

COMMITTEE REPORT
SENATE

FURTHER:

5/9/86

Date 5/11/86

Mr. President

The Committee on FINANCE considered CS SSB 506 (Jud)
relating to joint insurance arrangements; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt 5 CS for CS SSB 506 (Jud)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
S- CFED (2) AB
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Paul Frank
DeLeon

Wentz No Rec
Jergun N/R

John F. ...
Co - Chairman
N/R
Chairman recommendation

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

B

Revision Date: _____

REQUEST page 1 of 2
 Bill/Resolution No.: CSSSHB 506 (Jud)
 Title: Relating to joint insurance arrangements
 Sponsor: Judiciary
 Requester: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Commerce & Economic Development
 BRU: Insurance
 Components: Public Protection

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-?-	-?-	-?-	-?-	-?-	-?-
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FUNDING: (Thousands of dollars)

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

POSITIONS:

FULLTIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

CSSSHB 506 (Jud) may have impact beyond the loss of premium tax revenue. To the extent that pools, which are not financially sound, replace insurance, we may find significant losses going uncompensated. AS 21.75 currently provides for the pooling concept through formation of a financially regulated reciprocal insurance company. Proponents of this

Prepared by: John L. George, Director
 Division: Division of Insurance

Phone: 465-2515
 Date: April 22, 1986

Approved by Commissioner: [Signature]
 Agency: Commerce and Economic Development

Date: April 22, 1986

Distribution (by Agency preparing fiscal note):

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

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSSHB 506 (Jud)

page 2 of 2

legislation do not feel that they should be forced to meet these minimal financial requirements.

To the extent that private enterprise wants to risk their own money on a pool venture after their own highly qualified staff has fully reviewed the ramifications, I have little opposition to the formation of a pool for first party coverage. This legislation does not restrict the types of coverage to be written to first party only. The concern is, will third party claimants be adequately protected. The parties currently looking at this legislation as a vehicle to replace insurance are relying on a consultant whose financial interest is not dependent on the soundness of the pool's financial basis or stability.

I fear that if a municipal or school district (REAA) pool is unable to pay claims, the state may be looked to for a bailout. In the case of the REAA schools, insurance covers state property on loan to the districts. If the pool becomes insolvent, no funds will be available to replace the state-owned facility in the event of loss. In this case I am sure the state would be put in a position where they must replace the school using general fund monies.

A well conceived self disciplined pool will set internal standards for itself which meet or exceed our minimum requirements. If no restraints are placed on pools and if the state is in a position of last recourse for funds we may be financially impacted by future pool insolvencies.

The pure premium tax impact will vary as premium levels change and pools are formed. The tax impact is certainly less than \$5 million and my best guess is a \$1 - \$3 million impact if the pool concept is utilized by a significant segment of eligible entities.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE.

Revision Date: 4-3-86

REQUEST

Bill/Resolution No.: CSSHB 506 (Jud)
Title: Relating to insurance

FISCAL DETAIL

Agency Affected: Commerce & Economic Development
BRU: Insurance

Sponsor: House Labor & Commerce
Requester: _____
Date of Request: _____

Components: Public Protection

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary.

To the extent businesses, groups and municipalities avail themselves to this bill, premium tax receipts (generally 3%) will be reduced. 1985 tax totalled \$22.4 million.

Prepared by: John L. George, Director
Division: Division of Insurance

Phone: 465-2515
Date: _____

Approved by Commissioner: _____
Agency: Commerce and Economic Development

Date: _____

Distribution (by Agency preparing fiscal note):

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

Offered: 5/9/86
Referred: Labor and Commerce

Original sponsors: Taylor, Gruenberg,
Larson, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to joint insurance arrangements; and
7 providing for an effective date."

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

9 * Section 1. AS 21 is amended by adding a new chapter to read:

10 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

11 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-
12 MENTS. (a) Municipalities, city and borough school districts, and
13 regional educational attendance areas may enter into cooperative
14 agreements with each other for the purpose of establishing, operating,
15 or participating in joint insurance arrangements through which the
16 participating members agree to pool contributions in order to either
17 assume risks from losses to the participants on a group basis or
18 purchase coverage for the participants on a group basis.

19 (b) A joint insurance arrangement may be for any kind of insur-
20 ance defined by this title except for disability insurance, health
21 insurance, life insurance, and title insurance.

22 (c) A joint insurance arrangement shall be considered an alter-
23 native or supplement to any other policy or contract of insurance
24 authorized or required by law, including insurance under AS 21.75.

25 (d) For purposes of AS 23.30.075, a joint insurance arrangement
26 is considered to be an association duly authorized to transact work-
27 ers' compensation insurance in the state.

28 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. (a) A
29 joint insurance arrangement may not be considered insurance for the

1 purpose of any other law of the state and is not subject to regula-
2 tions of the director except as expressly provided in (b) - (d) of
3 this section and other provisions of this chapter.

4 (b) A joint insurance arrangement is subject to examination by
5 the division under AS 21.06.140 - 21.06.230.

6 (c) A joint insurance arrangement is subject to approval by the
7 director. As a condition of approval by the director, a joint insur-
8 ance arrangement shall have and maintain, as to the coverage provided,

9 (1) a certificate of excess insurance or reinsurance

10 (A) for property insurance, to the value of the single
11 most valuable property covered;

12 (B) for liability insurance, to the highest policy
13 limit provided by the arrangement;

14 (C) for workers' compensation, to the extent of all
15 benefits allowed by law above retention;

16 (2) a certificate of insurance limiting the arrangement's
17 total exposure for liability and workers' compensation to the
18 arrangement's aggregate retention;

19 (3) assets allowable under AS 21.21.020 - 21.21.140, 21.-
20 21.225, or 21.21.230 in an amount no less than the arrangement's
21 aggregate retention plus an amount considered adequate by the director
22 to cover administrative and adjustment expenses.

23 (d) The value of assets and liabilities under (c) of this sec-
24 tion shall be determined in accordance with AS 21.18.

25 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
26 cooperative agreement shall provide for the proper operation of the
27 joint insurance arrangement, and include provisions for

28 (1) administration of the arrangement by a board of direc-
29 tors, specifying the number of members of the board and other

- 1 requirements necessary for the proper functioning of the board;
- 2 (2) appointment of an administrator and other persons as
3 necessary for the proper functioning of the arrangement;
- 4 (3) organization of the arrangement, including a roster of
5 participating members and the names of the members of the board of
6 directors;
- 7 (4) procedures to establish and promote an aggressive risk
8 management and program among the members of the arrangement, including
9 procedures for identifying and reducing the risks that can be reduced
10 through implementing better safety technologies and improved work
11 techniques and procedures;
- 12 (5) enforcing the collection of contributions or payments
13 in default from members of the arrangement;
- 14 (6) the addition of new members to the arrangement or the
15 withdrawal of members from the arrangement;
- 16 (7) the method of apportioning costs and disposition of
17 excess contributions;
- 18 (8) transmission of financial statements and audit reports
19 of the arrangement to participating members;
- 20 (9) terminating the arrangement and disposing of its as-
21 sets; and
- 22 (10) establishing and administering a joint insurance fund.

23 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
24 cooperative agreement must include a provision requiring an annual
25 determination by a casualty actuary who is a member of the American
26 Academy of Actuaries that procedures for establishing reserves for
27 losses of the joint insurance arrangement are actuarially sound.

28 (b) A joint insurance arrangement shall be subject to an annual
29 independent audit. The audit shall be conducted in accordance with

1 generally accepted auditing standards and must include a review of the
2 actuarial assumptions used for establishing the reserves under (a) of
3 this section. The audit report must include certification from a
4 casualty actuary who is a member of the American Academy of Actuaries
5 that the actuarial assumptions continue to be sound and the level of
6 the reserves are adequate.

7 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
8 cooperative agreement may authorize the board of directors to enter
9 into contracts for services necessary to perform the functions of a
10 joint insurance arrangement. The person contracting to perform the
11 functions must be appropriately licensed under this title if this
12 title so requires.

13 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-
14 ative agreement may delegate to the board of directors, or authorize
15 delegation by the board to another person or group, the power to
16 compromise, arbitrate, or otherwise settle claims on behalf of the
17 arrangement.

18 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
19 authorize the board of directors to purchase excess or catastrophic
20 insurance on behalf of the joint insurance arrangement. The cost of
21 the insurance shall be apportioned in the manner specified in the
22 joint insurance agreement. The board may purchase insurance under
23 this section only from an insurer authorized to do business in the
24 state, except that an arrangement formed by municipalities or school
25 districts may purchase insurance under this section from a risk-shar-
26 ing pool established by a national association of similar entities if
27 the risk-sharing pool meets the qualifications for an unauthorized
28 insurer under AS 21.34.040(b) and (d) and 21.34.220 and has capital
29 and policyholders surplus in an amount at least as great as would be

1 required if the association were a domestic multiple line insurer. An
2 arrangement may purchase insurance under this section for property and
3 liability risks from unauthorized insurers allowed for use by licensed
4 Alaska surplus lines brokers.

5 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
6 arrangement shall establish a joint insurance fund. The fund consists
7 of money

8 (1) contributed by members of the joint insurance arrange-
9 ment through budgetary appropriations or transfers from a self-insur-
10 ance reserve;

11 (2) contributed by officers and employees of members of the
12 joint insurance arrangement under an employee benefit plan; and

13 (3) collected by the joint insurance arrangement through
14 subrogation of a claim paid from the fund to a member of the arrange-
15 ment.

16 (b) An expenditure may be made from a joint insurance fund only
17 to pay claims, losses, or benefits, including interest on them, and
18 the administrative and adjustment expenses incurred in connection with
19 them, involving the types of protection for which the fund provides
20 coverage as specified in the joint insurance agreement.

21 (c) The administrator shall keep the fund separate from other
22 funds of a member of a joint insurance arrangement.

23 (d) For each type of protection offered by the joint insurance
24 arrangement, the method of accounting must show the order, source,
25 date, and amount of each payment from the fund.

26 (e) Within 60 days of the end of the fiscal year, the adminis-
27 trator shall furnish a detailed report of the operation and condition
28 of the fund to the board of directors and the director of insurance.
29 The report furnished to the director of insurance shall be

1 (1) filed in the general form and context acceptable to the
2 director;

3 (2) in accordance with accounting principles established
4 under this title; and

5 (3) available for public inspection.

6 (f) Money held by a fund as reserves and money not needed for
7 daily operations may be invested by the board of directors.

8 (g) A fund may not be terminated unless the administrator certi-
9 fies that an amount of money sufficient to pay accrued and contingent
10 expenditures has been placed in a fully collateralized escrow account.

11 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
12 shall file a copy of the cooperative agreement with the director of
13 insurance at least 60 days before the effective date of the agreement.
14 The agreement shall be available for public inspection.

15 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
16 thorize the board of directors to adopt rules not inconsistent with
17 law for the fair and equitable administration of the joint insurance
18 arrangement and the joint insurance fund.

19 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
20 a right of subrogation with respect to its participants to the same
21 extent that an insurer has a right of subrogation with respect to one
22 of its insureds.

23 Sec. 21.76.900. DEFINITIONS. In this chapter

24 (1) "adjustment expenses" means expenses for investigative,
25 processing, legal, actuarial, arbitration, and settlement services
26 incurred in the adjustment of losses, claims, or benefits;

27 (2) "administrator" means a person or group appointed by
28 the board of directors to administer a joint insurance arrangement or
29 a joint insurance fund;

1 (3) "board" or "board of directors" means the board of
2 directors provided for in a cooperative agreement;

3 (4) "cooperative agreement" means a written agreement
4 entered into by two or more entities described in AS 21.76.010 for the
5 purpose of establishing, operating, or participating in a joint insur-
6 ance arrangement;

7 (5) "fund" or "joint insurance fund" means a fund estab-
8 lished under AS 21.76.080;

9 (6) "joint insurance arrangement" means a joint insurance
10 arrangement authorized under AS 21.76.010.

11 * Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

12 (e) This section does not apply to insurance coverage under a
13 joint insurance arrangement authorized by AS 21.76.

14 * Sec. 3. AS 21.39.155(a) is amended to read:

15 (a) The director may require carriers, except a reciprocal
16 insurer formed by and insuring only a group of municipalities or
17 nonprofit public utilities under AS 21.75 or a joint insurance ar-
18 angement formed under AS 21.76, as a condition of writing a line of
19 insurance dealing with workers' compensation, to participate in an
20 assigned risk pool if the director finds that mandatory carrier part-
21 icipation is in the public interest.

22 * Sec. 4. AS 21.80.180(5) is amended to read:

23 (5) "insolvent insurer" means an insurer

24 (A) authorized to transact insurance in this state,
25 except an assessable reciprocal insurer formed by and insuring
26 only municipalities or nonprofit public utilities, a joint insur-
27 ance arrangement formed under AS 21.76, the Medical Indemnity
28 Corporation of Alaska, and the Health Care Providers Joint Under-
29 writing Association established under AS 21.88, either at the

1 time the policy was issued or when the insured event occurred,
2 and

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

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

6 (6) "member insurer" means a person, except an assessable
7 reciprocal insurer formed by and insuring only municipalities or
8 nonprofit public utilities, a joint insurance arrangement formed under
9 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
10 Care Providers Joint Underwriting Association established under
11 AS 21.88, who

12 (A) writes any kind of insurance to which this chapter
13 applies under AS 21.80.020 including the exchange of reciprocal
14 or interinsurance contracts, and

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

16 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).

Alaska Independent Insurance Agents & Brokers, Inc.

SEND REPLY TO:



Dianne M. Leighton
A.I.I.A.B.
P.O. Box 775303
Eagle River, AK 99577

March 20, 1986

Rep. M. Mike Miller, Ch.
House Judiciary Committee
Pouch V
Juneau, AK 99811

RE: CSHB 506, referred to Jud. 3/20/86

Dear Representative Miller:

We are pleased to see that the Labor & Commerce committee has split this HB in to two sections and offerd a substitute. They have left one detail up to your committee , however.

We are concerned that this pooling arrangement would appear to not be regulated by any entity other that a board of directors.

As we understand it, this arrangement would not be subject to regulation by the director of insurance nor the federal McCarran-Ferguson Act.

While we are confident today that the administrators would be responsible, it is very possible that in a period of time the administration would change. It is a pooling for insurance purposes and we feel that there should be some type of review by the Division of Insurance.

Also, we cannot seem to find any provision for insolvency of the pool ie, if there comes a time when there is not enough money to pay the claims, and the public entities cannot raise enough money due to fixed budgets, who provides the additional funds?

We are concerned that the state will end up bailing out the pool and wonder if there should be some wording in the bill to clarify this.

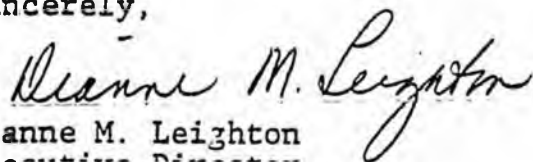
Those are some of our major concerns. There are others but clearly this seems to be a reasonable way to handle the short term insurance crisis.

The long term aid will of course be the tort reform package aka HB 532 including all substitutes.

Because the HB 506 is short term, should there be a sunset clause on the end - say three years?

This is more of a one-sided discussion to simply raise a few questions before your committee takes action.

Sincerely,



Dianne M. Leighton
Executive Director

cc: Committee members

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Representative Al Adams, Chairman
Members of the House Finance Committee

From: Scott A. Burgess, Executive Director 

Date: April 21, 1986

Subject: CSHB 506 - Insurance Pooling

The Alaska Municipal League, representing 116 direct member municipalities, strongly supports legislation (CSHB 506) that would enable municipalities to pool their insurance costs, and losses. Currently, municipal insurance pools, sponsored by state municipal leagues, are operating in 23 states. Never has any municipal insurance pool gone into default. Never has any municipal insurance pool been unable to pay a claim. All have been very successful.

Municipal insurance pooling lowers costs, and increases availability of insurance to municipalities. Pools offer municipalities a chance to pay premiums based solely upon loss history. In addition, municipalities in an insurance pool can recoup a portion of that premium through a year-end dividend payment, based upon their success at controlling losses. Under a pool, the availability of insurance to municipalities would no longer be subject to the cycles of the general insurance market.

If legislation allowing the formation of a municipal insurance pool were passed, the AML would most likely obtain reinsurance from the National League of Cities, which will begin offering reinsurance on May 1 of this year through a reinsurance pool supported by the 23 state municipal league pools currently in operation. In addition, several other reinsurance opportunities would be available to an Alaska Municipal League insurance pool, due to the success, and past performance, of the League's current insurance program. Though not a pool, the League currently sponsors a program which is providing insurance to over 80 municipalities and school districts in the State for worker's compensation, general liability, business auto, and errors and omissions coverage for law enforcement, public officials, and school board members.

The Alaska Municipal League urges you to pass CSHB 506.

Thank you for your consideration of this important issue. If the League may be of further assistance in any way, please call. Attached, please find a listing of state municipal league insurance pools currently in operation, a listing of Alaska municipalities and school districts currently obtaining their insurance through the Alaska Municipal League, testimony presented to the House Labor and Commerce Committee on behalf of AML member municipalities, a copy of the AML resolution on the insurance crisis facing the State of Alaska, and a sample survey of insurance rate increases for Alaska municipalities.

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Representative Mike Miller, Chairman
Members of the House Judiciary Committee

From: Scott A. Burgess, Executive Director

Date: March 26, 1986

Subject: CSHB 506 - Insurance Pooling

The Alaska Municipal League, representing 116 direct member municipalities, strongly supports legislation (CSHB 506) that would enable municipalities to pool their insurance costs, and losses. Currently, municipal insurance pools, sponsored by state municipal leagues, are operating in 23 states. Never has any municipal insurance pool gone into default. Never has any municipal insurance pool been unable to pay a claim. All have been very successful.

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 (202) 625-3000
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GROUP SELF-INSURANCE POOLS
 SPONSORED BY STATE MUNICIPAL LEAGUES

<u>State</u>	<u>Type of Risk Covered</u>				
	<u>Health & Accident</u>	<u>Workers Compensation</u>	<u>Liability</u>	<u>Unemployment Compensation</u>	<u>Property</u>
Alabama		x			
Arkansas		x		x	
Connecticut		x	(1)		
Florida	x	x	x		
Georgia		x			
Illinois		x	x		x
Iowa		x			
Kentucky		x		x	
Louisiana (3)		x	x		
Maine	x	x	(1)	x	
Massachusetts		x(2)			
Michigan		x	x	x	x
Minnesota	x	x	x		x
New Hampshire	x			x	
New Mexico		x			
North Carolina	x	x	(1)		
Oklahoma (3)	x	x	x		
South Carolina (3)	x	x			
Tennessee	x	x	x		
Texas		x	x		
Utah	x	(1)			
Vermont		(1)		x	x
Virginia		x			

- (1) Pool being developed (as of 8/85)
- (2) Fronted safety group program rather than pure pool
- (3) Not participating in NLC/RMPSP

Prepared by: National League of Cities
 December, 1985

ALASKA MUNICIPAL LEAGUE PARTICIPANTS

ADAK REGION S/D	CITY OF HUSLIA	CITY OF OUZINKIE
CITY OF AKUTAN	CITY OF HYDABURG	CITY OF PALME
CITY OF ALEKNAGIK	CITY OF KACHEMAK	CITY OF PORT HEIDEN
CITY OF ANVIK	KASHUNAMIUT S/D	PRIBILOF S/D
CITY OF BARROW	CITY OF KAKE	CITY OF RUBY
CITY OF BETHEL	KENAI PENINSULA BOR. & S/D	CITY OF RUSSIAN MISSION
CITY OF BREVIG MISSION	CITY OF KETCHIKAN	CITY OF ST. MARY'S
BRISTOL BAY BOR. & S/D	KETCHIKAN GATEWAY BOR. & S/D	CITY OF ST. MICHAEL
CHATHAM S/D	CITY OF KIANA	CITY OF ST. PAUL
CITY OF CHIGNIK	KING COVE S/D	CITY OF SAND POINT
CITY OF COLD BAY	CITY OF KING COVE	SAND POINT CITY S/D
COPPER RIVER S/D	CITY OF KLAWOCK	CITY OF SAVOONGA
CITY OF CORDOVA	KLAWOCK CITY S/D	CITY OF SAXMAN
CITY OF CRAIG	CITY OF KOBUK	CITY OF SEWARD
CRAIG CITY S/D	CITY OF KOTZEBUE	CITY OF SHISHMAREF
CITY OF DILLINGHAM	LAKE & PENINSULA S/D	CITY OF SKAGWAY & S/D
CITY OF EAGLE	CITY OF LARSEN BAY	SOUTHWEST REGION S/D
CITY OF EMMONAK	CITY OF LOWER KALSKAG	CITY OF TELLER
CITY OF FORT YUKON	MATANUSKA SUSITNA BOR. & S/D	CITY OF THORNE BAY
CITY OF GALENA	CITY OF MCGRATH	CITY OF TOKSOOK BAY
CITY OF GAMBELL	CITY OF NENANA	CITY OF UNALASKA
CITY OF GOLOVIN	CITY OF NEWHALEN	CITY OF WALES
HAINES BOROUGH & S/D	CITY OF NIKOLAI	CITY OF WASILLA
CITY OF HAINES	CITY OF NOORVIK	CITY OF WHITTIER
CITY OF HOONAH	CITY OF NUIQSUT	CITY OF YAKUTAT
CITY OF HOOPER BAY	CITY OF NUNAPITCIUK	YUPIIT S/D
CITY OF HOUSTON	CITY OF OLD HARBOR	

Alaska
MUNICIPAL
League

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105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Representative Mike Navarre, Chairman
Members of the House Labor and Commerce Committee

From: Scott A. Burgess, Executive Director 

Date: February 17, 1986

Subject: Legislation Addressing The Insurance Problem

On behalf of the Alaska Municipal League, thank you and all the members of the 14th Legislature for recognizing that an insurance crisis exists, and for taking on, what has already proven itself to be, a difficult issue. The League, on behalf of the 116 municipalities it represents, directly, and all local governments in Alaska, offers its assistance in finding short-term and long-term solutions.

Attached is a copy of an AML resolution on the insurance and tort reform issue from the 1986 Policy Statement which was sent to you at the beginning of the year. Also, the following policy appears on page 8 of the Statement:

F. TORT REFORM

The League urges the Legislature to review tort reform and to work for a viable municipal insurance system.

These policies came out of the discussions and actions at the annual conference in Fairbanks. The Board of Directors chose finding solutions to the availability and affordability of insurance for municipalities as one of its top four legislative priorities for this year. While the League has been working for several years to assist municipalities with their insurance needs, it has been unable to address and fully understand the current crisis.

The League is in support of legislation allowing municipalities to create a self-insured risk pool. The current statutes allowing for municipalities to form reciprocals is unnecessarily burdensome and expensive. It requires municipalities to essentially create an insurance company rather than contracting with existing insurance and financial agencies; requires a heavy surplus deposit over and above the current high premiums; and, is subject to unnecessary regulation by the Division of Insurance.

The League is already helping municipalities with their insurance needs. The League has pursued setting up a self-insurance pool program for several years but have been thwarted by interpretations of existing law, and our attempts to change it. The League has a group insurance program which is providing insurance coverage to over 70 municipalities for workers compensation, general liability, business auto, and errors and

omissions coverage for law enforcement, public officials, and school board members. However, because of the market and our inability to pool, we are unable to improve the program and offer the coverage desired.

The League has not been able to research the current tort reform issue well enough to commit to supporting all the recommended changes to the Statutes, or to make the direct connection between tort reform and the current insurance problem. Like you, local elected officials are equally concerned for both today's plaintiff and tomorrow's taxpayer. The Board of Directors is unsure whether the fault for the current insurance problems rest with a reckless society, the insurance industry, the justice system or State laws, or a combination of all. Therefore, the League is asking the Legislature for help to analyze the problem and develop reasonable solutions. Tort reform should be evaluated on whether it is good policy, and on the long term effects, not just as a possible solution to the current problem.

There is a problem. Municipalities, and others who will appear before you, are unable to obtain or afford insurance to protect themselves, their investments, and the public. The problem faced by municipalities is unique. Municipalities are regarded as high risk clients by insurance companies because they have a greater potential for being sued; therefore, they have, historically, been victims of paying higher premiums. This, itself, is not unique because the same applies to doctors. However, the fact that municipalities are in the business of providing high risk public services, such as fire and police, that they cannot stop providing just because of the cost or risk, is unique to municipalities. Secondly, municipalities are the victims of the "deep pocket" theory. Municipalities are named in suits, directly or indirectly, regardless of the degree of fault because there is a perceived unlimited ability to pay. A claim is not limited by the amount of insurance coverage but by assets, and juries perceive that municipalities need only raise taxes to pay the claim.

The League is currently collecting information through a survey of its 116 members on their recent insurance experiences. The survey is not complete; however, attached is the information from the communities that have responded to date. Also included is information from other municipalities in the AML Insurance Program, provided by our broker Frank B. Hall & Co. of Alaska.

Several bills are before the Legislature attempting to address the insurance problem in Alaska. We support the concept of allowing municipalities to form self-insured risk pools. An AML Legislative Subcommittee has reviewed the bills introduced this session and before your committee, and has no problem with the tort reform measures most completely covered in HB 532. However, the Subcommittee and the staff will follow the hearings and your deliberations closely to better understand all concerned before recommending any specific bill. The League, of course, is available to help you in any way we can to find short and long term solutions to the insurance problems faced by municipalities and others.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-13

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE
URGING THE STATE LEGISLATURE TO INVESTIGATE
TORT REFORM AND THE REASONS BEHIND THE
UNAVAILABILITY OF CERTAIN LINES OF INSURANCE.

WHEREAS, insurance rates have increased astronomically and this has caused businesses to close and has created a financial burden on taxpayers in Alaska, and


WHEREAS, municipal insurance rates have increased as much as 500% in some areas, and

WHEREAS, day care operators, air carriers, truckers, contractors, CHARRP-affiliated businesses, doctors, and architects are in many cases unable to obtain any insurance, and


WHEREAS, the Alaska Municipal League feels strongly that an investigation into causes should be made and a solution to this problem must be found this year;

NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that the Office of the Governor and the Alaska State Legislature are urged to immediately pursue all avenues available to solve this problem and find a way to provide insurance in Alaska.

Adopted this 16th day of November 1985.


LEO B. RASMUSSEN, President

ATTEST:


SCOTT A. BURGESS, Executive Director

<u>MUNICIPALITY</u>	<u>LAST YEAR PREMIUM/COVERAGE</u>	<u>THIS YEAR PREMIUM/COVERAGE</u>	<u>% of budget</u>	<u>JOIN/ SUPPORT POOLING</u>
ALAKANUK	UNINSURED	UNINSURED	4%	YES
ALEKNAGIK	\$ 4,500	\$15,000	13%	MAYBE
BARROW	\$ 4,100/\$ 1 million	\$10,000/\$500,000		
BETHEL	\$350,000	\$600,000	10%	YES
CORDOVA	\$ 21,000/\$ 1 million	\$ 31,850/\$500,000		
EAGLE	\$ 3,365/\$500,000	\$ 8,739/\$500,000	6%	YES
FAIRBANKS	\$212,876/\$20 million	\$514,167/\$5 million	2.5%	NO
GALENA	REPEATED CANCELLATIONS/PREMIUMS UP 200%		5%	MAYBE
GAMBELL	\$ 19,300/\$1 million	\$ 15,617/\$500,000		
HAINES BOROUGH	\$ 25,000	\$ 34,797	3.5%	NO
HOONAH	\$ 6,484/\$1 million	\$ 11,640/\$500,000		
HOUSTON	\$ 23,906	37,444	16%	MAYBE
JUNEAU	\$518,000	\$1,253,900	2%	YES
KAKE	\$ 10,617/\$1 million	\$ 7,080/\$500,000		
KENAI	\$ 85,000/\$10 million	\$320,000/\$10 million		NO
KODIAK	\$ 90,083/\$500,000	\$155,725/\$500,000	5%	YES
KOTZEBUE	\$140,000	\$280,000	5%	YES
LOWE KALSKAG	\$ 2,500/\$1 million	\$ 5,000/\$500,000		
McGRATH	\$ 13,596	\$ 41,063	7.5%	YES
NULATO	\$ 4,500/\$500,000	\$ 12,000/\$500,000	5%	YES
PALMER	\$138,000/\$10 million	\$219,000/\$1.5 million		YES
PELICAN	\$ 7,457/\$500,000	\$ 15,908/\$300,000	11.5%	YES
RUSSIAN MISSION	\$ 2,580/\$1 million	\$ 5,000/\$500,000		
St. MARY'S	\$ 4,200/\$1 million	\$ 5,000/\$500,000	10%	YES
SAND POINT	\$ 45,000	\$ 80,000	9%	YES
SITKA	\$ 53,753/\$10 million	\$131,628/\$5 million	3%	YES
SKAGWAY	\$ 31,883/\$1 million	\$ 55,806/\$ 1 million	6%	MAYBE
SOLDOTNA	\$110,000/\$10 million	\$270,000/\$10 million	6%	YES
TENAKEE SPRINGS	\$ 13,670	\$ 42,000	16%	YES
UNALASKA	\$131,124/\$14 million	\$ 99,468/\$4 million	10%	YES
WALES	\$ 11,663	UNINSURED		YES
WASILLA	\$ 11,000/\$6 million	\$19,000/\$1.5 million	2%	MAYBE

** ALL INFORMATION COMPILED BY THE ALASKA MUNICIPAL LEAGUE BY SURVEY. BACK-UP IS AVAILABLE THROUGH THE AML 105 Municipal Way, Suite 301, Juneau, Alaska 99801

Offered: 4/10/86
Referred: Finance

Original sponsors: Taylor, Gruenberg,
Larson, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 506 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to joint insurance arrangements; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 21 is amended by adding a new chapter to read:
10 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.
11 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-
12 MENTS. (a) The following groups may enter into cooperative
13 agreements with each other for the purpose of establishing, operating,
14 or participating in joint insurance arrangements through which the
15 participating members agree to pool contributions in order to either
16 assume risks from losses on a group basis or purchase coverage on a
17 group basis:
18 (1) municipalities;
19 (2) school districts;
20 (3) regional educational attendance areas;
21 (4) unincorporated associations;
22 (5) regional electrical associations;
23 (6) entities qualified to do business under the Federal
24 Risk Retention Act;
25 (7) groups that would be considered valid under this title
26 for the type of insurance for which the joint insurance arrangement is
27 established.
28 (b) A joint insurance arrangement may be for any kind of insur-
29 ance defined by this title except for life insurance and title

1 insurance.

2 (c) A joint insurance arrangement shall be considered an alter-
3 native or supplement to any other policy or contract of insurance
4 authorized or required by law, including insurance under AS 21.75.

5 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint
6 insurance arrangement may not be considered insurance for the purpose
7 of any other law of the state and is not subject to regulations of the
8 director except as expressly provided in this chapter.

9 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
10 cooperative agreement shall provide for the proper operation of the
11 joint insurance arrangement, and include provisions for

12 (1) administration of the arrangement by a board of direc-
13 tors, specifying the number of members of the board and other require-
14 ments necessary for the proper functioning of the board;

15 (2) appointment of an administrator and other persons as
16 necessary for the proper functioning of the arrangement;

17 (3) organization of the arrangement, including a roster of
18 participating members and the names of the members of the board of
19 directors;

20 (4) procedures to establish and promote an aggressive risk
21 management and program among the members of the arrangement, including
22 procedures for identifying and reducing the risks that can be reduced
23 through implementing better safety technologies and improved work
24 techniques and procedures;

25 (5) enforcing the collection of contributions or payments
26 in default from members of the arrangement;

27 (6) the addition of new members to the arrangement or the
28 withdrawal of members from the arrangement;

29 (7) the method of apportioning costs and disposition of

1 excess contributions;

2 (8) transmission of financial statements and audit reports
3 of the arrangement to participating members;

4 (9) terminating the arrangement and disposing of its as-
5 sets; and

6 (10) establishing and administering a joint insurance fund.

7 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
8 cooperative agreement must include a provision requiring an annual
9 determination by a casualty actuary who is a member of the American
10 Academy of Actuaries that procedures for establishing reserves for
11 losses of the joint insurance arrangement are actuarially sound.

12 (b) A joint insurance arrangement shall be subject to an annual
13 independent audit. The audit shall be conducted in accordance with
14 generally accepted auditing standards and must include a review of the
15 actuarial assumptions used for establishing the reserves under (a) of
16 this section. The audit report must include certification from a
17 casualty actuary who is a member of the American Academy of Actuaries
18 that the actuarial assumptions continue to be sound and the level of
19 the reserves are adequate.

20 (c) A joint insurance arrangement shall use a method of account-
21 ing that conforms with generally accepted government accounting prin-
22 ciples.

23 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
24 cooperative agreement may authorize the board of directors to enter
25 into contracts for services necessary to perform the functions of a
26 joint insurance arrangement. The person contracting to perform the
27 functions must be appropriately licensed under this title if this
28 title so requires.

29 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A

1 cooperative agreement may delegate to the board of directors, or
2 authorize delegation by the board to another person or group, the
3 power to compromise, arbitrate, or otherwise settle claims on behalf
4 of the arrangement.

5 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
6 authorize the board of directors to purchase excess or catastrophic
7 insurance on behalf of the joint insurance arrangement. The cost of
8 the insurance shall be apportioned in the manner specified in the
9 joint insurance agreement. The board may purchase insurance under
10 this section only from an insurer authorized to do business in the
11 state or from an unauthorized insurer if the insurance is placed
12 through a licensed surplus lines broker.

13 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
14 arrangement shall establish a joint insurance fund. The fund consists
15 of money

16 (1) contributed by members of the joint insurance arrange-
17 ment through budgetary appropriations or transfers from a self-insur-
18 ance reserve;

19 (2) contributed by officers and employees of members of the
20 joint insurance arrangement under an employee benefit plan; and

21 (3) collected by the joint insurance arrangement through
22 subrogation of a claim paid from the fund to a member of the arrange-
23 ment.

24 (b) An expenditure may be made from a joint insurance fund only
25 to pay claims, losses, or benefits, including interest on them, and
26 the administrative and adjustment expenses incurred in connection with
27 them, involving the types of protection for which the fund provides
28 coverage as specified in the joint insurance agreement.

29 (c) The administrator shall keep the fund separate from other

1 funds of a member of a joint insurance arrangement.

2 (d) For each type of protection offered by the joint insurance
3 arrangement, the method of accounting must show the order, source,
4 date, and amount of each payment from the fund.

5 (e) Within 60 days of the end of the fiscal year, the adminis-
6 trator shall furnish a detailed report of the operation and condition
7 of the fund to the board of directors and the director of insurance.
8 The report furnished to the director of insurance shall be available
9 for public inspection.

10 (f) Money held by a fund as reserves and money not needed for
11 daily operations may be invested by the board of directors.

12 (g) A fund may not be terminated unless the administrator certi-
13 fies that an amount of money sufficient to pay accrued and contingent
14 expenditures has been placed in a fully collateralized escrow account.

15 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
16 shall file a copy of the cooperative agreement with the director of
17 insurance at least 60 days before the effective date of the agreement.
18 The agreement shall be available for public inspection.

19 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
20 thorize the board of directors to adopt regulations not inconsistent
21 with law for the fair and equitable administration of the joint insur-
22 ance arrangement and the joint insurance fund.

23 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
24 a cause of action for reimbursement of money paid to a participating
25 member for a loss or injury if the participating member recovers money
26 for the loss or injury from a third party. The joint insurance ar-
27 rangement also has a direct cause of action for reimbursement against
28 a third party responsible for loss or injuries sustained by a partic-
29 ipating member if the joint arrangement has paid money to the

1 participating member for the loss or injuries.

2 Sec. 21.76.900. DEFINITIONS. In this chapter

3 (1) "adjustment expenses" means expenses for investigative,
4 processing, legal, actuarial, arbitration, and settlement services
5 incurred in the adjustment of losses, claims, or benefits;

6 (2) "administrator" means a person or group appointed by
7 the board of directors to administer a joint insurance arrangement or
8 a joint insurance fund;

9 (3) "board" or "board of directors" means the board of
10 directors provided for in a cooperative agreement;

11 (4) "cooperative agreement" means a written agreement
12 entered into by two or more entities described in AS 21.76.010 for the
13 purpose of establishing, operating, or participating in a joint insur-
14 ance arrangement;

15 (5) "fund" or "joint insurance fund" means a fund estab-
16 lished under AS 21.76.080;

17 (6) "joint insurance arrangement" means a joint insurance
18 arrangement authorized under AS 21.76.010.

19 * Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

20 (e) This section does not apply to insurance coverage under a
21 joint insurance arrangement authorized by AS 21.76.

22 * Sec. 3. AS 21.39.155(a) is amended to read:

23 (a) The director may require carriers, except a reciprocal
24 insurer formed by and insuring only a group of municipalities or
25 nonprofit public utilities under AS 21.75 or a joint insurance ar-
26 angement formed under AS 21.76, as a condition of writing a line of
27 insurance dealing with workers' compensation, to participate in an
28 assigned risk pool if the director finds that mandatory carrier part-
29 icipation is in the public interest.

1 * Sec. 4. AS 21.80.180(5) is amended to read:

2 (5) "insolvent insurer" means an insurer

3 (A) authorized to transact insurance in this state,
4 except an assessable reciprocal insurer formed by and insuring
5 only municipalities or nonprofit public utilities, a joint insur-
6 ance arrangement formed under AS 21.76, the Medical Indemnity
7 Corporation of Alaska, and the Health Care Providers Joint Under-
8 writing Association established under AS 21.88, either at the
9 time the policy was issued or when the insured event occurred,
10 and

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

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

14 (6) "member insurer" means a person, except an assessable
15 reciprocal insurer formed by and insuring only municipalities or
16 nonprofit public utilities, a joint insurance arrangement formed under
17 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
18 Care Providers Joint Underwriting Association established under
19 AS 21.88, who

20 (A) writes any kind of insurance to which this chapter
21 applies under AS 21.80.020 including the exchange of reciprocal
22 or interinsurance contracts, and

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

24 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
25 10.070(c).

COMMITTEE REPORT

SENATE

FURTHER: LABOR & COMMERCE
FINANCE

5/1/86

Date 5/8/86

Mr. President

The Committee on JUDICIARY considered CSSSHB 506 (Jud)
relating to joint insurance arrangements; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt ^{SENATE} CS for SS HB 506 JUDICIARY
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

3 members, but with
some qualms

MEMBERS HAVING
OTHER RECOMMENDATIONS

Tim Kelly - No Pass

Patrick Roddy
Chairman
do pass
Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST Page 1 of 2
 Bill/Resolution No: SSHB 510
 Title: An Act relating to fish or game farming.
 Sponsor: Larson and Jenkins
 Requestor: Senate Resources
 Date of Request: 2/18/86

FISCAL DETAIL
 Agency Affected: Revenue
 BRU: Public Services
 Components: Public Services Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS/CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-

CAPITAL	-	-	-	-	-	-
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REVENUE	(.9)	-	(.9)	-	(.9)	-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared by: Sally Smith
 Division: Public Services

Phone: 465-2392
 Date: February 19, 1986

Approved by: [Signature]
 Commissioner: [Signature]
 Agency: Revenue

Date: 2/21/86

Distribution (by Agency preparing fiscal note):

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