

HB

529

HOUSE COMMITTEE REPORT

(11)

Date referred: 4/19/88

FURTHER REFERRALS:

DATE: 4-27-88

The Finance Committee has considered HB 529

"An Act relating to workers' compensation benefits for members of the state's organized militia; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) _____ a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 2/17/88 #3
- zero fiscal note same as previous zero fiscal note published 2/17/88 #2
- zero with analysis

SIGNING DO PASS:

Al Adams
Pat Kunkel
Ronald J. Jaron
Peter J. Quinn
Charles
Mark Boyer
Kurt Walling
Myra Dru
John

SIGNING OTHER RECOMMENDATIONS:

Steve Neip
Ray Brown

Al Adams
 Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to workers' comp. benefits for member of the ANG, ANM & ASM
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Department of Administration
BRU: Risk Management

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0.0	88.0	114.0	148.0	193.0	250.0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0.0	88.0	114.0	148.0	193.0	250.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	88.0	114.0	148.0	193.0	250.0
TOTAL	0	88.0	114.0	148.0	193.0	250.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This fiscal note is extremely difficult to project---see Fiscal Note Analysis on page 2.

Prepared By: Donald J. Hitchcock, Director Phone: 465-2180
Division: Risk Management Date: February 10, 1988

Approved by Commissioner: John M. Andrews Date: 2/16/88
Agency: Department of Administration

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS

This fiscal note is based on present estimated costs of the State self-insured Workers' Compensation program prorated to the number of days of probable National Guard or Militia exposure.

It is further estimated that the Federal Government would pay 75% of loss and the State of Alaska would pay any additional in order to provide the injured person with Alaska Workers' Compensation benefits. If no Federal coverage was available, then the State may become obligated to the entire amount of loss.

There are approximately 5,000 people in these affected military units of which approximately 600 are full time.

It is very difficult to estimate total additional exposure to the State with no loss history available.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An act relating to workers comp benefits for members of the org. militia
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Military & Veterans Affairs
BRU: Alaska National Guard
Components: Office of the Adjutant General

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		88.0	114.0	148.0	193.0	250.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		88.0	114.0	148.0	193.0	250.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		88.0	114.0	148.0	193.0	250.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Amounts budgeted by this fiscal note will be transferred by RSA to Risk Management, Department of Administration, to pay for additional insurance coverage created by this bill. See attached analysis.

Prepared by: Jeff Morrison
Division: Administrative & Support Services, DMVA

Phone: 465-4600
Date: February 11, 1988

Approved by Commissioner: MG John W. Schaeffer
Agency: Department of Military & Veterans Affairs

Date: February 11, 1988

Distribution (by preparer):

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

Attachment to fiscal note for: "An Act relating to workers compensation benefits for members of the organized militia."

Overview: This act makes two changes to existing statutes: 1) to expand workers compensation coverage to members of the Alaska State Militia; and 2) to provide a safety net of state workers compensation coverage to members of the Alaska National Guard on training status.

1. Alaska State Militia (ASM) workers compensation coverage: Premiums for workers compensation coverage are calculated by multiplying the total payroll covered by the specific rate for the type of work being performed. Members of the ASM serve without pay for their training, which consists of two days per month, for a total of 24 days per year. Under the bill, the earnings of a member of the ASM are presumed to be the same as they would be if the ASM member held the same grade or rank as a member of the U.S. Armed Forces. Under this assumption, the total covered payroll of the ASM amounts to about \$10,000 per day. For the 24 days of drill per year, the total payroll covered is about \$240,000. During drills, members of the ASM train in an office setting. The rate for workers compensation for office workers is approximately 1% of the total payroll. At an assumed total payroll of \$240,000, and a premium rate of 1%, the total annual premium due to the Division of Risk Management is \$2,400.
2. Safety net coverage for Alaska National Guard members: Alaska National Guard members are already covered under state workers compensation while on state active duty. The proposed legislation would extend that coverage to include the times that a guardsman is on federal duty under 32 U.S.C. Since guardsmen are also covered under federal workers compensation while on federal duty, the state would only be paying for the coverage which exceeds the federal workers compensation coverage. The legislation also provides that any state workers compensation payable under the proposed new language of the law would be reduced and offset by the amount payable under the federal coverage. The Division of Risk Management has estimated that the additional workers compensation exposure created by this bill will cost the state an additional \$ 85,600 in the first year.
3. FY90 and beyond: Recent workers compensation loss history documented by the Division of Risk Management shows a growth rate in risk management costs of about 30% per year. This growth rate is applied to the total first year expense of \$88,000, to project the likely cost of this legislation for the years following FY89.

Prepared by: Jeff Morrison, Director
Administrative and Support Services Division
Department of Military and Veterans Affairs
465-4600
February 11, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to workers' Compensation benefits..."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Labor
BRU: Workers' Compensation
Components: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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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:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jacque McClintock Phone: 465-2790
Division: Workers' Compensation Date: 12/16/87
Approved by Commissioner: Jim Sampson Date: 12/16/87
Agency: Labor

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 529

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to workers' compensation benefits
7 for members of the state's organized militia; and
8 providing for an effective date."

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

10 * Section 1. AS 26.05.260(d) is amended to read:

11 (d) A member of the organized militia [ALASKA NATIONAL GUARD OR
12 ALASKA NAVAL MILITIA] who, while performing duties [ON ACTIVE SERVICE]
13 under AS 26.05.070 [AND LAWFULLY PERFORMING DUTIES], including transit
14 to and from the member's home of record, suffers an injury or [A]
15 disability in the line of duty is entitled to all compensation and
16 benefits available under the Alaska Workers' Compensation Act
17 (AS 23.30).

18 * Sec. 2. AS 26.05.260(e) is amended to read:

19 (e) If a member of the organized militia [ALASKA NATIONAL GUARD
20 OR ALASKA NAVAL MILITIA] dies as a result of an injury or [A] disabil-
21 ity suffered in the line of duty while performing duties [ON ACTIVE
22 SERVICE] under AS 26.05.070 [AND WHILE LAWFULLY PERFORMING DUTIES],
23 including transit to and from the member's home of record, death
24 benefits must [SHALL] be paid to the persons in the amounts specified
25 in AS 23.30.215.

26 * Sec. 3. AS 26.05.260(h) is amended to read:

27 (h) In this section, "member" means an active commissioned or
28 warrant officer or enlisted man or woman in the organized militia
29 [ALASKA NATIONAL GUARD OR ALASKA NAVAL MILITIA].

1 * Sec. 4. AS 26.05.260 is amended by adding new subsections to read:

2 (i) Except as provided in (k) of this section, a member of the
3 organized militia who, while performing duties under 32 U.S.C. 316,
4 502, 503, 504, or 505, suffers an injury or disability in the line of
5 duty is entitled to all compensation and benefits available under the
6 Alaska Workers' Compensation Act (AS 23.30).

7 (j) Except as provided in (k) of this section, if a member of
8 the organized militia dies as a result of an injury or disability
9 suffered in the line of duty while performing duties under 32 U.S.C.
10 316, 502, 503, 504, or 505, death benefits must be paid to the persons
11 in the amounts specified in AS 23.30.215.

12 (k) A member or survivor of a member of the Alaska National
13 Guard who is entitled to compensation under (i) or (j) of this section
14 shall apply for, and provide proof to the Department of Military and
15 Veterans' Affairs of application for, all compensation and benefits
16 authorized under federal law for the injury, disability, or death.
17 The amount of compensation or death benefit paid to a person under
18 AS 23.30 must be reduced by the amount payable to the person by the
19 United States for the same injury, disability, or death under 10
20 U.S.C. and 37 U.S.C. If a person receives payment of compensation or
21 benefits authorized under 10 U.S.C. or 37 U.S.C. for the injury,
22 disability, or death after payment of compensation begins under
23 AS 23.30 for the injury, disability, or death, or if for any other
24 reason a person receives an overpayment of compensation under AS 23.30
25 and this section, the person shall repay the overpayment by making a
26 lump sum payment or by an offset against future payments due for the
27 injury, disability, or death under AS 23.30 and this section.

28 (l) For purposes of computation of benefits under AS 23.30, the
29 earnings of a member of the organized militia will be presumed to be

1 no less than the pay and allowances authorized for a member of the
2 regular armed forces of the United States in the same grade or rank as
3 the member at the time of the injury or death.

4 * Sec. 5. This Act takes effect July 1, 1988.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

No. 3
BILL VERSION: HB 529
PUBLISH DATE: HOUSE 2/17/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to workers' Compensation benefits..."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Labor
BRU: Workers' Compensation
Components: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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: Jacque McClintock
Division: Workers' Compensation

Phone: 465-2790
Date: 12/16/87

Approved by Commissioner: Jim Sampson
Agency: Labor

Date: 12/16/87

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

TALKING PAPER HB 529

MILITIA COMPOSITION

ALAKSA MILITIA COMPOSED OF TWO ELEMENTS

1. ORGANIZED MILITIA (AS 26.05.010 (b) (1)) CONSISTING OF:
 - A. ALASKA NATIONAL GUARD MADE UP OF:
 1. ALASKA AIR NATIONAL GUARD
 2. ALASKA ARMY NATIONAL GUARD
 - B. ALASKA NAVAL MILITIA
 - C. ALASKA STATE MILITIA
2. UNORGANIZED MILITIA (AS 26.05.010 (b) (2))

CALL JEFF
BOWER

TALKING PAPER HB529

MILITIA DUTY STATUSES

STATE ACTIVE DUTY (AS 26.05.070)

APPLICABLE TO ALL ELEMENTS OF THE ORGANIZED MILITIA

NATIONAL GUARD

NAVAL MILITIA

STATE MILITIA

CALLED TO DUTY BY THE GOVERNOR

DUTY IN "STATE STATUS" (32 USC 502, 503, 504)

APPLICABLE TO THE NATIONAL GUARD ONLY

EQUIPMENT PROVIDED BY THE FEDERAL GOVERNMENT (DOD)

WAGES/SALARIES PAID BY FEDERAL GOVERNMENT (DOD)

OFFICERS APPOINTED BY STATE AUTHORITIES

GOVERNOR IS COMMANDER IN CHIEF

ADJUTANT GENERAL EXERCISES GOVERNOR'S AUTHORITY AS COMMANDER

CONFORMS TO CONSTITUTIONAL PROVISIONS THAT STATES SHALL APPOINT OFFICERS AND TRAIN THE MILITIA ACCORDING TO THE DISCIPLINE PRESCRIBED BY CONGRESS.

CONGRESS/DOD EXERCISE DISCRETIONARY AUTHORITY TO DETERMINE SCOPE OF TRAINING.

STATES EXERCISE OPERATIONAL AUTHORITY OVER NATIONAL GUARD TRAINING.

FEDERAL DUTY (10 USC)

BY NATIONAL GUARD WHEN

MOBILIZED BY PRESIDENTIAL ORDER

PERFORMING TRAINING OUTSIDE TERRITORIAL LIMITS OF US

BY NAVAL MILITIA MEMBERS WHEN

PERFORMING USNR TRAINING

TALKING PAPER HB529

SUMMARY OF FEDERAL MILITARY BENEFITS FOR INJURED MEMBERS OF THE GUARD

- I. IF ORDERED TO DUTY FOR 30 DAY OR MORE
 - A. FULL MILITARY MEDICAL CARE
 - B. CONTINUATION OF MILITARY PAY DURING PERIOD OF TREATMENT
 - C. MEDICAL EVALUATION BOARD 6 MONTHS AFTER INJURY/DISEASE TO DETERMINE IF MEMBER CAN RETURN TO DUTY
 1. IF EVALUATION IS POSITIVE, PAY AND TREATMENT CONTINUE UNTIL MEMBER IS RETURNED TO DUTY.
 2. IF EVALUATION IS NEGATIVE, PAY AND TREATMENT CONTINUE UNTIL PHYSICAL EVALUATION BOARD (PEB) CONVENES.
 - D. PEB DETERMINES EXTENT OF DISABILITY
 1. IF 30% OR GREATER, MEMBER RETIRED IN GRADE WITH 1/2 PAY, ALL MILITARY BENEFITS AND CONTINUED MILITARY MEDICAL CARE.
 2. IF LESS THAN 30%, MEMBER GIVEN SERVICE CONNECTED DISABILITY WHICH PERMITS VA DISABILITY COMPENSATION AND VA MEDICAL CARE.
- II. IF ORDERED TO DUTY FOR 30 DAYS OR LESS, BENEFITS THE SAME EXCEPT
NO PAY OR ALLOWANCES ACCRUE TO INJURED GUARD MEMBERS.

WAGE CONTINUATION (UP TO A MAXIMUM OF THE MILITARY PAY GRADE)
PREDICATED UPON DEMONSTRABLE LOSS OF NON MILITARY INCOME.

TALKING PAPER HB529

NEED FOR HB529

BRING ASM WITHIN COVERAGE OF AS26.05.260

LIMIT STATE EXPOSURE TO WORKERS COMP REMEDY

LIMIT REMEDY OF INJURED MILITIA MEMBERS TO THOSE OF OTHER STATE EMPLOYEES

INSURE ADEQUATE REMEDY/TREATMENT FOR INJURED MILITIA MEMBERS

REQUIRE ADEQUATE BUDGET/PLANNING FOR "PREMIUM" COSTS ASSOCIATED WITH RISK.

PROVIDE "SAFETY NET" FOR NATIONAL GUARD MEMBERS OF THE ORGANIZED MILITIA

ACKNOWLEDGES DUAL EMPLOYER NATURE OF NATIONAL GUARD (FEDERAL WAGES FOR TRAINING CONDUCTED BY STATE OFFICERS/AUTHORITIES)

REQUIRES EXHAUSTION OF FEDERAL BENEFITS

WORKERS COMP REMEDY IS SECONDARY NOT PRIMARY

PROVIDES TREATMENT/REMEDY WHEN FEDERAL REMEDY UNAVAILABLE OR INADEQUATE.

REQUIRE ADEQUATE BUDGET/PLANNING FOR "PREMIUM" COSTS ASSOCIATED WITH RISK ASSOCIATED WITH OPERATIONAL SUPERVISION OF NATIONAL GUARD TRAINING.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 17, 1988

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to workers' compensation benefits for members of the Alaska State Militia, Alaska National Guard, and Alaska Naval Militia.

Under AS 26.05.020, the organized militia is composed of the Alaska State Militia (also known as the Alaska State Guard), the Alaska National Guard (composed of the Alaska Army National Guard and the Alaska Air National Guard), and the Alaska Naval Militia.

The National Guard is concurrently a reserve component of the armed forces of the United States. The National Guard drills one weekend each month and two weeks annually. For this duty, members of the National Guard are paid by the federal government from money appropriated to the Department of Defense. Members of the Naval Militia are concurrently members of the U.S. Naval Reserve. When performing drill for the U.S. Navy, naval reservists may be paid from money appropriated to the Navy Department.

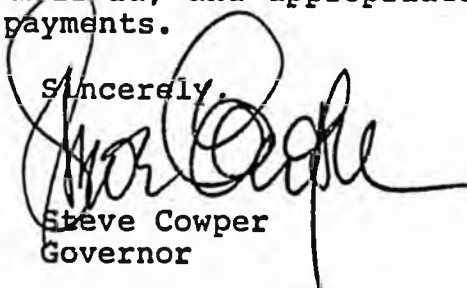
The Alaska State Militia (ASM) has no status as a reserve of the armed forces of the United States and its members receive no compensation from the federal government. The governor has authority to call the organized militia into active state service or training duty under AS 26.05.070. As currently written, AS 26.05.260 expressly provides that members of the National Guard and Naval Militia who are injured or killed while performing duties under AS 26.05.070 are entitled to workers' compensation. The statute is silent regarding compensation of members of the ASM who are injured or killed while performing duties under AS 26.05.070. No state workers' compensation coverage is presently provided for members of the National Guard who are injured or killed in the line of duty in the reserve component of the armed forces of the United States.

This bill expressly extends workers' compensation coverage to members of the ASM. Sections 1, 2, and 3 of the bill. This insures that injured militia members receive adequate compensation for injuries incurred incident to state service, and the bill limits the state's liability for injuries to the remedy provided for in AS 23.30. The bill also expressly extends workers' compensation coverage to members of the organized militia who are injured or killed in the line of duty under certain federal statutes, including federal details, drills, exercises, and training. However, members injured or killed in the line of federal duty are not covered while in transit to and from duty, and workers' compensation benefits are subject to a setoff described below. Section 4 of the bill, in proposed AS 26.05.260(i) and (j).

For purposes of computing workers' compensation benefits for a member of the organized militia, the bill provides that a member's earnings are presumed to be no less than the pay and allowances authorized for a member of the armed forces in the same grade and rank as the member at the time of the injury or death. Section 4 of the bill, in proposed AS 26.05.260(l). The bill also provides that members, or survivors of members, of the Alaska National Guard must apply for available benefits payable by the federal government for the injury or death of the member, and that workers' compensation payments will be reduced by the amount payable by the federal government for the disability or death. Section 4 of the bill, in proposed AS 26.05.260(k). The provisions on the federal setoff apply only to the National Guard because, of the three components of the organized militia, only that one is entitled to federal compensation under federal law. Notwithstanding the federal benefits, there will be some occasions when individuals will have recourse to the Alaska workers' compensation system. Therefore, some additional appropriation to cover the premium for this responsibility is anticipated.

This bill, then, provides for equity among the three components of Alaska's organized militia, and appropriately provides for setoff of federal payments.

Sincerely,



Steve Cowper
Governor