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UNFINISHED BUSINESSCSSB 254(L&C)

The Speaker waived the Judiciary Committee referral on COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 254 (Labor & Commerce) (relating to workers' compensation) at the request of the Chairman. CSSB 254(L&C) was sent to the Rules Committee.

SECOND READING OF HOUSE BILLSHB 123

HOUSE BILL NO. 123 (extending the termination date of the Board of Pharmacy; effective date) was read the second time with the Labor & Commerce Committee report (page 357), the Health, Education & Social Services Committee report (page 600), the Finance Committee report (page 1261) and the Rules Committee report (page 1513).

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 123 (Rules) (same title) be adopted in lieu of the original bill.

Representative Navarre objected and withdrew his objection.

Representative Furnace objected.

The question being: "Shall CSHB 123(RLS) be adopted in lieu of the original bill?" The roll was taken with the following result:

CSHB 123(RLS) ADOPT

Yeas:	23	Cato, Clocksin, Cotten, Frank, Fuller, Goll, Gruenberg, Grussendorf, Herrmann, Hurley, Koponen, Larson, Marrou, Martin, Miller, M.M., Miller, M.W., Navarre, Phillips, Ringstad, Shultz, Taylor, Thompson, Wallis
Nays:	8	Collins, Furnace, Hanley, Jenkins, Pearce, Pettyjohn, Signalberi, Rieger
Excused:	0	
Absent:	9	Adams, Binkley, Boucher, Davis, Duncan, Pourchot, Sund, Szymanski, Uehling

SB 254

MEASURE HISTORY

PAGE 01 OF 02

CSSB 254 L&C

AN ACT RELATING TO WORKERS' COMPENSATION.

PRIME SPONSOR: FISCHER.P

CO-SPONSORS:

CURRENT STATUS: (H) L&C

DATE		PAGE	ACTION
03/26/85	(S)	638	READ THE FIRST TIME
04/25/85	(S)	921	L&C RPT CS 3DP
04/26/85	(S)	941	RLS RPT CALENDAR TODAY
04/26/85	(S)	944	READ THE SECOND TIME
04/26/85	(S)	944	L&C CS ADOPTED UNAN CONSENT
04/26/85	(S)	945	ADVANCED TO THIRD READING UNAN CONSENT
04/26/85	(S)	945	READ THE THIRD TIME CSSB 254 L&C
04/26/85	(S)	945	PASSED Y17 N- X3
04/26/85	(S)	950	TRANSMITTED TO (H)
04/27/85	(H)	1133	READ THE FIRST TIME

SB 254

MEASURE HISTORY

PAGE 02 OF 02

DATE	PAGE	ACTION
		LABOR&COMMERCE
		JUDICIARY
		RULES

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 254

SENATE BILL NO. 254 by Senator Paul Fischer, entitled:

"An Act relating to workers' compensation."

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

SB 255

SENATE BILL NO. 255 by Senator Coghill, entitled:

"An Act relating to leases on certain land formerly described as university-grant land; and providing for an effective date."

was read the first time and referred to the Resources Committee and the Finance Committee.

SB 256

SENATE BILL NO. 256 by Senators Coghill and Josephson, entitled:

"An Act relating to exposure to microwave radiation in the workplace."

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

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 57

SENATE BILL NO. 57 (preferential use of Alaska agricultural products) was read the second time.

Senator Kerttula moved and asked unanimous consent that Senator Eliason be added as a co-sponsor to SENATE BILL NO. 57. Without objection, it was so ordered.

SB 57 cont'd

Senator Kelly moved and asked unanimous consent for the adoption of the Rules Committee Substitute and new title offered on page 636. Without objection, CS FOR SENATE BILL NO. 57 (RLS) (preferential use of Alaska agricultural or fisheries products; efd) was adopted.

CS FOR SENATE BILL NO. 57 (RLS) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR SENATE BILL NO. 57 (RLS) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 57 (RLS) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 57 (RLS) (preferential use of Alaska agricultural or fisheries products; efd) pass the Senate?" The roll was taken with the following result:

CS SB 57 RLS JRD

Yeas: 18 Abood, Bennett, Coghill, DeVries, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Helford, Josephson, Kelly, Kerttula, Rodey, Sackett, Zharoff, Ziegler

Nays: 0

Excused: 2 Ray, Sturgulewski

and so, CS FOR SENATE BILL NO. 57 (RLS) passed the Senate.

Senator Halford moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 57 (RLS) was referred to the Secretary for engrossment.

COMMUNICATIONS

The Secretary announced receipt of

REVENUE SOURCES, FY 1984-1987, QUARTERLY UPDATE,
MARCH 1985
in accordance with AS 37.07.060(b)(4) from
Commissioner Nordal, Department of Revenue

The report is on file in the Office of the Secretary of the Senate.

STANDING COMMITTEE REPORTS

SB 218

The Labor and Commerce Committee considered SENATE BILL NO. 218 (barbers, cosmetologists, and estheticians; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 218 (L&C), entitled:

"An Act extending the termination date of the Board of Barbers and Hairdressers; and providing for an effective date."

with a majority do pass. The report was signed by Senator Zharoff, Chairman and concurred in by Senators Sackett and Eliason.

Department of Commerce and Economic Development fiscal note is zero.

Senator Fahrenkamp, Chairman, moved and asked unanimous consent that the Health, Education and Social Services Committee referral on SENATE BILL NO. 218 be waived. Without objection, it was so ordered.

SENATE BILL NO. 218 was referred to the Finance Committee.

SB 247

The Labor and Commerce Committee considered SENATE BILL NO. 247 (extending the termination date of the Alaska Public Utilities Commission; efd) and recommended it be replaced with

CS FOR SENATE BILL NO. 247 (L&C)

with a majority do pass. The report was signed by Senator Zharoff, Chairman and concurred in by Senators Sackett and Eliason.

SB 247 cont'd

"Letter of Intent
CSSB 247 (L&C)

Due to the time constraints imposed by the 120 day session limit, and the complexities of utility regulation, it is the intent of the Senate Labor and Commerce Committee to conduct research during the interim to examine regulatory practices of the Alaska Public Utilities Commission. Passage of CSSB 247 (L&C) will extend the Alaska Public Utilities Commission until June 30, 1986, and it is the intention of the committee to continue the more formal sunset review during the second session of the 14th Legislature."

SENATE BILL NO. 247 was referred to the Rules Committee.

SB 254

The Labor and Commerce Committee considered SENATE BILL NO. 254 (workers' compensation) and recommended it be replaced with

CS FOR SENATE BILL NO. 254 (L&C)

with a majority do pass. The report was signed by Senator Zharoff, Chairman and concurred in by Senators Sackett and Eliason.

SENATE BILL NO. 254 was referred to the Rules Committee.

SB 273

The Resources Committee considered SENATE BILL NO. 273 (classification of state land for retention; efd) and a majority of the committee recommended do pass. Senator Sturgulewski, Chairman and Senator Zharoff signed "no recommendation". Senators Fahrenkamp, Halford, Coghill, Vic Fischer and Eliason signed "do pass".

SENATE BILL NO. 273 was referred to the Rules Committee.

HCR

The State Affairs Committee considered HOUSE CONCURRENT RESOLUTION NO. 6 (provision of office space in the capitol building for each member of the legislature). Senator Abood, Chairman, signed "in deep thought". Senators DeVries and Vic Fischer signed "do pass". Senator Kelly signed "pondering".

HOUSE CONCURRENT RESOLUTION NO. 6 was referred to the Judiciary Committee.

SB 273

SENATE BILL NO. 273 (classification of state land for retention; efd) was read the second time.

Senator Sturgulewski moved and asked unanimous consent that her "no recommendation" be changed to "do pass" on the Resources Committee report, page 921. Without objection, it was so ordered.

Senator Halford moved and asked unanimous consent that SENATE BILL NO. 273 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SENATE BILL NO. 273 was read the third time.

The question being: "Shall SENATE BILL NO. 273 (classification of state land for retention; efd) pass the Senate?" The roll was taken with the following result:

SB 273 3RD

Yeas: 17 Abood, Bennett, Coghill, DeVries,
Eliason, Fahrenkamp, Faiks,
Ferguson, Fischer Paul, Halford,
Josephson, Kelly, Kerttula,
Sackett, Sturgulewski, Zharoff,
Ziegler

Nays: 0

Excused: 3 Fischer Vic, Ray, Rodey

and so, SENATE BILL NO. 273 passed the Senate.

Senator Halford moved and asked unanimous consent that the vote on the passage of the bill be considered the vote on the effective date clause. Without objection, it was so ordered.

SENATE BILL NO. 273 was referred to the Secretary for engrossment.

SB 254

SENATE BILL NO. 254 (workers' compensation) was read the second time.

Senator Zharoff moved and asked unanimous consent for the adoption of the Labor and Commerce Committee Substitute offered on page 921. Without objection, CS FOR SENATE BILL NO. 254 (L&C) was adopted.

SB 254 cont'd

CS FOR SENATE BILL NO. 254 (L&C) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR SENATE BILL NO. 254 (L&C) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 254 (L&C) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 254 (L&C) (workers' compensation) pass the Senate?" The roll was taken with the following result:

CSSB 254 LC 3RD

Yeas: 17 Abood, Bennett, Coghill, DeVries,
Eliason, Fahrenkamp, Faiks,
Ferguson, Fischer Paul, Halford,
Josephson, Kelly, Kerttula,
Sackett, Sturgulewski, Zharoff,
Ziegler

Nays: 0

Excused: 3 Fischer Vic, Ray, Rodey

and so, CS FOR SENATE BILL NO. 254 (L&C) passed the Senate and was referred to the Secretary for engrossment.

SB 247

SENATE BILL NO. 247 (extending the termination date of the Alaska Public Utilities Commission; efd) was read the second time.

Senator Zharoff moved and asked unanimous consent for the adoption of the Labor and Commerce Committee Substitute offered on page 920 and Letter of Intent offered on page 921. Without objection, CS FOR SENATE BILL NO. 247 (L&C) and the Senate Letter of Intent was adopted.

CS FOR SENATE BILL NO. 247 (L&C) was read the second time.

Senator Halford moved and asked unanimous consent that CS FOR SENATE BILL NO. 247 (L&C) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 247 (L&C) was read the third time.

Introduced March 25 and referred to Labor & Commerce and Finance.

Workers' Compensation
(partners & sole proprietor)

SENATE BILL NO. 254, by Senator Paul Fischer. Would allow persons who are sole proprietors or members of a partnership to participate in the workers' compensation program. Provides that a sole proprietor or partner "may elect coverage as an employee ... by making written application to an insurer. The insurer may accept the application and fix an assumed monthly wage at which the person shall be carried on the payroll for purposes of this chapter." Does not provide for an effective date (becomes law 90 days after signed). Amends AS 23.30--Alaska Workers' Compensation Act.

page 507

Introduced March 26 and referred to Labor & Commerce.

University-Grant Land
(leases)

SENATE BILL NO. 255, by Senator Coghill. Identical to the Resources Substitute for HB 248, see pages 369 and Allows for the conveyance of former University land to current lessees. Establishes procedure for determining purchase price. Effective immediately.

and the bill passed, 17-0-3. Excused: Vic Fischer, Ray, Rodey. The effective date was adopted.

Workers' Compensation
(partners & sole proprietors)

CS FOR SENATE BILL NO. 254 (L&C), (see page 507;718). Reported back to the Senate on April 25 by Labor & Commerce with the committee recommending it be replaced with a Labor & Commerce CS and that it do pass. Concurring: Zharoff (Chairman), Sackett and Eliason. To Rules.

The Labor & Commerce CS rewrites subsections (c) and (d) to read:

page 706

(c) Notwithstanding the provisions of AS 23.30.120(a), a person covered under (a) of this section bears the burden of proof of the validity of the claim.

BILLS PASSED IN THE SENATE (cont'd)

CSSB 254 (L&C), (cont'd)

(d) A person who has elected coverage under (a) of this section may cancel the election by giving written notice to the insurer. Notwithstanding AS 23.30.030(5), the cancellation becomes effective the day following the filing of notice with the insurer.

Original (c) read: "A claim may not be allowed or paid to a person covered under (a) of this section except upon corroborative evidence in addition to the evidence of the claimant." Does not make substantive changes to (d).

Before the Senate on April 26. The Labor & Commerce CS was adopted and the bill passed, 17-0-3. Excused: Vic Fischer, Ray, Rodey.

M E M O R A N D U M

To: All Members, House Labor and Commerce Committee

From: Roger Poppe, Committee Aide

Date: May 6, 1985

Subject: Overview, CSSB 254 (L & C), Relating to Worker's Compensation

There has been no previous legislation dealing with this issue; there is no companion legislation in the House; the bill is modeled after a similar law in Oregon; the Fiscal Note is zero.

The coverage for worker's compensation under the current laws appears to contain an inequity. Sole proprietors and partners, though they are small, independent businessmen, are required by law to provide workman's compensation insurance for all employees and for all uninsured independent contractors. However, they cannot obtain insurance coverage for themselves under the same program. This bill would allow them to be covered also. Currently, major contractors are reluctant to award contracts to uninsured sole proprietors or partnerships because the liability might fall back on them.

The Department of Labor supports the bill, and proposed two amendments in the Senate L & C, both of which were adopted (see April 4, 85 Position Paper in your file). With amendments, the bill passed the Senate L & C unanimously, and was waived by Senate Judiciary. It then passed the Senate 17-0-3.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS SB 254 (L&C)
 Title: "An Act relating to workers' compensation"
 Sponsor: P. Fischer
 Requestor: House Labor & Commerce
 Date of Request: 4/30/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

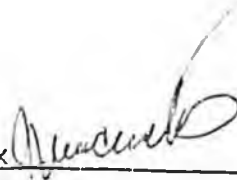
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

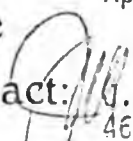
ANALYSIS: Attach a separate page if necessary

Prepared By: ¹³ Jacque McClintock  Phone: 465-2790
 Division: Workers' Compensation Date: 4/30/85
 Approved by Commissioner: ¹³ Jim Robison Date: 4/30/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

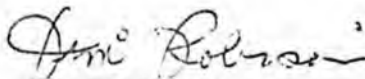
Bill No. Committee Substitute
for Senate Bill No. 254 (L&C)
Title "An Act relating to workers'
compensation."

Date April 30, 1985
Contact:  J. L. McClintock
465-2790

The Department of Labor supports the provisions of CSSB 254 which gives sole proprietors and partners the opportunity to obtain workers' compensation coverage for on-the-job injury or illness.

By providing this option to small business owners, the bill will resolve problems that sole proprietors and partners are currently experiencing in obtaining contracts. Contracting agencies or prime contractors are often reluctant to award contracts to sole proprietors or partnerships because of the possibility that liability for workers' compensation on an uninsured employee may fall back on the contracting agency or prime contractor. This bill will resolve that problem for the small businessperson who elects to obtain workers' compensation insurance and will also provide clarification of employer/employee relationships between contractors and sub-contractors.

APPROVED:



Jim Robison
Commissioner

Alaska State Legislature

Senator Paul A. Fischer
Senate District D
Box 784
Soldotna, Alaska 99669
(907) 262-9420 W
262-9269 H



State Senate

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-3791

Memo

April 22, 1985

To: Senator Fred Zharoff, Chairman
Senate State Affairs Committee

From: Senator Paul Fischer *PF*

Subject: Senate Bill 254

I introduced this legislation to enable sole proprietors and partners to be covered under workmans' compensation laws. The statutes allow coverage for corporate owners, but do not permit coverage by sole proprietors and partners. This legislation is modeled after a similar Oregon law.

I have reviewed the amendments proposed by the Department of Labor and would support a committee substitute including Labor's proposed amendments.

I would appreciate your expeditious consideration of this bill.

attachments:

Dick
Mueller
Realty

100 TRADING BAY RD., SUITE 1
KENAI, AK 99611
907-283-5888



February 20, 1985

State of Alaska
Director of Insurance
Dept. of Commerce &
Economic Development
Juneau, Alaska 99801

Sir:

I wish to call your attention to discrimination in Alaska Workman's Compensation laws and ask what can be done about it.

According to my insurance agent a sole proprietor of a business must furnish workmans's compensation insurance for all employees and all uninsured independent contractors. But, he can not be insured on this policy which he is forced to buy. Not even to the extent of injuries received on the job, doing the same work his insured employees and independent contractors are doing and this is discrimination against the small independent business man.

I can see some possible reason for excluding the employer from receiving compensation for lost time, but even this is hard to justify.

In the case of real estate brokers, they must cover all independent contractors. Builders and other business owners are only required to cover independent contractors if they do not have insurance. Why can real estate agents who are independent contractors not insure themselves? This is an unfair burden on the broker owner.

Most real estate brokers in our area work on listing and sales the same as their agents and pay commissions to themself the same as the agents.

The operation of running the business is done in addition to sales. In my case most of my income is from sales based exactly the same as my agents.

Thank you for prompt answers to my questions.

Sincerely,

Richard R. Mueller, GRI, CRS,
Broker/Owner

RRM:rm

cc; Sen. Paul Fisher, Rep. Mike Navarre & Rep. Andre Marrou

Date April 4, 1985

Title "An Act relating to Workers' Compensation."

Contact J. L. McClintock
465-2790

The Department of Labor supports the concept of legislation that would give sole proprietors and partners the opportunity to obtain coverage for workers' compensation. We would propose two amendments to the bill to correct potential problems, as follows:

1. Amend AS 23.30.239(c) which begins on line 19 to read:

(c) Notwithstanding the provisions of AS 23.30.120(a), a person covered under (a) of this section bears the burden of proof of the validity of the claim.

Since there is no employee/employer relationship for persons who would be covered under this bill, there is no party to raise an affirmative defense in connection with a claim filed by a sole proprietor or partner. The proposed subsection (c) attempts to address this problem by the inclusion of a requirement of "corroborative evidence." That term could be defined quite broadly, however, leading to an interpretation which is not necessarily consistent with the intent of the Alaska Workers' Compensation Act. Our proposed amendment of subsection (c), which specifically provides that sole proprietors and partners do not get the benefit of the presumption contained in AS 23.30.120(a), would clarify the provision and avoid the potential for interpretations inconsistent with the intent of the Act.

2. Amend line 23 to read:

may cancel the election by giving written notice to the insurer. Notwithstanding the provisions of AS 23.30.030(5), the

This would eliminate the conflict between the proposed subsection (d), which provides that "The cancellation becomes effective the day following the filing of notice with the insurer;" and AS 23.30.030(5), which provides that "A termination of the policy by cancellation is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the board."

APPROVED:



Jim Robison
Commissioner

Introduced: 3/26/85
Referred: Labor & Commerce

1 IN THE SENATE

BY P.FISCHER

2

SENATE BILL NO. 254

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to workers' compensation."

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

8 * Section 1. AS 23.30 is amended by adding a new section to read:

9 Sec. 23.30.239. SOLE PROPRIETORS AND PARTNERS AS EMPLOYEES. (a)

10 A person who is a sole proprietor, or a member of a partnership, may
11 elect coverage as an employee under this chapter by making written
12 application to an insurer. The insurer may accept the application and
13 fix an assumed monthly wage at which the person shall be carried on
14 the payroll for purposes of this chapter.

15 (b) When the application is accepted, the person is subject to
16 the provisions and entitled to the benefits of this chapter. The
17 person shall promptly notify the insurer whenever there is a change in
18 the status of the person as a sole proprietor or partner.

19 (c) A claim may not be allowed or paid to a person covered under
20 (a) of this section except upon corroborative evidence in addition to
21 the evidence of the claimant.

22 (d) A person subject to this chapter as provided in this section
23 may cancel the election by giving written notice to the insurer. The
24 cancellation becomes effective the day following the filing of notice
25 with the insurer.