk Management Agency (CIRMA) has become one of the largest providers of worker's compensation coverage in Connecticut, serving 57 municipalities and local public agencies.

- As of July 15, 1982, 44 municipalities (34 with boards of education) and 13 local public agencies (transit districts, housing authorities, etc.) purchase their worker's compensation coverage through CIRMA. Current membership has increased by 200 percent over CIRMA's original membership of 19.
- CIRMA's deposit premiums for the 1982-83 fiscal year total \$7,057,575 -- nearly double the July 1, 1980 total of \$3,646,412.
- CIRMA now provides workers' compensation coverage for over 20,000 local public employees throughout Connecticut.

Although CIRMA's membership grew substantially in 1981-82, the total incurred losses in that year decreased by 9.5 percent from the previous year.

In addition to its annual up-front discount of 15%, CIRMA also distributes members' equity -- its excess of income over expenses. In the first year, CIRMA's financial statements reflected a \$1,019,968 excess of income over expenses of which \$919,968 was unrestricted.

The CIRMA Board of Directors decided to distribute \$500,000 to the 22 eligible 1980-81 members and to retain the remainder as a reserve which may be distributed to those members at a later date.

Georgia Pool

The Georgia Municipal Association (GMA) is sponsoring a workers' compensation pool with a planned start-up date of October 1. The GMA Workers' Compensation Self-Insurance Fund will be governed by a Board of Trustees comprised of officials from the municipalities participating in the pool. Hall Risk Management, Inc. (HRM), of Orlando, Florida was selected to administer the program. This Frank B. Hall (FBH) subsidiary was selected from among 13 service companies that expressed interest. HRM has successfully established itself as the leader in state municipal league (SML) pool administration and currently administers at least 8 SML pools. (Another FBH subsidiary, Frank B. Hall Risk Management Inc. of Massachusetts, also administers municipal league programs in three other states.) GMA staff will provide day-to-day administration and liaison with HRM and pool members.

While actual savings cannot be estimated with certainty, initial discussions indicate that Georgia municipalities

may be able to receive up-front discounts of 15-20% off manual modified workers' compensation premiums. In addition, cities with good loss experience will be eligible to receive investment earnings sometime after the end of the first full calendar year.

HRM will have primary responsibility for marketing the program and plans to visit every city in the state, starting with those cities expressing an interest in participating.

Before the pool can begin operation, approval must be provided by the Georgia Insurance Commissioner's office. While the regulations applying to group workers' compensation funds in Georgia have been referred to as "complex" and the Commissioner's office as "strict" by GMA Executive Director W. Elmer George, the GMA is confident October 1 is a realistic pool inception date.

For additional information, contact: GMA, 3 Peachtree Street, Suite 2300, Atlanta, Georgia 30303 404/688-0472. ■

Idaho Workers' Compensation Dividend

Municipalities in Idaho will receive \$850,000 in dividends arising from workers' compensation premiums paid to the State Insurance Fund in 1980 and 1981. Individual dividends range in size from \$14 to \$107,842. The Idaho State Insurance Fund provides workers' compensation coverage for all governmental entities in the state. In addition, the fund announced that it was reducing standard premium charges for public entities by 20%.

The dividend was declared as the result of an actuarial study of the fund's claims reserves and surplus. The fund seeks to maintain one dollar of surplus for each dollar of premium paid into it. Surplus in excess of this amount is returned to the policyholders. Favorable investment and underwriting results in the past two years have produced a larger than expected dividend.

Dividends paid to individual policyholders are determined by two factors. Fifty percent of the dividend is based on the investment income of the fund. Policyholders receive a share of the fund's investment income based on the size of their premium contribution to the fund. The other 50% of the dividend is based on the policyholder's loss history.

Workers compensation plan gets official approval

ACCG won approval of the state insurance commissioner July 1, as expected, to initiate the workers compensation group self-insurance fund for which the association has been recruiting participants for about two months.

In June ACCG surpassed the number of participating counties and level of premium required to start up the plan. It only needed official approval of the insurance commissioner to go into effect.

First enrollees in the self-insurance plan are Bulloch, Elbert, Emanuel, Floyd, Greene, Jackson, Laurens, Putnam, Spalding, Taliaferro and Treutlen counties. Awaiting admission are Atkinson, Dougherty, Lowndes, Screven and Thomas counties.

The annual premium from the first 11 enrollees will amount to almost half a million dollars, but by the end of the year there may be three or four times as many counties covered in the plan.

To satisfy minimum requirements in the group plan's design, it was necessary to enroll at least 10 counties which together would cover 1,000 or more employees and provide an annual premium of \$300,000 collectively. ACCG exceeded each of those minimums at the beginning of summer.

The plan has been designed with safeguards to protect members from catastrophic losses. Two levels of reinsurance can be called into play in the event of a major loss. The fund is further protected by stringent state guidelines on safe investment vehicles.

Besides the advantages in lower premium costs for a group self-insurance plan, the ACCG fund can be expected to pay dividends after its first year of operation. Dividends will substantially reduce overall costs. Through the group management approach, these dividends can be returned to participating counties. Tax considerations favor investing much of the fund in Georgia, trustees say.

An important safety incentive is written into the plan. Counties whose loss experience stays within appropriate bounds will get a larger share of dividends than participants with poor safety records. Safety engineers and consultants will be made available to participating counties to help identify hazards and reduce workers compensation claims. Too, the ACCG plan is

committed to being vigilant for fraudulent claims which larger, private insurers might not investigate as thoroughly.

County officials who would like to examine the plan ACCG is offering

may request a conference with an insurance representative by phoning ACCG at 404-522-5022. Typically, new enrollees would activate their coverage on the anniversary date of existing policies.

Safety Expert Praises Workers' Comp. Pool

The effectiveness of the League's new Self-Insurance Workers' Compensation Pool was underscored recently when a state association safety official attested to its impact on reducing accidents and injuries in towns and cities.

David B. Holloway, Safety and Training Coordinator with the N.C. Association of Municipal Electric Systems, wrote S. Leigh Wilson, League Executive Director. Holloway particularly praised the safety training efforts of Hewitt, Coleman and Associates, Inc., the firm which is handling the pool for the League.

"Since July, 1981, when they began handling Workman's Compensation for many of our electric cities,

Arkansas Pool Responds To Criticism

The Municipal Vehicle Liability Program offered to Arkansas cities by the Arkansas Municipal League (AML) attracted 70 cities in its first three months of operation. Cities have saved an average of 35% through premium reductions. The program has drawn criticism from the Independent Insurance Agents Association. Some of the criticisms and AML responses are as follows:

1. *"No reinsurance"*
AML declined to purchase after investigating the reinsurance market. Cost was excessive, exposure did not justify reinsurance and it was decided that pool could make better use of funds by maintaining funds in program.
2. *"Punitive damages are not covered"*
Recent U.S. Supreme Court ruling held municipalities are exempt from punitive damages.
3. *"Physical damage coverage is not available"*
Coverage is available through a private insurer but AML recommends evaluation of self-insurance and use of a local

agent if desire to purchase.

4. *"Only basic limits of 25/50/15 are available"*

These limits respond to the limits required by state law, and immunity is available to municipalities by statutes and Supreme Court rulings in Arkansas.

5. *"The \$100 rate per vehicle is not necessarily a better rate than is available on the open market, especially on large fleets"*

The statement is accurate but, at least in part, because of availability of AML's program. The competitive response now offered by insurers is welcome.

6. *"The plan is ambiguous as to which vehicles are covered"*

Municipal-owned vehicles designed for highway use are covered at the rate of \$100 per vehicle and vehicles designed for non-highway use may be covered for \$10 per vehicle.

7. *"No insurance company underwrites or administers the program. There may be a lack of experienced personnel presenting and administering the plan"*

AML points out that the first sentence is correct and advantageous to cities because all funds are retained for the program and all investment earnings are available to help pay claims. The absence of insurer retention charges and commissions will greatly reduce the cost. AML does, however, have staff members experienced and licensed to administer the program. The General Adjustment Bureau, a firm often used by many insurers, coordinates claims adjustment.

GRMR Comment: This is the type of head-on response many pools have taken when faced with criticism leveled by agents. Pools should respond to criticisms point by point in a timely manner and target the audience to include municipal managers as well as the politicians. Be straightforward, correct and take credit for direct savings as well as decreasing rates overall by improving competition.

For more information on AML's program, contact: M.V.L.P., P.O. Box 38, North Little Rock, Arkansas 72115 (501) 758-1610. □



ALASKA MUNICIPAL LEAGUE
GROUP SELF-INSURANCE
FUND

WHAT IS IT?

The Alaska Municipal League Self-Insurance Fund is a separate and distinct association created in cooperation with the Alaska Municipal League for the purpose of providing municipalities with insurance coverage for workers' compensation, general liability, and auto liability at reasonable costs. It is a cooperative effort on the part of participating municipalities to save money and to improve coverage.

This type of cooperative effort is not new to the insurance field but in fact has existed throughout the country for the past twenty to thirty years. Through a cooperative approach to better coverage, the mass-purchasing power obtained through the combined strength of members means a stable, competitive source of insurance. It means maximum flexibility and maximum economy.

The program is patterned after other municipal systems and is basically established on a non-profit basis to benefit the members.

The proposal that has been accepted by the Alaska Municipal League was put together by Corroon & Black in consultation with the Public Entities National Company (PENCo), the National Association of Counties (NACo), and the AML Insurance Steering Committee.

We encourage the members to retain the services of their local broker if they wish. A commission is provided in the premium dollar for the agent of record. This is an "open" program.

WHY SHOULD YOUR MUNICIPALITY PARTICIPATE?

- ☐☐☐ This fund guarantees advance discounts on workers' comp greater than those usually offered by insurance companies because the program is not limited to the discounts established by the National Council on Compensation Insurance.
- ☐☐☐ The surplus in the program accrues to members of the group and not to an insurance company. Any resources remaining after claims and administrative costs are paid can be returned to the participating members as dividends and/or premium refunds rather than going to insurance company profits.
- ☐☐☐ Safety programs will be implemented and consultation services will be designed for the special needs of your municipality.
- ☐☐☐ This fund can provide better coverage because the policy coverages available in this program have been designed especially for public entities, avoiding the gaps often hidden in other policies.

By utilizing the agreement made by NACo/PENCo, the group program has vastly increased buying power in the insurance marketplace which reduces the cost of excess coverages. Insurance companies are much more receptive to large premiums such as there are with the various NACo members around the country. Each retains its own experience modification as promulgated by the National Council, debit or credit, less the advance discount mentioned above. On the other coverages, good experience will develop experience credits off the manual premiums, just as they would with a standard insurance company.

The cost of insurance is one area where municipalities can realize substantial savings and stretch their tax dollars. More than thirty state associations are now developing or have developed programs for counties through NACo/PENCo and at least twenty state associations have set up group pools or self-insurance funds for their member cities.

HOW WILL YOUR MUNICIPALITY BE PROTECTED?

The program will have a self-insured retention (SIR) of \$300,000 per occurrence on workers' compensation, \$100,000 SIR on general liability/auto liability, and a \$300,000 SIR for a combined retention per occurrence, both workers' comp and general liability/auto liability. This means the first \$300,000 of any loss (occurrence) for WC will be paid by the AML loss fund; the first \$100,000 of any loss for GL/auto will be paid by the AML loss fund; and the first \$300,000 of any loss involving both WC and GL/auto will be paid by the AML loss fund. Losses above these limits will be paid from the excess insurance. When claims in any year reach 70% of premium, all claims thereafter in that year will be paid by the excess insurance carrier. Because of the excess, one member's loss cannot bankrupt the program or affect another member's premium. There will be no additional assessments over and above the premium paid for coverage. Each member's annual premium will be computed based on that member's loss history, not by the loss history of the other members.

For further information on the AML Group Self-Insurance Fund contact:

Ginny Chitwood
Executive Director
Alaska Municipal League
204 North Franklin
Juneau, AK 99801

586-1325

WHO IS IT?

The business and affairs of the Fund will be managed by a five-member Board of Trustees appointed by the Board of Directors of the Alaska Municipal League and will serve, after the initial term, for a period of two years.

Members who have been asked to serve as of July 1, 1983 are as follows:

Edna Armstrong, Mayor
Matanuska-Susitna Borough
Nate Olemaun, Mayor
City of Barrow
Betty Glick, Assembly Member
Kenai Peninsula Borough
Don Koenigs, Mayor
City of Petersburg
Ginny Chitwood, Executive Director
Alaska Municipal League
(Constant Member)

Also serving (in an advisory capacity) will be representatives from AML associate groups:
Ross Kinney, Municipal Finance Officers' Association
Russ Walker, Alaska Municipal Attorneys' Association
Jim Van Altvorst, Alaska Municipal Management Association

Participating members of the Fund can be any municipal member in good standing of the Alaska Municipal League.



Pictured L to R: Corroon & Black representatives Kathy Gettys and Judith Stevens; AML Executive Director Ginny Chitwood; and Lee Baulkan, Senior Vice President of C&B's Advanced Risk Management Services Division.

Alaska
MUNICIPAL
League

TELEPHONE
506-1325

210 ADMIRAL W
JUNEAU, ALASKA 99801

Alaska MUNICIPAL League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST
JUNEAU ALASKA 99801

ALASKA MUNICIPAL LEAGUE Group Self-Insurance Program

FACT SHEET

- ** The self-insurance plan will offer \$10,000,000 all lines liability coverage, including automobile, general liability, and errors and omissions, with the broadest manuscript form available. This form is comparable to the one currently used by the Municipality of Anchorage and the State of Alaska.
- ** Workers' Compensation coverage will be included in the program at statutory limits.
- ** How does the program work?
 - 1) Premiums are paid to your fund for claims handling and investment.
 - 2) Premiums are figured on each individual member's exposure.
 - 3) A first year minimum credit on the premium of 15% will apply on the liability coverage.
 - 4) Individual experience modifications will be applied to the Workers' Compensation.
 - 5) Under the SIR (Self-Insured Retention) the fund would pay losses:
 - Workers' Compensation - The first \$300,000 of any loss;
 - General & Auto Liability - The first \$100,000 of any loss;
 - Combined WC, GL, AL - The first \$300,000 of any loss.
 - 6) The excess insurance comes into play:
 - a) When an occurrence payment reaches above the SIR levels indicated;
 - b) When losses in any one year reach a level of 70% of contributed premiums.
 - 7) The unearned premium and loss reserves are invested in the members behalf. Investment income comes back to the fund and dividends distributed to contributing members.
 - 8) Claims control, investigating and servicing is coordinated with each member to insure proper handling.
 - 9) Safety programs and consultation service are included and designed for public entities special needs.

** The AML plan produces initially reduced costs. Each municipality that requested premium quotations in 1982 received premium reductions of 20% to 40% on an average. Some municipalities are being so over-charged the premiums we quoted would result in a savings for them of almost 50%.

** Your local broker and your municipality retain their relationship. When you need something, you still call your broker. You have not lost their services.

** The loss fund will be invested which will provide additional revenue for the fund. This will result in two distinct sources of income for the members:

- 1) Investment and/or interest income earned; and
- 2) Underwriting profit: those funds not paid in claims are retained as "profit".

** Last year many insurance companies were quoted as saying "We can do the same thing as the AML plan, both in cost and coverage".

While it is true that the competition from the AML program encouraged many brokers and agents to "sharpen their pencils", there were still considerable savings as promised.

If there are more coverages in the AML program than you are now getting, ask your broker for a premium quotation so you can adequately compare programs.

** Q What happens if ten city employees are all killed in an airplane traveling to Anchorage from Fairbanks for a meeting?

A That question could probably fill volumes of pages, but there are some very basic answers as follows:

- 1) Since this is "one occurrence", the maximum amount paid out of the self-insured fund would be \$300,000. All sums over that would be paid by the excess carrier.
- 2) In reality, this would probably be a commercial airline and, therefore, the death claims would be paid by the airline if there was negligence involved.
- 3) Even if the self-insured retention paid the full \$300,000, there would probably be subrogation recovering most or all these funds.

** Q Can municipalities be assessed for more money to pay claims?

A No. The claims fund is set up to protect that by having an aggregate stop loss at 70% of contributed premium.

(Continued)

** Q What about loss experience and this dividend? Would a municipality showing good results have to pay as much as a municipality showing poor results?

A Two things need to be considered: 1) premium paid; and 2) dividends received.

- 1) Premiums - Each municipality retains its own experience modification and rating. Definite credit from premium is given to good loss control and experience.
- 2) Dividend - This can be handled in two ways, depending on the decision of the AML Board of Trustees and you, its members.
 - a) Level Dividend - Each member receives a dividend based on percentage of the fund. That percentage is applied to the amount of available monies for distribution.
 - b) Two-tier Dividend - This type provides for a dividend to be promulgated in two ways:
 - 1) On investment income interest, the member receives their percentage of the fund applied to the amount of income declared as a dividend;
 - 2) On the basis of underwriting profits, the member's loss experience would be taken into consideration.

** Q What if a whole city floods and is wiped out?

A Since this involves property insurance, not liability or workers' compensation, the fund is untouched. Floods are considered "Acts of God" and a city cannot be held liable for property damage or injury caused from Acts of God.

** Q If the bigger municipalities like Anchorage and Fairbanks do not join, can the rest really generate enough premium to fund something like this?

A The answer is most definitely yes. The very fact that these municipalities are so pleased with their self-insurance success is positive proof of the validity of the programs for a pool of smaller municipalities.

** Q Will we have Statutory Limits on our workers' compensation or is the \$10,000,000 enough?

A A look at the benefits statute will indicate that the \$10,000,000 limit is more than sufficient to cover losses; however, Statutory Limits are being considered and negotiated right now.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employers.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

THE LEGISLATURE OF THE STATE OF ALABAMA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 66
 Title "An Act relating to municipal self insurance for workers' compensation."
 Requested by Rules Committee Date 1/7/83

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Public Protection
 BRU, Program, Or Subprogram(s) Affected Admin. of Workers' Compensation
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
 No fiscal impact.

SB 66

Amendments proposed

Add a new subsection to AS 21.03.021 to read:

(b) This title does not apply to a municipal self insurance pool or a public utility pool formed in accordance with AS 23.30.075(b).

In principle, what our program does is to buy a group insurance policy with a large deductible, and the deductible amount is shared within the group. Our retained risk on worker's compensation claims is \$200,000 per occurrence. Above that level, we are insured by an excess insurance company. Corroon & Black/Dawson & Company is our broker and has been since the beginning of our program. Each year they calculate what the commercial insurance premium would be for each of our members, including the individual expense modification for each member. Our Board of Directors then determines what discount, if any, will be allowed to the participants for that year. Discounts in our program have been: 1980-0, 1981-10%, 1982-15%, 1983-15%.

We have an active safety program for our members which is paid for as a cost of our self-insurance program. Claims are administered on a professional basis for us by Scott Wentzel Services. After paying expenses and claims (including reserves for claims not yet paid), we have finished each year with a substantial surplus which is held in trust for our members. This money is retained in the program for a few years in order to make sure we have an adequate reserve on hand, but these savings will be paid back to our members.

Our self-insurance program is one of the most important programs we have in helping our members hold down their costs which must be included in their rates for service. We urge that you approve amendments to SB 66 which will permit us to continue this important program.

Enclosed is a proposed CS for SB 66 which will accomplish this objective. If you want to require participants of self-insurance groups to guarantee the obligations of the group as we have done, this can be accomplished by adding a sentence at the end of the proposed AS 23.30.075 (b) as follows:

Each employer shall be jointly and severally liable for the legal obligations of the group.

Sincerely,



David Hutchens
Executive Director

COMMUNICATIONS

The secretary announced receipt of the Report on the Status of Land in the Land Disposal Bank in accordance with AS 38.04.020 (d), from Esther C. Wunnicke, Commissioner of Department of Natural Resources, dated January 15. The report is on file in the Secretary's office.

President Kerttula referred the above report to the Resources Committee.

The Secretary announced receipt of the Report on School District Capital Budget Requests in accordance with AS 14.08.161 (a)(3) from Marshall L. Lind, Commissioner of Department of Education, dated January 20. The report is on file in the Secretary's office.

President Kerttula referred the above report to the Finance Committee.

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 66

SENATE BILL NO. 66 by the Rules Committee by request of the Governor, entitled:

"An Act relating to municipal self insurance for workers' compensation."

was read the first time and referred to the Labor and Commerce Committee and the Finance Committee.

Fiscal note is zero.

Governor's transmittal letter dated January 24 follows:

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

SB 66 cont'd

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employer.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Sincerely,

/s/ Bill Sheffield
Bill Sheffield
Governor

ANNOUNCEMENTS

Announcements appear at the end of the journal.

SPECIAL ORDERS

The President requested the Chairmen of the Judiciary Committee and the Resources Committee to meet with Senator Moss on Chapter 10, SLA 1982, CSSSSB 162 (Final (old fld H)), (special appropriations to the Department of Commerce and Economic Development for the Alaska Agricultural Action Council for a small grain marketing system).

ADJOURNMENT

Senator Ray moved and asked unanimous consent that the Senate adjourn until 10:00 a.m., January 25, 1983. Without objection, the Senate adjourned at 10:25 a.m.

Peggy Mulligan
Secretary of the Senate

January

1983

ANNOUNCEMENTS

C&RA Room 211	1/25, 3:00 p.m.	SB 1, SB 15, SB 17, SB 21, SB 37, SB 53
FINANCE Finance Room	1/24, 1:30 p.m.	Joint w/House operat- ing budget
HESS Room 506	1/26, 1:00 p.m. 1/28, 3:00 p.m.	Joint w/House E.O. 54 SJR 1
JUDICIARY Room 205	1/24, 3:00 p.m.	SB 13, SB 20, SB 24, SB 49
RESOURCES Room 118 Room 211 S Finance Rm.	1/24, 1:30 p.m. 1/28, 3:00 p.m. 1/31, 3:00 p.m.	DNR N. Anchorage land SR 1 SB 40, SB 41
STATE AFFAIRS H Finance Rm.	1/25, 3:00 p.m. 1/27, 3:00 p.m.	CANCELLED Joint w/House, E.O. 53
REAA Room 508	1/28, 9:00 a.m.	Fiscal comparisons
REGULATION REVIEW Room 211	1/26, 5:00 p.m.	Introductory
AK. STATEHOOD COMMISSION Room 206	1/25, 11:15 a.m.	Presentation to Legislators
LEG. COUNCIL Room 508	1/27, 3:00 p.m.	Organization
MINORITY CAUCUS	Upon adjournment	

SENATE JOURNAL

ALASKA STATE LEGISLATURE

THIRTEENTH LEGISLATURE - FIRST SESSION

JUNEAU, ALASKA MONDAY January 24, 1983

Eighth Day

Pursuant to adjournment the Senate was called to order by President Kerttula at 10:09 a.m.

The roll call showed nineteen members present. Senator Rodey was absent.

The prayer was offered by the Chaplain, Reverend John Tindell of the Northern Light United Church.

Senator Ray moved and asked unanimous consent that the journal for the fifth, sixth and seventh legislative days be approved as certified. Without objection, it was so ordered.

MESSAGES FROM THE GOVERNOR

Message of January 21 was read, stating pursuant to applicable law, the Governor submits the following names for legislative confirmation of appointment to:

UNIVERSITY OF ALASKA BOARD OF REGENTS

Appointed to eight-year terms beginning February 7, 1983:

Gordon Evans, Juneau
Roy Huhndorf, Anchorage
Ann Parrish, Anchorage
Ruth Burnett, Fairbanks

The above appointees were referred to the Health, Education and Social Services Committee.

Reciprocals

A reciprocal exchange is an American innovation, dating from the 1880's. It is a device whereby persons combine into a group to insure each other, to obtain protection at relatively low cost, and to obtain relatively broad coverage. An exchange does not issue policies. As its name implies, it provides a device whereby its members "exchange" insurance.

A subscriber receives protection for a certain amount of his own risk. He must then help "underwrite" coverage for the membership. If he has a loss, he will receive payment from all the other subscribers. Each member pays an amount based on his share of losses plus a further sum for expense of operation.

Reinsurance

Reinsurance is the assumption by one insurance company of all or a part of a risk undertaken originally by another insurance company. The company buying the reinsurance is called the ceding company or the reinsured; the one selling it is the reinsurer.

a.) Quota Share Reinsurance - In quota share the reinsurer agrees to accept a fixed percentage of the gross writings of the captive for which the reinsurer allows a ceding commission to cover prepaid expenses and hopefully a profit to the reinsured. For example, the reinsurer may agree to accept one third of the insurance in each policy of a given type. The reinsurer then relieves the captive of this proportion of the unearned premium reserve and loss reserves, and the two parties participate according to their respective proportion in future losses and loss expense.

b.) Surplus Share Reinsurance - This type of reinsurance differs from quota share only in its function, not in its operation. Instead of ceding a percentage of gross premiums as in quota share the reinsured establishes a pro rata retention or "line" on the individual risk and then cedes a fraction or a multiple of that line. For example, for business of a given type the primary insurer may keep the first \$10,000 per risk plus one third of each additional \$10,000 (or fraction thereof), the other two thirds being ceded.

c.) Excess of Loss Reinsurance - In "excess of loss" reinsurance the captive bears on its own account all loss up to the retention agreed upon; the reinsurer assumes all loss above the retention. Some contracts protect on a per risk basis and some on risks involved in a single event. There has also been use of this type of reinsurance to limit aggregate loss in any one year. This type of coverage enables the captive to confine fluctuations in loss ratio to a low or so-called "working level", where it is more likely to be stable. Obviously the shock of the catastrophic event is eliminated.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

MEMORANDUM

all members Labor & Commerce

TO: Sen. ~~John Sackett~~

FROM: Sen. Dick Eliason, Chair
Senate Committee on Labor and Commerce

DATE: Feb. 9, 1983

RE: SB 66 - "An Act relating to municipal self insurance for
worker's compensation."

Senate Bill 66 will be discussed by the Committee on Labor and Commerce during a hearing scheduled for Feb. 10 at 1:30 p.m. This bill was introduced by the Rules Committee at the request of the Governor. It would allow two or more municipalities to enter into an agreement to organize a self-insurance group in order to cover their liability for Worker's Compensation insurance.

Pertinent back-up material will be provided at the time of the hearing. However, if you would like to preview the material, please contact Sheila Peterson, of my staff, at 465-4916. Thank you.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 24, 1983

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employers.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

January 31, 1983

REPORT NO. 2INTRODUCTION OF BILLS (Senate)

Workers' Compensation
(municipal self insurance)

SENATE BILL NO. 66, by the Rules Committee by request of the Governor. Would allow two or more municipalities to enter into an agreement to organize a self-insurance group in order to cover their liability for Workers' Compensation insurance under AS 23.30.

Sec. 1 amends AS 23.30.075, "Employer's Liability to Pay," by adding new (b) which authorizes municipalities to organize into self-insurance groups. Also amends confusing language in subsequent paragraph of 23.30.075 (see Governor's letter, below). Sec. 2 amends the definition of "self-insurer" contained in AS 23.30.265(19) to include members of municipal self-insurance groups.

Introduced January 24 and referred to Labor & Commerce and Finance.

In his message transmitting the bill to the Senate for consideration, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation. This bill authorizes municipalities to establish self-insurance groups, under Workers' Compensation Board regulations, in order to cover their liability for workers' compensation insurance under AS 23.30.

The essence of this bill is in the new AS 23.30.075(b) in sec. 1. It would give municipalities an alternative form of insuring their workers' compensation liabilities. Instead of purchasing insurance policies to cover their workers' compensation liabilities, two or more municipalities will be able to pool their resources and become self-insurers.

Other states which have enacted similar legislation have found that group self-insurance funds are able to provide at least equal benefits and service to its injured workers and usually more efficiently and at less cost to the employer.

The amendment to newly designated AS 23.30.075(c) is intended to clear up some awkward and confusing language. In doing so, one of the changes removes the reference to "the person actively in charge of the business of said corporation." If that person has authority to insure the corporation, he is already covered by the preceding clause of that sentence. If he does not, he should not be subjected to this kind of personal liability. Section 2's amendment of AS 23.30.265(19) merely recognizes the new AS 23.30.075(b).

Utility Facilities
(relocation of by munic.)

SENATE BILL NO. 67, by the Labor & Commerce Committee. Would grant municipalities the authority to order a utility to relocate its facility if necessary for construction of a highway project. Would allow a municipality to order reloca-

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P. O. BOX 1149
JUNEAU, ALASKA 99802
Phone: (907) 465-2700

February 7, 1983

The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason;

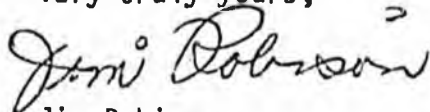
Proposed legislation in Senate Bill 66 allows municipalities to pool their workers' compensation liabilities and claims handling under a group self-insurance concept. It has been suggested that the language of this bill be broadened to include public utilities. Neither the Department nor the Workers' Compensation Board object to the concept of group self-insurance for municipalities or public utilities; however, the groups must be subject to regulatory criteria similar to other self-insured employers to insure that the group is financially able to cover its liabilities to employees.

The effect of group self-insurance is potential savings in employer premium costs. This would be particularly advantageous to small municipalities or public utilities which do not have the financial ability to individually self-insure their risks, but could pool their liabilities under a group fund. ARECA, at one time, was issued a self-insurance certificate which was not renewed when the Attorney General advised that the Workers' Compensation Board did not have the authority to grant this self-insurance. The Board had no problems with ARECA during the period of self-insurance and their safety record was good.

I would suggest that the committee contact the Division of Insurance on this issue, since it can be argued that a "group self-insured" falls more under the jurisdiction of Title 21 than Title 23.

Thank you for the opportunity to comment.

Very truly yours,



Jim Robison
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99802

Phone: (907) 465-2700

February 7, 1983

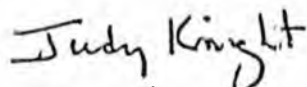
The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Sheila Peterson, your Researcher, had requested a fiscal note on Senate Bill 66 if the bill were amended to include "public utilities." This amendment would not change the fiscal impact and a zero fiscal note would be submitted by the Department of Labor.

I will be happy to prepare a revised fiscal note when or if you have a committee substitute drafted which I assume would have a new title. Please contact me when the fiscal note is needed.

Sincerely,



Judy Knight
Special Assistant
to the Committee

MSG 83-00005791 PRTY 1 02/02/83 17:13:37 ORIG: LA03 IN= 0004 OUT= 0110
FROM: JUNE, ANC LIO TO: POM, JNU INFO
TARGET: LJHL SUBJ: POM

2/2/83, JUNE, ANC LIO, MSG 5791

TO: SENATORS BENNETT, SACKETT, FERGUSON, JOSEPHSON, FAIKS, V. FISCHER,
MULCHAY, ELIASON, AND RODAY

FROM: BOB NESTLE
P. O. BOX 1753
EAGLE RIVER, AK 99577 (H) 694-4372

SB 66 AN ACT RELATING TO MUNICIPAL SELF-INSURANCE FOR WORKERS COMPENSATION
LINES 21 AND 22 SHOULD READ 'TO ORGANIZE A SELF-INSURANCE GROUP IN ORDER TO
POOL OBLIGATIONS UNDER THIS CHAPTER'. THE TERM LIABILITIES MAY BE CON-
SIDERED TO MEAN THE OTHER WORKERS COMPENSATION.

Sheda - FYI

STATE OF ALASKA

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P. O. BOX 1149
JUNEAU, ALASKA 99802

Phone: (907) 465-2700

February 7, 1983

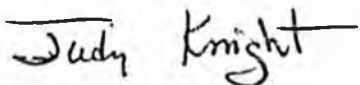
The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

The question has been posed if the term "obligations" should be substituted for the term "liabilities" in Senate Bill 66. After discussing with Assistant Attorney General Gary Amendola, it is our recommendation that "liabilities" is the more appropriate term and maintains consistency in the Alaska Workers' Compensation Act (AS 23.30). By inserting the new word, it may raise some doubt if obligations and liabilities are the same.

Thank you for the opportunity to comment.

Sincerely,



Judy Knight
Special Assistant
to the Commissioner



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 278-3235

January 26, 1983

Senate Labor and Commerce Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

RE: Senate Bill 66

Gentlemen:

I am sure that permitting the Alaska Municipal League to establish a group self-insurance program, as Senate Bill 66 now does, is in the public interest. However, we very strongly urge that this bill be expanded at least to include the utility industry. Our association has successfully operated a group self-insurance program for three years, but our program faces termination unless favorable legislation is enacted this year.

In 1979, the Alaska Rural Electric Cooperative Association applied to the Workers' Compensation Board for a self-insurance certificate for our member utilities. The certificate was issued effective January 1, 1980 and was renewed for a year effective January 1, 1981. Our program has been completely successful in meeting its obligations to the employees of its participants and in saving the participants substantial sums of money in insurance costs. Other associations, including the Municipal League, expressed interest in adopting group self-insurance programs modeled after ours.

At the beginning of 1982, our certificate was renewed for only a few months, and we were told that the Board was "reviewing the situation." In February 1982, Ms. Jacqueline McClintock of the Department of Labor requested an Attorney General's opinion regarding the legal status of group self-insurance programs in Alaska. In April, the Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes and it is in some other jurisdictions, it can be interpreted that group self-insurance is not authorized in this state.

Based on this opinion from the Attorney General, the Workers' Compensation Board terminated our certificate effective September 30, 1982. We appealed this action to the Superior Court, and we were successful in obtaining a stay of the Board action pending appeal. At the present time we are self-insured as a group by order of the Superior Court.

DEMOCRACY IN ACTION

In principle, what our program does is to buy a group insurance policy with a large deductible, and the deductible amount is shared within the group. Our retained risk on worker's compensation claims is \$200,000 per occurrence. Above that level, we are insured by an excess insurance company. Corroon & Black/Dawson & Company is our broker and has been since the beginning of our program. Each year they calculate what the commercial insurance premium would be for each of our members, including the individual expense modification for each member. Our Board of Directors then determines what discount, if any, will be allowed to the participants for that year. Discounts in our program have been: 1980-0, 1981-10%, 1982-15%, 1983-15%.

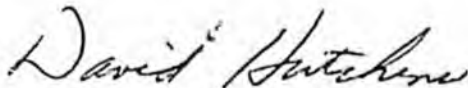
We have an active safety program for our members which is paid for as a cost of our self-insurance program. Claims are administered on a professional basis for us by Scott Wentzel Services. After paying expenses and claims (including reserves for claims not yet paid), we have finished each year with a substantial surplus which is held in trust for our members. This money is retained in the program for a few years in order to make sure we have an adequate reserve on hand, but these savings will be paid back to our members.

Our self-insurance program is one of the most important programs we have in helping our members hold down their costs which must be included in their rates for service. We urge that you approve amendments to SB 66 which will permit us to continue this important program.

Enclosed is a proposed CS for SB 66 which will accomplish this objective. If you want to require participants of self-insurance groups to guarantee the obligations of the group as we have done, this can be accomplished by adding a sentence at the end of the proposed AS 23.30.075 (b) as follows:

Each employer shall be jointly and severally liable for the legal obligations of the group.

Sincerely,



David Hutchens
Executive Director



TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

ALASKA MUNICIPAL LEAGUE
Group Self-Insurance Program

FACT SHEET

- ** The self-insurance plan will offer \$10,000,000 all lines liability coverage, including automobile, general liability, and errors and omissions, with the broadest manuscript form available. This form is comparable to the one currently used by the Municipality of Anchorage and the State of Alaska.
- ** Workers' Compensation coverage will be included in the program at statutory limits.
- ** How does the program work?
 - 1) Premiums are paid to your fund for claims handling and investment.
 - 2) Premiums are figured on each individual member's exposure.
 - 3) A first year minimum credit on the premium of 15% will apply on the liability coverage.
 - 4) Individual experience modifications will be applied to the Workers' Compensation.
 - 5) Under the SIR (Self-Insured Retention) the fund would pay losses:
 - Workers' Compensation - The first \$300,000 of any loss;
 - General & Auto Liability - The first \$100,000 of any loss;
 - Combined WC, GL, AL - The first \$300,000 of any loss.
 - 6) The excess insurance comes into play:
 - a) When an occurrence payment reaches above the SIR levels indicated;
 - b) When losses in any one year reach a level of 70% of contributed premiums.
 - 7) The unearned premium and loss reserves are invested in the members behalf. Investment income comes back to the fund and dividends distributed to contributing members.
 - 8) Claims control, investigating and servicing is coordinated with each member to insure proper handling.
 - 9) Safety programs and consultation service are included and designed for public entities special needs.

** The AML plan produces initially reduced costs. Each municipality that requested premium quotations in 1982 received premium reductions of 20% to 40% on an average. Some municipalities are being so over-charged the premiums w^e quoted would result in a savings for them of almost 50%.

** Your local broker and your municipality retain their relationship. When you need something, you still call your broker. You have not lost their services.

** The loss fund will be invested which will provide additional revenue for the fund. This will result in two distinct sources of income for the members:

- 1) Investment and/or interest income earned; and
- 2) Underwriting profit: those funds not paid in claims are retained as "profit".

** Last year many insurance companies were quoted as saying "We can do the same thing as the AML plan, both in cost and coverage".

While it is true that the competition from the AML program encouraged many brokers and agents to "sharpen their pencils", there were still considerable savings as promised.

If there are more coverages in the AML program than you are now getting, ask your broker for a premium quotation so you can adequately compare programs.

** Q What happens if ten city employees are all killed in an airplane traveling to Anchorage from Fairbanks for a meeting?

A That question could probably fill volumes of pages, but there are some very basic answers as follows:

- 1) Since this is "one occurrence", the maximum amount paid out of the self-insured fund would be \$300,000. All sums over that would be paid by the excess carrier.
- 2) In reality, this would probably be a commercial airline and, therefore, the death claims would be paid by the airline if there was negligence involved.
- 3) Even if the self-insured retention paid the full \$300,000, there would probably be subrogation recovering most or all these funds.

** Q Can municipalities be assessed for more money to pay claims?

A No. The claims fund is set up to protect that by having an aggregate stop loss at 70% of contributed premium.

(Continued)

** Q What about loss experience and this dividend? Would a municipality showing good results have to pay as much as a municipality showing poor results?

A Two things need to be considered: 1) premium paid; and 2) dividends received.

- 1) Premiums - Each municipality retains its own experience modification and rating. Definite credit from premium is given to good loss control and experience.
- 2) Dividend - This can be handled in two ways, depending on the decision of the AML Board of Trustees and you, its members.
 - a) Level Dividend - Each member receives a dividend based on percentage of the fund. That percentage is applied to the amount of available monies for distribution.
 - b) Two-tier Dividend - This type provides for a dividend to be promulgated in two ways:
 - 1) On investment income interest, the member receives their percentage of the fund applied to the amount of income declared as a dividend;
 - 2) On the basis of underwriting profits, the member's loss experience would be taken into consideration.

** Q What if a whole city floods and is wiped out?

A Since this involves property insurance, not liability or workers' compensation, the fund is untouched. Floods are considered "Acts of God" and a city cannot be held liable for property damage or injury caused from Acts of God.

** Q If the bigger municipalities like Anchorage and Fairbanks do not join, can the rest really generate enough premium to fund something like this?

A The answer is most definitely yes. The very fact that these municipalities are so pleased with their self-insurance success is positive proof of the validity of the programs for a pool of smaller municipalities.

** Q Will we have Statutory Limits on our workers' compensation or is the \$10,000,000 enough?

A A look at the benefits statute will indicate that the \$10,000,000 limit is more than sufficient to cover losses, however, Statutory Limits are being considered and negotiated right now.

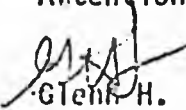
Wilson L. Condon
Attorney General
Department of Law

March 19, 1982

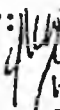
AM-3

Attention: Gary Amendola
Assistant Attorney General

465-2790


Glenn H. Lundell
Deputy Commissioner
Department of Labor

Request for Attorney General's
Opinion - Interpretation of
AS 23.30.075, AS 23.30.090,
AS 23.30.265(12)

By:  Jacquelyn L. McClintock
Director
Workers' Compensation
Department of Labor

The purpose of this request is to obtain an opinion as to whether or not the Board has the authority under the above statutes to grant approval for "Group Self-Insureds".

Under the provisions of AS 23.30, an employer is required to provide workers' compensation insurance to cover injuries to its employees. Provision is also made under §.075 and §.090 for an employer to self-insure its liability upon furnishing the Board satisfactory proof of his financial ability to pay workers' compensation benefits directly.

The term "self-insurance" as used in connection with individual firms commonly refers to that firm's retaining risk and paying the losses out of working capital. The Board's authority to grant an employer self-insurance status is specific under §.090, in effect since 1959.

"Group" or "association" self-insurance pools refers to a group self-insurance plan which is sponsored by a trade association or similar organization for the participation in and benefit of the members of that association. This concept has been getting considerable attention nationwide in recent years and several Alaska employer groups have undertaken a review of this concept for the purpose of pooling their liabilities.

Until 1979, the Board had never been presented with the issue of granting approval for a group self-insured. Apparently, the argument given for Board consideration was that nothing in the Act prohibited such action. The Board in October 1979, granted the Alaska Rural Electric Cooperative Association a self-insurance certificate for a group consisting of fifteen electrical cooperatives throughout the state. This is the only association that has been granted group self-insurance status, however, it is our understanding that similar plans will be submitted for Board approval in the near future.

According to the 1981 edition of the Analysis of Workers' Compensation Laws, 20 states and the Longshore Act specifically permit group self-insurance, either under the self-insurance concept or through formation of mutual insurance

associations. In researching the laws of the majority of those states that permit groups under the self-insurance concept, it would appear that enabling legislation was passed which specifically provided for group pooling of employers' liabilities. Those states researched include Alabama, Arkansas, Florida, Kentucky, Louisiana, Maine, Michigan, Minnesota, New York, North Carolina and South Carolina. We do not have current copies of all the states' workers' compensation laws nor of the Longshore Act; however, we are forwarding with this memo selected copies of the workers' compensation laws on file along with several topical articles on the subject of group self-insurance.

An issue that has been raised relates to the definition of "employer" under AS 23.30.265(12). That definition refers to the employer in the singular, as does the language contained in §.075 and §.090. The argument made is that since under the general provisions of AS 01.10.050(b), words in the singular include plural and words in the plural include singular, the definition of employer may be expanded to include two or more employers as a self-insured. This interpretation would appear overly broad since the concept of group self-insurance differs significantly from individual self-insurance.

In summary, our research leads us to believe that the Alaska Workers' Compensation Board may not have the authority to grant group self-insurance without enabling legislation. As you are aware, we have submitted proposed language in HB 659 which would specifically grant such Board authority.

Depending on the opinion, we have a closely related issue as to whether or not the Alaska Municipal League may enter into a group self-insurance plan, without specific authority in the Alaska Workers' Compensation Act, under the cooperative agreement clause contained in AS 29.48.010, .310, .320, .330, and under Article 10, Section 13 of the State of Alaska Constitution.

We are forwarding to you informational data provided by the Alaska Municipal League which explains and supports their position on this issue. We would also direct your attention to the article entitled "Public Pooling" from the January 1981 issue of Business Insurance, which specifically speaks to municipal self-insurance pools.

Please feel free to call this office and Don Koch, Division of Insurance, if you wish to further discuss this matter.

GHL:JLM:wjp
Attachments

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

465-3603

August 31, 1982

RECEIVED
JUNEAU SEP 02 1982

Roger R. Kemppe, Esq.
Kemppe, Huffman & Ginder
255 E Fireweed Lane, Suite 200
Anchorage, AK 99503

Re: Alaska Rural Electric
Cooperative Association, Inc.
Self-Insurance Certificate

Dear Roger:

First of all let me apologize for the delay in responding to your letter of July 28, 1982. I have been out of the office since August 18, 1982 and before that time was involved with a special project that had my full attention for quite some time. The bottom line is that I did not have the opportunity to respond to your letter before now.

Regardless of paragraph seven of the ARECA Self-Insurance Fund Adoption Agreement, it is our opinion that the Division of Worker's Compensation may not extend ARECA's Self-Insurance Certificate. To do so would be to, as the old saying goes, exalt form over substance.

Even though ARECA is named as the sole employer for the purpose of obtaining workers' compensation insurance, the fact is that each member of the cooperative association is an individual employer, a distinct and separate entity from the fund except for the purpose named above.

There are other parts of ARECA's agreement which make it different than a sole employer obtaining a self-insurance certificate and different even than normal group self-insurance fund. There is no contractual arrangement which requires each member to indemnify the others in regard to their workers' compensation liabilities. You may have members of ARECA that would not qualify for a Self-Insurance Certificate on their own. Because there is no indemnity agreement and because paragraph twelve apparently limits the Fund's liability, a scenario could be envisioned wherein workers' compensation liabilities for a particular employer within your membership could not be covered.

Roger R. Kemppe, Esq.
ARECA Self-Insurance Certificate
Page 2

August 30, 1982

REC'D
JUNEAU SEP 02 1982

Further, the limits of liability indicated by paragraph twelve reveal that the Fund is not an "employer" since an employer may not limit the recovery of workers' compensation benefits solely to the amount of insurance it purchases.

In short, at this point we see no reason not to abide by our original decision that ARECA's Self-Insurance Certificate be revoked as of September 30, 1982.


I will be out of the office again until September 27, 1982. If you must be in contact before that time, please direct your communications to Bruce Botelho.

Thank you very much.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By:


Gary T. Amendola
Assistant Attorney General

cc: Jackie McClintock

GIA/bap

MEMORANDUM

State of Alaska

TO: Jacquelyn L. McClintock, Director
Division of Workers' Compensation
Department of Labor

DATE: April 19, 1982

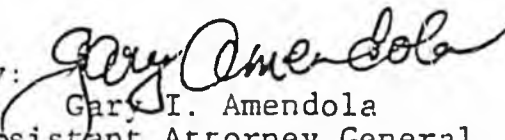
FILE NO: J66-562-32

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Authority of
Workers' Compensation
Board to permit group
self-insurance under
AS 23.30.

by:


Gary I. Amendola
Assistant Attorney General

You have requested an opinion as to whether the Workers' Compensation Board has the authority under the Workers' Compensation statutes to grant approval for self-insurance pools. You have also requested an opinion whether the Workers' Compensation Board may authorize the Alaska Municipal League to form a group self-insurance pool for workers' compensation.

AS 23.30.075(a) reads as follows:

Employer's liability to pay. (a) An employer under this chapter, unless exempted, shall either insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the board satisfactory proof of his financial ability to pay directly the compensation provided for. If an employer elects to pay directly, the board may, in its discretion, require the deposit of an acceptable security, indemnity or bond to secure the payment of compensation liabilities as they are incurred.

AS 23.30.090 requires the Workers' Compensation Board to issue a certificate to those employers who qualify as self-insurers and who have filed satisfactory proof of those qualifications, i.e., that the employer has the financial ability to directly pay workers' compensation benefits provided for under AS 23.30.

Under Alaska law an employer must provide workers' compensation benefits for all employees, unless exempted, and can do so by either insuring with a duly authorized insurance company or association or by becoming self-insured.

AS 23.30.265(19) defines "self-insurer" as "an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the compensation provided for, and who has furnished to the board satisfactory proof of his financial ability to make the direct payments." The law expressly provides only the two methods by which employers may secure workers' compensation benefits for their employees. No reference is made to group self-insurance or to the pooling of employers' liabilities. Whether the sections of AS 23.30.075 are read in the singular or plural (see AS 01.10.050(b)), the plain meaning of the law does not include the concept of group self-insurance pools.

The concept of group self-insurance differs substantially from the individual self insurance provisions of the Alaska Workers' Compensation statutes. Group self-insurance pools typically require that employers engaged in similar businesses and having similar risk exposures form an association. Normally, the association would appoint a board of trustees, which in turn would hire an administrator to oversee the fund and hire safety, claims and service companies to perform day to day services. An indemnity agreement is normally required to be signed by all participating members, unless the pool is of governmental entities. Each association member would become joint and severally liable for the payment of the workers' compensation benefits of all members. Several state statutes which have been reviewed contain specific enabling legislation authorizing group self-insurance pools. See, e.g., North Carolina Workers' Compensation Act, GS 97-93; Consolidated Laws, as amended, of the State of New York, Chapter 67, §50, subd. 3-A; Florida Workers' Compensation Law, *44.57.

Since it was first enacted in 1927, the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. § 901 et. seq., expressly contained a section permitting group self-insurance pools. 1/

1/ 33 U.S.C § 932(a)(1) reads:

Security for compensation. (a) Every employer shall secure the payment of compensation under this Act -

(1) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association, or with any other person or fund, while such person or fund is authorized (A) under the laws of the United States or of any State, to insure workmen's compensation, and (B) by the commission [Secretary of Labor], to insure payment of compensation under this Act; ...

State and federal statutes may be in pari materia, and if so, should be construed together, for it may be presumed that the legislature had in mind existing federal statutes relating to the same subject matter when enacting the statute being construed and that affected parties would have their understanding of the state act influenced by it since the people of the state are subject thereto. Volume 2A, Sands, Sutherland Statutory Construction, § 51.06.

Alaska Supreme Court opinions noting the similarity between portions of our Workers' Compensation Act and the federal act support the idea that the legislature had in mind the federal act at the time that our state law was enacted. The legislature apparently selectively chose portions of it for use in the Alaska statutes on workers' compensation. See Fishback and Moore of Alaska Inc. v. Lvnn, 430 P2d 909 (1967); Johns v. State Department of Highways, 431 P2d 148 (1967).

It can be inferred from the absence of any reference to group self-insurance pools, that the legislature intended at that time to not include that method by which workers' compensation coverage could be provided in the State of Alaska.

There is ample authority for the proposition that administrative agencies perform their duties pursuant to the statute that creates them; they may not enlarge that authority or exceed it. Fleming v. Pema County, 611 P2d 110 (Arizona 1980); Rogers v. Atensio, 608 P2d 813 (Colorado 1979); State ex rel State Tax Appeal Board v. Montana Board of Personnel Appeals, 593 P2d 747 (Montana 1979). The power and authority of an administrative agency is limited by the express or necessarily implied legislative grant. City of Yakima v. Yakima Police and Fire and Civil Service Commission, 631 P2d 400 (Washington 1981); Marley v. Canon, 618 P2d 401 (Oklahoma 1980).

At present, the law gives the Workers' Compensation Board no guidance on the regulation of the group self-insurance pool. The guidelines required to insure that the pool operates in a financially sound manner and in a manner that is otherwise consistent with the purposes of AS 23.30 are totally lacking and beyond the expertise and scope of authority of the board to promulgate.

In order for the Workers' Compensation Board to justify permitting group self-insurance pools, the meaning of the relevant statutes involved would necessarily be

distorted beyond the plain meaning contained therein, in violation of AS 01.10.040. In addition, to do so would be contrary to the rules of law governing the power and scope of authority of administrative agencies.

It is our opinion that the Workers' Compensation statutes (AS 23.30) do not authorize the Workers' Compensation Board to grant approval for group self-insurance pools.

You have also questioned whether the Alaska Municipal League may enter into a group self-insurance pool under the powers conferred on boroughs and cities in Article X, § 13 of the Constitution of the State of Alaska and Article 5 of AS 29.48.

Article X, § 13 of the Constitution of the State of Alaska states:

Agreements; transfer of powers. Agreements, including those for cooperative or joint administration for any functions or powers, may be made by any local government with any other local government, with the state, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Article X, § 1 of the Constitution of the State of Alaska states:

Purpose and construction. The purpose of this article is to provide for maximum local self government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

AS 29.48.310 - 330 2/ and the case law interpreting them reaffirm the notion that municipal governments in the State of Alaska were given broad powers and that such powers should be construed liberally. See Liberati v. Bristol Bay Borough, 584 P2d 1115 (1978); Bookev v. Kenai Peninsula Borough, 618 P2d 567 (1980).

The broad grant of powers and the liberal construction given thereto indicate that municipal governments in the State of Alaska, through the Alaska Municipal League, can associate in order to provide workers' compensation coverage for their employees.

However, the Workers' Compensation Board is still without authority to grant approval for such a group self-insurance plan. The Workers' Compensation Board has no authority pursuant to statute to promulgate regulations in order to to administer such a concept and therefore has no guidelines by which to grant approval for such a program. Irrespective of whether municipal governments have the power under AS 29 and the Constitution of the State of Alaska to associate for the purpose of pooling workers' compensation coverage, the Workers' Compensation Board cannot grant the authority to do so.

GIA/bap

2/ AS 29.48.310 through AS 29.48.330 read as follows:

AS 29.38.310. General construction. A liberal construction shall be given to all powers and functions of boroughs and cities conferred in this title.

AS 29.48.320. Extent of powers. Unless otherwise limited by law, boroughs and cities have and may exercise all powers and functions necessarily or fairly implied in or incident to the object or purpose of all powers and functions conferred in this title.

AS 29.49.330. Enumeration of powers. Specific examples within an enumerated power or function conferred upon boroughs or cities in this title are illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

FORMAT OF
AML GROUP INSURANCE PROGRAM

I. SIR and Excess Limits

- A. Workers compensation
\$300,000 self-insured retention per occurrence.
This means: The first \$300,000 of any loss (occurrence) will be paid by the AML Loss Fund.
- B. General Liability/Auto Liability
\$100,000 self-insured retention, per occurrence.
This means: The first \$100,000 of any loss (occurrence) will be paid by the AML Loss Fund.
- C. Combined
\$300,000 combined retention per occurrence, both workers compensation and general/auto liability.
This means: The first \$300,000 of any loss (occurrence) involving WC/GL/Auto will be paid by the AML Loss Fund.
- D. Aggregate Stop Loss, 70% of contributed premium.
This means: When claims in any year reach 70% of premium, all claims thereafter in that year are paid by the excess insurance carrier.
- E. Excess Insurance Limit: \$10,000,000.
- F. Aggregate Limit: \$2,000,000.



Logger Letter

Vol. XX No. 3

March 1983



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Alaska Loggers Association members who participate in the Alaska Timber Insurance Exchange received a dividend from their insurance company totaling \$1,905,065. The checks were first made available to members who attended the 12th Annual ALA Forest Products Safety Conference in Ketchikan on March 4. Don Bell, President of the Timber Exchange Management Corporation, when announcing the dividend, stated this was money earned from investment income and from underwriting profit.

The Alaska Timber Insurance Exchange was formed in 1980 by the members of Alaska Loggers Association to provide workmen's comp insurance to its members domiciled in Alaska. Since inception, the Exchange has returned dividends to its members totaling \$2,800,835. At the same time, the monthly premium contribution rate for the logging classification has decreased from \$20.82 to \$18.10 per hundred dollars of payroll.

In the photo Don Bell presents Jerry Larrabee, President of Alaska Loggers Association, with the dividend check. Jerry is one of several ALA members in the \$100,000 dividend club.



Band Aid Bill

The Band Aid Bill performance was written, directed, and choreographed by the ALA bard John Schnabel with the able singing assistance of J. R. Gildersleeve and Wes Davidson (Wes not in photo). This saga, requiring audience participation, deals with Band Aid Bill, an unfortunate accident prone logger that failed to practice safety first.

Enjoying the trials and tribulations of this poor logger are Frank Burden, J. R. Gildersleeve Logging; Mike Valentine, R.H. Valentine Logging; Francis Dunn, Sealaska Timber Corporation; and Bill Slagle, Long Island Development Company.



Bloom receives special recognition

Keith Bloom, owner of Bloom Logging Company, a member of ALA since April 15, 1960, was presented the Clarence Kramer Logging Industry Safety Award at the recent conference. This award is primarily based on the safety improvement of a member.

Presentation of the award was made by Dick Mattei, President of Mattei & Webber one of the reinsurance carriers furnishing this trophy. Other sponsors of the award include: Webber, Doncanson & Holt, and Trenwick Reinsurance Company.

Last year the trophy was presented to Bill Slagle, owner of Gulf Timber Company.



Essay winners

The ALA Public Information Office announced sponsorship of an essay contest in the January issue. The essay topic was a typical day in the life of a logger in Southeast Alaska. Kirsten Held, Public Information Director, announced Joe Carl, a chokersetter at Island Logging, had won the contest. He has been advised of the \$100 gift certificate for his efforts.

New members

Ketchikan Marina & Supply, Inc., located in Ketchikan has joined ALA. This company is owned by Forrest MacKie. They sell and repair boats and motorcycles and supply items.

United Bank Alaska of Anchorage is the other new associate member. Stephen Kirschner is the Senior Vice President.

Welcome to ALA.

Market symposium

Jay Gruenfeld, Forest Resource and Management Consultant, has been invited by the University of Alaska to organize a Forest Products Marketing Symposium to be held at the Juneau campus on March 12-13. This conference will be designed especially for directors of native organizations, forest managers, bankers, buyers, and sellers of Alaska forest products.

Interesting statistics

Dick Mattei, President of one of the reinsurance companies who provides reinsurance for the Exchange and our underwriting advisor, provides some interesting statistics. He was one of the speakers at the recent safety conference and mentioned the \$2,800,835 dividend the Exchange has paid since inception. He also stated insurance companies did not usually return investment income and underwriting profit to its policy holders.



At the conference

Coyne VanderJack did an excellent job as Chairman and Emcee of the safety conference. It was handled in a professional manner. In the photo he was drawing for one of the many door prizes donated by: Walter Shuham, CPA; Bailey's, Inc.; Mine Safety Appliance; Safety & Supply Company; Tongass Timber Trust; and Alaska Timber Insurance Exchange



Mike Valentine, whose company earned a safety award for the second consecutive year, was a member of a panel who discussed some of the contributing factors to their winning the award. Mike stated a safety program must start with the owner and the whole crew must be aware of the possible hazards and have an ongoing safety training program.

Pulp to books

Les Hook, Industrial Relations Manager for LPK, announced his retirement from the Ketchikan mill early this month. Les first came to Ketchikan in 1954 as an Assistant Bleacherman for Ketchikan Pulp Company. He was employed in the bleach plant until 1965 when he was named Safety Supervisor and more recently promoted to the top job in this department.

In addition to his work at Ward Cove, Les has been active in the local sporting circles, little league baseball and basketball, Chamber of Commerce, logging shows, and other civic functions. Les has also been active in ALA programs. He has been involved in each of the twelve safety conferences and was chairman in 1947. He was one of the planners for ALA participation in the three Governor's Safety Conferences. He has been a member of the Scholarship Committee for twelve years. Les has been active as a leader of the advisory group for the public information program and has been helpful in planning of the annual ALA meetings.

Les will be entering a new field as a working partner with his wife Patricia in their newly acquired purchase of the Voyageur, Ketchikan's leading bookstore.

Retro return checks mailed

This is developing into "money from home month." Alaska Loggers Association has mailed a retro return check to members who were in the ALA workmen's comp program during the 1979-80 year. This check totaled \$245,619, and it was mailed to the 69 eligible members. The checks varied from a few dollars to \$20,319, depending on the premium paid during the period. This payment is the third of four retro adjustments. A previous distribution was made in September of 1982 when \$345,290 was mailed to eligible members. The final adjustment will be made later this year.



Putting it all together

If you ever have an opportunity to plan a trade mission anywhere, go hide some place. About the time you think you have one problem solved a couple more develop. Then there is the small problem of trying to keep everyone happy, Egad!

This is the group that has spent a great deal of time making travel arrangements, scheduling business meetings, planning social gatherings, arranging sightseeing trips, coordinating passports and visas, obtaining interpreters, etc. It is a real time consuming operation. Frank Roppel, Sealaska Timber Corporation; Judy Laurance, Alaska World Travel; Jim Rynearson, Alaska Lumber & Pulp; and Cliff Taro, Southeast Stevedoring Company have been working on the trade mission for the past three months.

Pension benefit change

Don Brown, Chairman of the Trustees of the ALA Retirement Plan, reports the Trustees met on August 3. In addition to receiving the annual actuarial report from Bob Richardson of William M. Mercer Company, the Trustees approved a benefit change. An employee who is still working at the age of 70 may receive his pension benefits and continue to work. However, his benefits will be frozen, and at that point his monthly contribution will cease.



Safety awards presented

James Robison, Commissioner of Labor, traveled to Ketchikan from Juneau to present 18 safety awards to ALA members as the closing ceremony of the 12th ALA Forest Products Safety Conference on March 4.

ALA members receiving the awards for the 1982 safety record were: Bloom Logging, Island Logging, Larrabee Logging, Northern Timber, Owens Dilling, Seward Brothers, The Mill, Inc., Kake Tribal Logging & Timber Corporation, and Louisiana Pacific Ketchikan Spruce Mill. Members who received the award for the second consecutive year are: Gellings & Lewis, Gulf Timber, Soderberg Logging & Construction, Tuxekan Logging, R.H. Valentine Logging, and Alaska Lumber & Pulp. The two members who received the award for the fourth consecutive year are Northland Wood Products of Fairbanks and South Central Timber of Anchorage.

In the photo Joe Herrera of The Mill, Inc. receives the award from Commissioner Robison.

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ALASKA STATE SENATOR
POUCH V STATE CAPITOL BLDG
JUNEAU AK 99811

Member
Pacific Northwest
Industrial Editors
Association
International Association of
Business Communications

Editor
DON BELL



PUBLISHED MONTHLY BY
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111 STEEDMAN STREET
KETCHIKAN, ALASKA 99901



Let the chips fall

Relations Manager at LPK. He replaces LES HOOK who has retired and will henceforth be named "Bookseller."---PALMER POTWIN, CIT CORPORATION, stopped in to see who was starting up.---PAT SODERBERG recently took a crash course on diamond ring appraisals. He will have a vocation should he retire.---GEORGE SULLIVAN of WESTERN AIRLINES advises they will start serving Ketchikan on May 1, 1983.---VERN and NANCY ELIASON recently returned from a trip to Texas. They visited with DOUG and MARGE THENO.---RON GELBRICH, JERRY LARRABEE, NORM AUBUCHON, and GEORGE ERICKSON are credited with saving the Narrows from a complete loss from fire by their fast and professional fire fighting procedures when the fire broke out on March 4.---SOUTHERN OREGON TIMBER INDUSTRIES ASSOCIATION

JOHN DALY is in the Austrian Alps cruising timber on skis.---CLYDE JOHNSON has been named Industrial

recently elected BARBARA JEDDELAH as President for 1982.---JOHN SIMONS, SAFCO CREDIT COMPANY, stopped to use the ALA radio system to reach some camps.---NANCY MURKOWSKI may be in trouble in China, she doesn't like Pepto Bismo.---TYONEK MILL near Anchorage may operate in April.---The ALP mill in Sitka has scheduled a three week shut down starting April 5.---It must be nearing spring as there is much talk about salmon derbies. J. R. Gildersleeve reports catching kings from his float.---BILL SLEEP of CAPE FOX CORPORATION was recently named Managing Forester in the lands and property division.---SOUTH COAST resumed construction on the BORAX road on March 7.---ALA still has a supply of color books and people maps. If you should want copies, let us know.---PRESIDENT JERRY LARRABEE appointed DICK BUHLER as Trustee of the Tongass Timber Trust. He replaces DON DESCHENES who left the state.

Date Received 1/24/83

Bill Number SB66 Title Municipal Self Insurance for Worker's Compensation
Fiscal Note - Date Requested on CSSB66 3/14 Don Koch Of Whom attached to bill
Position Paper - Date Requested on CSSB66 3/14 Don Koch Of Whom attached to bill

People Contacted
~~contact people~~

Dave Hutchens - AK Rural Electrification Coop Ass.
Ginny Chitwood - Municipal League
Joseph Mclean - 586-3210 - Insurance

People Who Expressed Interest

Doug Bechtel - 424-3131 (Condon)
Keep Walt Kubley informed CSSB66
FOLLOW-UP

People Contacted for Hearing - Feb 10 -

Wes Coyner - 6-1953 (2/2/83) CSSB/new
Dave Hutchen - ARECA - (2/2/83) CSSB/new
Ginny - Municipal League (2/2/83) CSSB/new
Ray Gillespie - Office of Governor (2/2/83) informed
Judy Knight - Labor - 2/2/83 informed 3/21 3/21
Joe Mclean - 6-3210 - 2/2/83 informed
Jackie McKlintock - Workers' Comp 2/3/83 (left message)
APUC - 276-6222
Kesa King - 2/7/83 CSSB/new informed 3/18

Steve Silver 277-6693 (new)
6-3340 (sent)
Mike Thomas CSSB
Dick Block - 248-2642
Steve Silver CSSB/new
Wayne Brown - 562-2266
Compton/Black/Dawson
CSSB/new

Position paper requested on "committee substitute - public utilities" - 1/31/83 - of Judy Knight - call 2/2 - stated position paper is drafted + will submit new fiscal note.