

SB

322

(FILE 15)

Alaska Legislative Digest

An Inside View of Alaska Policy

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Options Being Considered:

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State Help For Real Estate?

Don't expect any 'bailout' of Anchorage's troubled real estate sector by the legislature, but some lawmakers are seriously studying options in the wake of Anchorage Mayor Tom Fink's recent quest for state assistance for the economically-battered Southcentral city. Fink may not get what he wants (more state assistance and using Permanent Fund money to buy up surplus real estate) but he has put the issue squarely on the table for discussion. This has raised legislative attention and increased the likelihood that some form of limited stabilization measure might be seriously considered. For example, Sen. Tim Kelly, Senate Labor and Commerce Committee chair, plans to introduce a bill this week for discussion purposes, and to test legislative reaction.

Mayor Fink says the worst is yet to come for Anchorage, that heavy real estate losses will lead soon to increasing bankruptcies among local business people with real estate investments, leading to further economic disruptions and the loss of ownership of major assets to out-of-state buyers, including "vulture" funds now on the prowl in

Alaska looking for cheap buys. Most legislators, however, think Fink is overstating the problem, and that the worst is now behind for Anchorage. This is a view also shared by Commerce Commissioner Tony Smith. Governor Steve Cowper reportedly doubts that any form of state intervention is justified. Smith shares this to some extent, but also feels the state should act to encourage Federal Deposit Insurance Corp. and other institutional holders from dumping assets from failed banks or foreclosed mortgages. Smith also thinks FDIC could be encouraged to sell troubled assets cheap to a private real estate trust formed by local groups, which would keep ownership in-state and discourage competitive selling. In fact, several local entities, including Native corporations cash-rich with recent sales of Net Operating Losses, are studying such an option. (*Cont. Pg. 8*)

"Jobs Bill" On Fast Track

A project list for the fast-track 'jobs bill' is being drawn up in the House this week. Of \$75 million agreed on by legislators (Gov. Steve Cowper had asked \$150 million), the administration had identified \$10.2 million in specific projects, and the other \$65 million will be split up among legislative districts. Projects proposed by legislators must meet certain criteria (labor-intensive, \$5 million maximum, 'street-ready' for 1988-9 seasons) and will be 'pre-approved' by the governor to avoid any vetoes. A list is due to Cowper by Feb. 6. To the maximum extent possible, a 10% Alaska bidder's preference will be provided.

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... Business ...

Trade Secret Protection

House Labor and Commerce took testimony last week on SB-15 (protection of commercial trade secrets, by Sen. Faiks), and the bill will likely move after the full committee has had a chance to meet on the bill. The bill is based on model uniform trade secrets legislation now adopted by 11 states, and codifies procedures for injunctive relief and damages in cases of theft or misappropriation of commercial trade secrets.

Most states rely on general tort law to provide relief in cases of trade secret theft, but Alaska has no Supreme Court decisions to provide case law guidance, which then requires judges to look to other states' case law, creating uncertainties and often running up legal costs. "Trade secrets" are formulas or other non-tangible commercial procedures which are not patented. The bill requires 'misappropriation' (theft, espionage, unauthorized disclosure by an employee), with burden of proof on the plaintiff, for damages to be sought.

Benefits Claims By Bank Employees

HB-373 - priority of wage and benefit claims in state bank liquidations, by Rep. Phillips - moved out of House Labor and Commerce last week. The bill adds benefits - retirement plans, accrued vacation and sick leave - to wages in cases of forced closure of state chartered banks. A problem developed in the recent closure of First Interstate, with some employee benefit payments being caught in liquidation proceedings, where creditors get higher priorities. The committee added an amendment at request of the Alaska Bankers Association, extending the period in which quarterly bank financial 'call' reports must be submitted to state bank authorities, from the current 10 days after 'call' or notification, to 30 days, conforming with requirements for federally-chartered banks.

State Recording Procedures: An Overhaul

A long-delayed overhaul of state recording procedures that has been before the legislature over eight years and never enacted may finally be moving. CSHB-266 and SB-304, both in Senate Resources, make technical changes in state document recording systems, including a new subordinate class of documents other than real estate, recorded for safekeeping. More important, the legislation lays groundwork for future high-tech centralized state recording connected electronically around the state. This could allow, for example, documents to be recorded in Ketchikan by an Anchorage resident without the need of travelling there. Alaska Code Revision Commission had the bills introduced.

Hudson: Fix The Ferry System

Juneau Rep. Bill Hudson has circulated an informal "white paper" on the state ferry system, recommending realignment of Southeast ferry routes, consideration of high-speed watercraft, moving the system's southern terminus from Seattle to Bellingham, and other changes. The paper was up for discussion last Friday in House Transportation Committee. Hudson is a former ferry system director. He says the present system is "becoming increasingly regressive, more costly and is out of sync with original legislative intent and economic development needs of communities it was created to serve."

The system now operates at 67% capacity, costs \$60 million/yr. and serves to discourage stopover traffic in small southeast communities because of route scheduling, which hurts potential tourism-related economic development in those communities. Forty five thousand passengers annually embark in Seattle and Prince Rupert and do not spend much time in Southeast communities, he says. Hudson outlined possible route realignments and system improvements that would increase schedule flexibility and encourage small-scale tourism development.

Limiting Corporate Director Liability

A bill reviewed in Senate Labor and Commerce Committee last week would eliminate or limit personal liability of directors of corporations to stockholders, or to the corporation for monetary damages in cases in which they are not at fault or responsible. Currently, there is reluctance to serve on boards because of the exposure to liability, testifiers said. The committee amended the bill, SB-343 (prime sponsor Sturgulewski) to include non-profit corporations and passed it out to Senate Judiciary. The legislation should provide some incentive for out-of-state based seafood companies to relocate to Alaska, its advocates say. Under the bill, corporations could choose to ignore or adopt the legislation.

Architectural, Engineering Services

Senate Community & Regional Affairs approved SB-358, procurement of architectural, engineering and land surveying practices by municipalities. The bill goes on to Labor and Commerce. Sen. Sturgulewski is prime sponsor.

What They're Saying To Patients (Constituents):

Chiropractors Critical Of Workers' Comp Bill

One major group in Alaska having problems with the proposed new 'Worker's Comp' legislation is the chiropractic profession, and they are lobbying with their patients concerning what they see as problems. Chiropractors are also concerned because they inherit the patients that suffer from job related injuries that tend to be 'cumulative.' These injuries, unlike the more definitive 'accident' injury, are less easy to define, and sometimes substantiate, as job related.

The following complaints are taken from a circular many chiropractors are providing their patients. (There have been a few deletions.) They say the new proposed law would do the following.

- ** An insurance rehabilitation specialist will have total control over your rehabilitation. You (the patient) will have almost no say. Also, you can only be rehabilitated once in your life, regardless of how many injuries you suffer. And it can't cost over \$10,000.
- * * You can only receive 20 treatments in 60-days, regardless of how extensively you are injured.
- ** After 14-days, the insurance company can make you go to their doctor.
- ** The insurance company can use 'lower 48' companies to determine fees, making you responsible for the difference.
- ** Permanent disability payments will have a limit, no matter how extensively you are injured.
- ** Once you have stopped improving, or your condition is expected to get worse without continued care, you can receive no additional medical care, regardless of how extensively you are injured, unless you prove it to the board
- ** Your doctor has one week to submit his treatment schedule to the insurance company, and they have two weeks to accept or deny it. Therefore, if they do not like you, or your doctor, or his plan of treatment, they can deny the entire claim without penalty.
- ** You can change doctors only once without written permission from the insurance company.
- ** If there is a dispute between you and your insurance company they can stop all benefits to you, regardless of your condition, until you take it to a board hearing. You are guilty until proven innocent!
- ** The IME doctor can say anything he wants about your claim or your doctor, and will not be held liable.

For all of this (and more), the insurance companies are not required to report how much they set aside in reserves, how much is spent on injuries, or how much was collected in premiums. Therefore they can charge whatever they want, regardless of how it may strangle our economy.

The handout to patients then urges patients to contact their representatives to oppose the proposed workers' comp bill. It (the bill) is highly discriminatory, (the handout states) and will seriously jeopardize your ability to seek health care as an injured worker. Employers, (it continues) demand that the insurance companies justify those exorbitant rates which they charge us.

... Status of Bills ...

House Bills Introduced

—HB-385, Permitting legislator's relatives to be employed by legislature (Martin). To SA, JUD
—HB-386, Rewards to promote apprehension, conviction of offenders (Hoffman). To JUD, FIN
—HB-387, Appropriations to Dept. Public Safety for reward (alcohol control) (Hoffman). To JUD, FIN
—HB-388, Irradiated food (Phillips, Goll).
. To HESS, JUD
—HB-389, Recovery state costs/oil, hazardous substance spills (Rules) To RSC, JUD, FIN
—HB-390, Membership of AK science and engineering advisory commission of AK Science Foundation (Rules). To HESS, FIN
—HB-391, Appropriation to AK Permanent Fund Corp. for AK Science and Technology Foundation (Rules). To HESS, FIN
--HB-392, Municipal procurement/architecture, engineering, land surveying (by Ellis, etc.) To CRA, LC
--HB-393, Penalizing unauthorized release of livestock or farm animals (by Miller). To RSC, JUD
--HB-394, Electric and telephone cooperatives (by L/C). To L/C, JUD
--HB-395, Collection permits (by Miller).
. To RSC, FIN
--HR-12, Headquarters of Sixth Infantry Division (by Hanley, etc.). To SA
--HCR-38, Pacific Salmon Commission to increase chinook salmon quota (Sund, etc.) To RSC
--HB-397, Licensing of school bus drivers (by Cato). To TRANS, SA
--HB-398, Appropriation limit to budget reserve fund (by Adams). To FIN
--HB-400, Procurement preference for state agricultural/fisheries products (by Menard, etc.). . . To SA, FIN
--HB-401, Motor fuel taxes for fuel used in watercraft outside the state (by Cato, etc.). To TRANS, FIN
--HB-402, Alaska Industrial Development and Export Authority, (by Rules). To I/C, FIN
--HB-403, Insurance Coverage for alcohol/drug abuse, (by Boyer, etc.). To L/C, HESS, FIN
--HB-404, Calculating certain municipal entitlements (by Taylor, etc.) To SA, CRA, FIN

House Bills Introduced (Cont.)

--HB-405, Victims rights at postconviction proceedings (by Rules). To HESS, JUD
--HB-407, Establishing school account in the Alaska permanent fund (by Rules). To HESS, FIN
--HB-408, Fisheries business tax (Davidson, etc.).
. To RSC, FIN
--HB-409, Forgiveness of student loans/health care providers (Ellis, Koponen). To HESS
--HB-410, Catastrophic illness insurance (Koponen, etc.). To HESS
--HB-411, State group life and health insurance (Koponen, etc.). To HESS

House Committee Action

—HJR-38, Radon (HESS 'do pass') To FLOOR
—HB-170, Collective bargaining rights of school district employees (JUD 'do pass'). To FIN
—HB-245, Permanent fund dividends/ convicted felons (JUD 'do pass') To FIN
—HB-261, Ignition interlock devices/class C misdemeanor (HESS 'do pass'). To JUD
—HB-299, Revising state gaming laws (L/C 'do pass').
. To JUD
—HB-337, Amending appropriations pertaining to perm. fund dividends (FIN 'do pass') To FLOOR
—HB-338, Computation of perm. fund dividends (FIN 'do pass'). To FLOOR
—HB-340, Immunity from civil liability/volunteer emergency services (L/C 'do pass'). To JUD
—HB-341, Appropriations to Pacific Rim language study grant fund (HESS 'do pass') To FIN
—HB-343, Creating the Pacific Rim language study grant fund (HESS 'do pass'). To FIN
—HB-349, Increasing membership of Board of Directors of AK R.R. Corp. (TRANS 'do pass'). To FIN
—CSSB-18(CRA), Anchorage Coastal Wildlife Refuge (RSC 'do pass'). To FIN
--CSHB-296 (HESS) Victims of crimes (Hess 'do pass').
. To JUD
--HB-353, Repurchase of retirement coverage after certain levies (SA 'do pass'). To HESS

. . . Status of Bills . . .

House Committee Action (Cont'd)

--HB-358, Windfall receipts to principal of permanent fund, budget reserve, public school fund (SA 'do pass').
..... To HESS

House Floor Action

--CSHJR-38, Radon Passed 37-0
--CSHB-116, Extension of board of Electrical Examiners. Passed 35-3
--CSHB-287 (FIN), Students' entitlement of unemployment compensation credit.
.....(hd. for recon.) Passed 33-2
--SCS HCR-32 (FIN), Establishing Joint Committee on Economic Recovery. Passed 36-0

Senate Bills Introduced

--SB-361, Filling legislative vacancies (Rules).
..... To Rules
--SB-362, Dude Creek Critical Habitat Area (Eliason).
..... To RSC, FIN
--SJR-55, Support of a U.S. Navy Homeport in AK (Rules) To SA, FIN
--SSSB-73, Repealing outside service credits/Teacher's Retirement Service (Fischer).
..... To HESS, FIN
--SB-363, Insurance coverage for alcoholism, drug abuse (Binkley, et al). To HESS, FIN
--SB-364, Penalties/driving while license is suspended or revoked (Rules). To SA, TRANS
--SB-365, Termination date/State Board of Registration, Architects, Engineers, Land Surveyors (by Kelly, Szymanski). To L/C, FIN
--SB-366, Rebates for motor fuel taxes (by Zharoff).
..... To RSC, FIN
--SB-367, Option exemptions from municipal taxes, (by Duncan). To CRA, FIN
--SB-368, Regulatory powers of Alaska Public Utilities Commission (by Coghill, Zharoff). To L/C, RSC
--SB-369, Electric and telephone cooperatives, (by L/C Committee). To L/C, RSC

Senate Bills Introduced (Cont'd)

--SB-370, AK Marine Highway rates for AK agricultural products (by Kerttula, etc.). To TRANS, RSC
--SB-371, Sale of alcoholic beverages, (by Binkley etc.). To FIN
--SB-372, Applicability of Public Employee Relations Act to municipalities, (by Fanning). To SA, CRA
--SB-373, Termination date of Citizens' Advisory Commission (by Fahrenkamp, etc.). To RSC, FIN
--SB-374, School account in AK permanent fund, (by rules). To HESS, JUD, FIN

Senate Committee Action

--SB-333, Wage, salary and benefit claims/bank liquidations (L/C 'do pass'). To RULES
--HB-7, Public advocacy, volunteer guardians ad litem. Returned to RULES
--SJR-51, Support services priority for American carriers/fuel suppliers in EEZ (RSC 'do pass'). To RULES
--CSSB-309 (L/C), definition of commercial fisherman (L/C 'do pass'). To RSC
--SB-353, Extending agricultural production credit law (RSC 'do pass'). To FIN
--SB-315, Third party reimbursement for advanced nurse practitioner services (HESS 'do pass'). . To L/C
--CSSB-340 (RSC), Moratoriums on agricultural land payments (RSC 'do pass'). To FIN
--SB-348, Medical assistance for needy persons (HESS 'do pass'). To FIN

Senate Floor Action

--SB-321, Appropriations to Aleutians East Borough. .
..... Passed 19-0
--CSHCR-32 (FIN) Establishing a Joint Committee on Economic Recovery. Passed 17-0
--SB-329, Business licensing functions to Dept. of Commerce and Economic Dev. Passed 16-0
--CSSB-317 (FIN), Refunds of fisheries tax proceeds to local govts. Passed 16-0

... Resources ...

Forest Management Legislation

Southcentral legislators are taking a keen interest in forest management issues this year following outcry from politically influential Anchorage recreation and Susitna valley homeowner groups over State Department of Natural Resources plans for a large timber sale in the Susitna Valley later this year. Some Anchorage legislators report more constituent mail and telegrams on this issue than any other in recent years. Now before House Resources Committee is SB-112, authorizing forest management agreements, sponsored by Ketchikan's Sen. Jones and passed by the Senate last year. The ruckus may actually encourage passage of some form of this bill.

DNR believes they have general authority now to do what SB-112 would explicitly authorize — contracting with one developer for large-scale forest development — but legislation is required for two key elements of the Susitna timber plan: An "evergreen" clause allowing DNR to extend lease terms, and provision for "purchaser credits" where reforestation expenses by the developer can be credited against stumpage fees paid to the state.

The controversy over the Susitna sale may also lead finance committee members to closely scrutinize DNR's budget, as to whether the agency actually has sufficient funding to carry out the sale. Also: environmental groups concerned with the sale are pushing amendments to the state forest management act.

Agricultural Land Rights Revision?

Coming before House Resources this week: Agricultural land rights. State farmer groups are pushing hard for liberalization of titles to land sold in state agricultural auctions, perhaps to some form of fee ownership with restrictions rather than the current "agricultural purposes only" designation. Another goal: More flexibility for DNR in amending farm operating plans. The changes would allow consolidated facilities and more efficient operations in the Point MacKenzie dairy development, for example.

ANWR Issue: A long-awaited resolution endorsing exploration in the Arctic National Wildlife Refuge was before House Resources last Friday. A House version of SJR-7 urges 'environmentally responsible' development and includes reference to Alaska-hire and subsistence. Unlike the version passed by the Senate last year, it makes no mention of Native land exchanges.

Priorities: Fish High, Oil Low?

Expect a lot of attention on fisheries legislation in House Resources this year, as members focus on ways to encourage local-hire and local-purchase in the huge developing bottomfish industry.

It appears now that oil legislation may be on the back burner this year, with the possible exception of a tax information bill. A bill opening up confidential well data appears dead in House Finance, little action is expected on oil development 'incentives' as well as major petroleum tax issues that were hot last year, including revision of the Economic Limit Factor in the severance tax.

Oil Cleanup Reimbursement

A new bill introduced last week would enable the state to be reimbursed for the cost of oil spill or hazardous waste spill clean-ups when the parties responsible have either declared bankruptcy or left the state. Under the legislation, HB-389, the state would protect itself from, potentially, millions of dollars in costs by getting a priority lien on the liable party's assets for the state's costs. The bill, introduced by the Rules committee at the request of the Governor, would change the state statutes accordingly.

Ferry Rates For Farm Products

Vehicles transporting Alaskan agriculture products on the Alaska Marine Highway System would be charged half what other vehicles of the same type would pay, under a bill introduced in the Senate last week. The preferential rates would apply only on a space-available basis, according to the bill, SB-370 (prime sponsor Sen. Kerttula).

Offshore Priority to U.S. Suppliers

U.S. companies should be given priority for the supply of foreign processing ships operating in the exclusive economic zone, HJR 45 and SJR 51 argue, reflecting Alaskans' desire to take better advantage of exclusive economic zone commerce. Commerce Commissioner Tony Smith told Senate Resources that \$100 million worth of economic activity results from sale of fuel alone. The issue rests on the federal level over interpretation of language in the Magnuson Act.

Raw Fish Tax on Floaters?

Kodiak Rep. Cliff Davidson has dropped HB-408 into the hopper, applying the state raw fish tax to fish caught outside state jurisdiction but brought to shore plants for processing, creating local impacts on public services.

... Local Gov't ...

School 'Forward-Funding'

State Board of Education members met with the House HESS committee last week in what was basically an informational and troubleshooting session to coordinate legislative policy and funding to school district needs. At the top of the agenda was the issue of "certainty." The problem centers on school districts' need to know in advance of the fiscal year what their funding will be so that they can "build" their budgets. Unaware of next year's budget, the districts are in a position of sending excessive non-retention slips to teachers, because of a March 15 notification deadline.

Legislators are generally sympathetic to the problem, but one obstacle to setting an early budget has been fluctuating oil prices. In addition, there is no clear consensus on which of the early or forward funding plans currently on the table would best accommodate school district needs while still recognizing the constraints of the budget-making process.

Lawmakers made a point to stress to state education board members the lack of dependable and current information on area-cost-differentials. Updated, accurate figures would help prevent politics from interfering as much in the allocation of education monies, they said. The most current information available is from an outdated study on cost-of-living differentials, figures which do not necessarily parallel education costs, lawmakers said.

Local Service Roads, Trails

House Transportation Committee took up HB-357 (changing guidelines for local service roads and trail grants, by the governor) last week. The bill will likely move from committee soon; \$5-\$10 million in new funding reportedly will be in the governor's 'jobs' bill. The bill changes the formula for Department of Transportation and Public Facilities grants for rural trails and road work to a ratio of 70% based on rural district or municipal area and 30% based on population, instead of the 50-50 ratio in current law. The change would bias grants to sparsely-populated outlying areas to partly compensate for the bias in federal road funding toward urban or more heavily populated areas. The rural trails program hasn't been funded for three years now, and the governor is now proposing new money.

Utilities Relocation: HB-115 - relocation of utilities in a municipality, by Rep. Cato - briefly saw light in House Finance Committee last week and then was tucked back into subcommittee. The bill clarifies who pays when a municipality requires utility relocation.

LBC: Concerns On HB-1

Members of the Local Boundary Commission (LBC) and Dept. Community and Regional Affairs presented their annual report before the Joint House and Senate Community and Regional Affairs Committees last week. However, at forefront of committee's concerns was the LBC's comments on issues surrounding HB-1, a bill which would create mandatory boroughs statewide and virtually eliminate the unorganized borough. LBC and CRA members said the bill has caused much initiative on a grass-roots level in pipeline corridor areas to organize, under the threat or fear of annexation by neighboring boroughs. The bill is initiating good debate, the LBC commented, but as written, it is generally "too much, too fast," they said. They suggested to the committee the idea of setting up an educational outreach program as a "first step," to insure that the push for boroughs in the unorganized area is from a local, not state-imposed and mandatory, level.

Municipal Dissolution Bill Set To Move?

Bills introduced last year which would allow dissolution of municipalities are to be up before House Finance later this week. The bills spell out the dissolution process and make clear certain standards for dissolution which municipalities must meet. Intent of the bills is not only to put into law the dissolution option, the bills' sponsors say, but to insure communities are prepared to take on ramifications of dissolution. Existing law apparently does not permit dissolution except in cases where a community suffers drastic reductions in its population or economy. Both dissolution bills, SB-50 (Binkley) and HB-65 (Hoffman), are in House Finance, and the committee will be working on the Senate version.

Local Fish, Ag Product Preference

Senate Community and Regional Affairs reported out SB-356 (local government purchasing preference for agricultural and fisheries products, by Sen. Josephson) last week. The bill plugs an apparent loophole in similar legislation passed last year, requiring local purchases if prices are no more than seven percent above competitive products from out of state. Apparently, Anchorage School District made an interpretation that last year's bill didn't apply to them in milk purchases. This year's bill, sponsored by 12 out of 20 senate members makes it clear that any municipality receiving state money must abide by the local product preference.

State Action To Stabilize Real Estate Markets (Cont.)

(Continued from Page 1) Kelly intends to base his legislation on ideas developed by Dave Rose, Alaska Permanent Fund Corp. director. Rose has outlined a plan involving a state-chartered financial entity that could take over management of assets held by FDIC and other institutions, gradually liquidating them over time. FDIC and the others would receive shares of stock in the new holding company, which would operate under state banking regulation, being eventually compensated for through payouts of dividends. Little state money would be involved.

Smith's idea of a real estate trust varies from this in that local groups would actually buy the holdings from FDIC and the institutions at some price. The key difference is that Rose's proposal would see FDIC and the others to remain with the responsibility — the new company would be just a way of managing the properties — while Smith would see the institutions bought out by local buyers. The goal of both is a mechanism to encourage stability and management in gradual liquidation, avoiding competitive aggressive selling between the institutions that would lead to further deterioration. Rose's plan has other elements, including a plan to buy and destroy housing assets of low quality, a proposals for moratoriums on new construction. Anything that doesn't fundamentally affect the supply and demand balance in the market is only a 'band-aid' approach, Rose argues.

Politics of the issue are tricky: After a decade of throwing money at problems, legislators are wary of major, unconventional new commitments in a time of scarce revenues. They're also sensitive to perceptions by the public of a 'bailout' plan for Anchorage business investments. They also recognize that many constituents actually benefit in the current environment - renters, for example, or small businesses whose lower lease rates are helping them stay in business. All these considered, there's also widespread concern over falling values in both residential and commercial properties, of people owing more on mortgages than they can sell properties for.

Bradley Lake APUC Exemption: Needed This Year

Bradley Lake hydro is back before the legislature, but this time the issue appears headed for quick action: Exempting Bradley Lake wholesale power sales contracts from Alaska Public Utilities Commission regulatory jurisdiction — proposed in the governor's HB-356 — is essential to getting the big main dam and powerhouse construction jobs underway this year, Alaska Power Authority Director Bob LeResche told House Judiciary Committee last week. APA's board won't approve going ahead with full construction until the issue is resolved.

Also, bond counsel told the committee that uncertainties in long-term financing over the regulation issue, and the perception of risk within the financial community over future APUC actions, would likely mean higher interest costs on long-term borrowing. Hydro projects are highly capital-intensive, and increases in capital costs will directly affect costs of power paid by railbelt electric utilities, they said. They urged exemption of the project from APUC. APUC itself agrees with exempting the contracts but not related contracts for transmission, storage or resale of power, or "subsequent amendments" to contracts, which HB-356 would also exempt. If the legislature can enact the bill by March 15, work could start in June, with employment reaching 170 in August and 217 in September. Delaying authorization until end-of-session, May 15, would delay construction buildup. Employment would reach 100 in September and 147 in November. Under both scenarios, employment would be 160-170 in 1989.

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APA wholesale power contracts - selling power from APA hydro projects to utilities - accidentally came under APUC regulation as a result of 1986 legislation. Legislators that year amended APUC statutes to include wholesale power contracts between utilities. APA wholesale contracts had never been included under APUC. The attorney general ruled later that year that the amended statute included APA wholesale contracts, though this was not the intent of the legislature. Legislators approved SB-22 last year to correct the problem. but the bill was vetoed by the governor because of an unrelated section of the bill that also exempted small rural utilities from APUC review.

TASK FORCE ISSUES

LABOR

- 1.) Medical Care
 - UCR
 - IME/Panel Review
 - Other Limits (frequency)
- 2.) Voc. Rehab.
 - Revamp system as a whole?
 - Voluntary rehab.
- 3.) Benefits
 - Pension/Health Insurance
 - "Ragland Rights"
- 4.) Brown
- 5.) Discrimination against claimants
- 6.) Reservation of rights to pay interim benefits
- 7.) State Fund

MANAGEMENT

- 1.) Medical
 - Develop Schedule
 - UCR
 - Frequency of visits
 - Periodic review
 - Medical Panel
 - Assess degree of disability and medical stability
 - Not appealable
 - Other Cost Containment
- 2.) Rehabilitation
 - Make the system voluntary, not mandatory
 - Remove the system from the claim process
 - Adopt a set of incentives for the goal of return to employability
 - Remove from litigation process
 - Decrease or eliminate TTD when medically stable, or when some other event occurs
 - Employee responsible
- 3.) Benefits
 - Definition of "Compensation" including offsets for
 - Social Security
 - Company Pensions
 - Other disability programs
 - Determination of AWW
 - Schedule for all permanent disabilities Grant
 - Cap on maximum benefit level



Workers Comp 1-18-88

Jim Sampson -

John Lewis ① Medical Costs 30-50% most systems.
 ② Permanent Partial: 90-95% - essentially
 80% cost no cost.
 8% cases

High impairment - over 20%

③ Voc Rehab:

Individual needs, and is motivated,
and will co-operate with the voc
rehab program.

vocational rehabilitated vs. physical
rehabilitated

Jackie:

Imbalance

- 1) minimally to maximally injured
- 2) reduce litigation.

See 21
25

John Lewis -

Mandatory rate decrease
of 10%.
mandate a 10% rate
rollback -

Pricing estimates:

HARD COSTS (SAVINGS)

SOFT COSTS (SAVINGS)

38% Medical cost

zero to
net benefit package' is anticipated
to be zero. ^{to employee's}

15% soft cost savings.

- 1) Nat Council Compensation Insurance
- 2) Milliman + Robertson

Reduce litigation:

Disputes over Voc Rehab

Medical issues - dispute resolved by
appointments

self-insured.

- overall benefit level -

Information from insurance
companies.

Concerns are identical.

WORKERS' COMPENSATION LABOR-MANAGEMENT TASK FORCE

Synopsis of proposed legislative changes
To Chapter 30 of Title 23,
Alaska Statutes (Workers' Compensation)

9

BACKGROUND: In October 1986, the Department of Workers' Compensation Insurance announced their approval to allow an average increase in workers' compensation premium rates of 14.1%. In November of this year, the Department of Workers' Compensation again announced their intent to approve an average increase in premium rates of 25%. The actual increases requested by insurers was in excess of 33% in 1986 and 50% in 1987. (Within a two year period, the average cost of workers' compensation insurance within the State of Alaska increased over 42.6%.) (At the same time, claims increased from \$75 million to in excess of \$150 million.) The increases in claims and premium costs are even greater if consideration is given to the declining wage base within the State of Alaska. The resulting increases in workers' compensation premiums paid by the employer are a significant factor in the cost of labor in the state and make Alaska's labor force less competitive. Both labor and management have recognized that high workers' compensation costs are detrimental to Alaska business and Alaska labor and needed to be significantly reduced.

TASK FORCE ORGANIZATION: The Workers' Compensation Labor-Management Task Force (Task Force) was first organized in 1981 to address perceived inequities in the Alaska Workers' Compensation Statutes and to propose legislation aimed at correcting those inequities without increasing the cost to the employer. Following passage of their proposed legislative changes to the Statute, the Task Force became inactive. Following the Department of Workers' Compensation Insurance rate increase announcement in October 1986, the Task Force was reactivated with the purpose of reducing rates paid by employers through legislative changes to the Statute. The current Task Force is comprised of five management and five labor negotiators. The five members of the management team are:

Mary Pierce	Co-Chair and management member of the Workers' Compensation Board Executive Director, Medical Indemnity Corporation of Alaska
* Richard Cattanach*	Vice President Finance Unit Company
David Gottstein	Vice President Carr-Gottstein, Inc.
Ralph Lewis	Vice President Ketchikan Pulp & Paper
* Stephen Rehnberg, CMA	Vice President Finance Tanadgusix Corporation

* Member of 1981 Task Force

* John Lewis

The five labor members of the Task Force are:

★ Robert Anders	Co-Chair and labor member of the Workers' Compensation Board Business Agent, Operating Engineers
Kevin Dougherty*	AFL-CIO
★ Ralph Mingo	Safety Engineer Teamsters Local 959
Joseph Thomas	Business Agent Laborers Union
★ Kenneth Weist	Business Agent Roofers

PROPOSED LEGISLATIVE CHANGES: The proposed legislative changes submitted by the Task Force can be divided into five categories:

- * Vocational Rehabilitation Services
- * Medical
- * Compensation
- * Benefits
- * Other

Vocational Rehabilitation Services. Task Force proposed changes to vocational rehabilitation services are as follows:

1. Change from a mandatory to a voluntary program
2. Limit the program to those injured workers whose injury prevents them from performing the duties of their profession.
3. Limit vocational rehabilitation programs to two years.
4. Cap rehabilitation plan costs to a maximum of \$10,000.
5. Pay TPD/PPD payments at the TTD rate until plan completion or termination. Remainder, if any, paid in lump sum.
6. Change purpose of rehabilitation services to make an injured worker employable versus employed.

* Member of 1981 Task Force

Medical. Task Force proposed changes to the Statute are:

1. Subject medical payments to the usual, customary and reasonable criteria of major medical plans.
2. Allow injured worker to change treating physician only once without the written consent of the employer. (Eliminate doctor shopping).
3. Limit treatment plans of a continuing or similar in nature to no more than 20 visits within 60 days.
4. Allow for a Board appointed Independent Medical Examiner (IME) whose opinion shall, in the absence of clear and convincing objective evidence to the contrary, be presumed to be correct.
5. Bar claims for civil damages against an IME resulting from their opinion except in the event of fraud.

Compensation. The Task Force proposed the following legislative changes with regards to compensation:

1. Change the maximum weekly benefit from 200% of the State average weekly wage, currently \$1,100, to a set maximum of \$700.
2. Change the minimum weekly benefit from \$110 to \$154 if the injured worker submits wage documents. If no wage documents are submitted, the minimum benefit is \$110.
3. Allow an employees vested pension contributions to be considered in determining weekly wage benefit.
4. Allow employers to offset compensation benefits for pension benefits paid to injured workers'.
5. Limit Board determination of an injured worker's gross weekly earnings to only those cases where the employee (1) had no earnings during the two calendar years preceding the injury, (2) was voluntarily absent from the labor market for 18 months preceding the injury or (3) was a minor, an apprentice or a trainee in a formal training program.
6. Adjust weekly compensation benefits for differences in the cost of living for claimants residing outside the State of Alaska.

Benefits. The Task Forces recommendations for changes in benefits paid or available under workers' compensation are:

1. (Schedule all injuries and determine the degree of disability based upon the "whole man" concept as provided in the American Medical Association guidelines.

Benefits (cont.)

2. Increase the permanent partial disability benefit for the more severely injured worker.

3. Broaden the market for employee's services to reduce claims for Permanent Total Disability (PTD) due to lack of employment opportunities.

4. Limit Temporary Total Disability (TTD) payments to two years.

5. Limit Temporary Partial Disability (TPD) payments to such time as the injured worker is deemed to have reached medical stability.

Other. Other legislative changes to the current Workers' Compensation Statute proposed by the Task Force include:

1. Provide intent language within the Statute to the effect:

It is the specific intent of the legislature that workers' compensation cases be decided on their merits and that the common law of liberal construction ...will not apply in such cases. ...the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.

2. Bar an employee from making a workers' compensation claim if the employee knowingly and willfully made false representations as to his physical condition, such representations were material to the hiring, and there is a causal connection between the false representations and the injury.

3. Prevent the employee from seeking redress under a tort claim against the employer if the employee's claim is barred under AS 23.30.020 (b).

4. Require claimants to prove mental injury resulted from work related stress and that such stress was extraordinary and unusual.

5. Require the last employer to pay benefits if a claim is controverted solely on the grounds that another employer may be liable until such time as final liability is determined.

6. Prohibit employer discrimination in the hiring, promotion or retention of an employee who has in good faith filed a claim or received workers' compensation benefits.

Chancy Croft Law Office

738 H Street -- Suite 200
Anchorage, Alaska 99501

R- call and already confirm have

Chancy Croft
Michael J. Jensen

(907) 272-3508

February 5, 1988

Senator Tim Kelly
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Kelly:

Senate Bill 322 is not going to reduce workers compensation premiums. That is what the NCCI concluded. In fact, it may cause an increase. It's hard to believe. But that is what a national insurance industry funded group just said. Why pass this bill which produces no benefits and reduces no costs? Why not consider the real problems that both injured workers and employers face with the present workers compensation system?

I'm a compensation attorney. Why should you believe me? Because the figures came from the National Council on Compensation Insurance. NCCI is the insurance industry funded group which proposes insurance rates. Its filing of 1987 produced the 25% increase in workers compensation premiums which the State Division of Insurance allowed to go into affect January 1, 1988. The NCCI says the "savings" of the proposed legislation is only 2.3%. This must be a shock to John Lewis, WCCA spokesman, who said in legislative testimony in January that the savings would be 15%-20%. Of course, Lewis conceded he was talking about soft dollars and subjective factors. About Lewis's subjective factors, the NCCI said that this would cause a savings of only four percentage points. Without that, the bill actually provides for an increase.

At the recent statewide hearings on this bill, every injured worker spoke against this legislation. Senate Bill 322 promises the first divisive and bitter fight over workers compensation in more than a decade. Such fights were common years ago. But, for the first time in the memory of legislative observers, a workers compensation bill is being proposed which will offer no benefits to either employers or employees. Stripping away the myth of premium reduction means the only reason for further legislative consideration is the strange notion that it is the legislature's job to ratify, without question or amendment, a "deal" struck by private interest groups.

Very truly yours,

Chancy
CHANCY CROFT

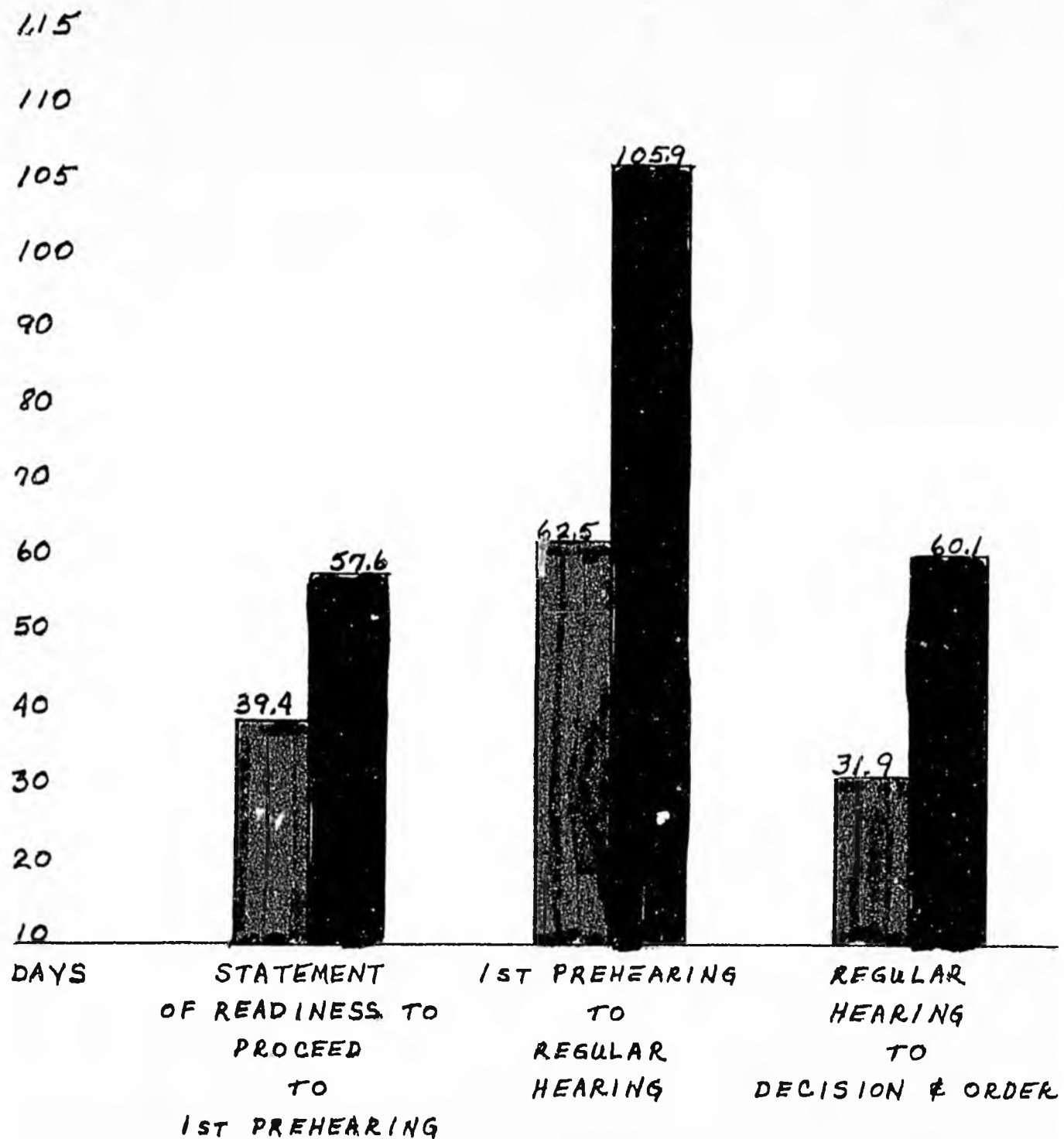
Is the hearing set for Feb 12 or 19th?

THE INCREASING DELAYS

WORKERS' COMPENSATION

TIME PERIODS

1985
1987



240

210

180

150

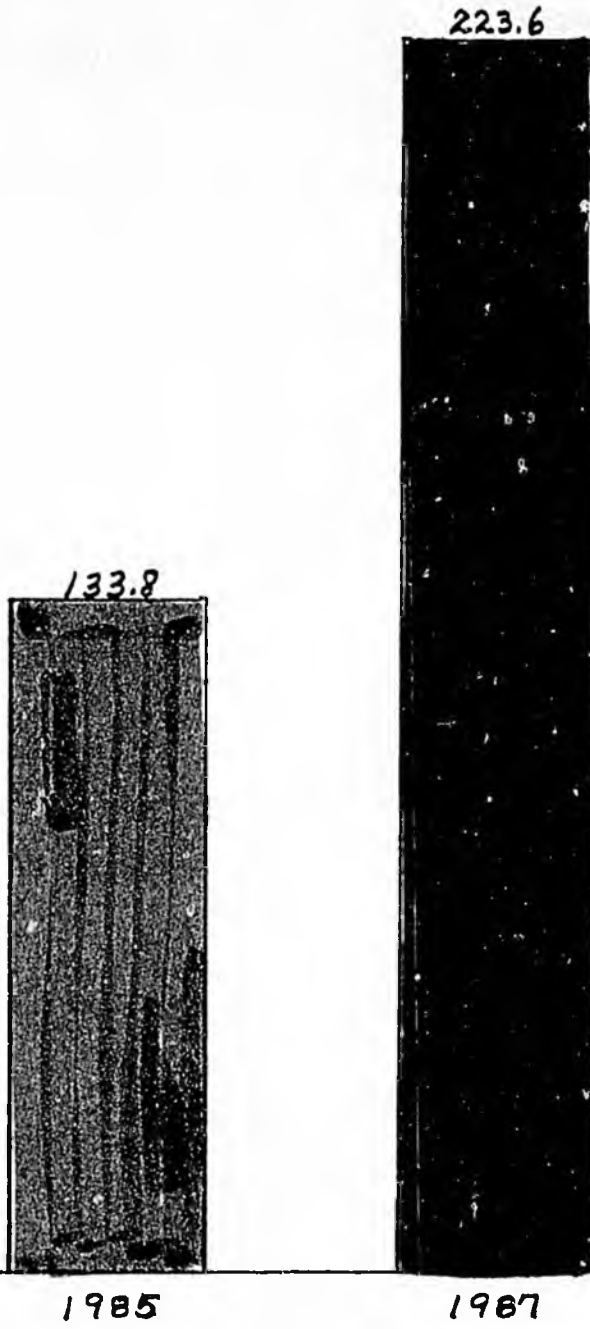
120

90

60

30

DAYS



THE OVERALL EFFECT

JANUARY

~~29~~

FEBRUARY

14 VALENTINE'S
DAY

MARCH

28 SEWARD'S DAY

APRIL

3 EASTER

MAY

9 LEGISLATURE
ADJOURNS (120 DAYS)

JUNE

30 MEMORIAL DAY

JULY

4 INDEPENDENCE
DAY

AUGUST

4 SPACE SHUTTLE LAUNCH

SEPTEMBER

5 LABOR DAY

~~9~~

224 DAYS OF WAITING

25% penalty on any Controversion that was spurious (Invalid)

- Ins. #'s = when can we get info

Controversion of Claims:

- Ins 21 days to pay or controvert
- mid-Stream

Interest accrued on assessments where payment was due due to Sup Ct. Ruling

CHART #1

Chart #1 shows the increased delays in the three crucial steps of getting a workers' compensation case to hearing:

1. First, the filing of a Statement of Readiness to Proceed which initiates Board action,
2. Second, getting a prehearing at which time the date of a full board hearing is set, and
3. Third, to the time a Decision and Order of the Board is issued. Compensation is usually paid within two weeks of the Board's decision.

- Mark Mulvany - NCCI
- Mike McMurtry - Mill...

Robertson

CHART #2

Paul Rolan
Spenser Bolesta

Chart #2 shows the combined effect of the three steps in Chart #1.

CHART #3

Chart #3 puts in a different perspective a wait of 224 days which is the average time between the date of filing of a Statement of Readiness to Proceed and the Board's decision in the 60 cases decided between October 1 and December 31, 1987.

" " 1985

- '50 in '85
- '60 in '87

(- Darlene Norris
561-5454)

Basis for 85-#3

Jacque McClintock

2790

COVER LETTER OF LEGISLATIVE CHANGES
AND INTENT DATED 12/13/87

Understanding the employers of the State of Alaska are paying an extremely high rate for Workers Compensation coverage. Labor and management started looking at ways they could lower costs with a minimum amount of impact on injured workers. While at the same time, improve the system. If that sounds like a tough task, let me assure you it was. Labor and management have worked very hard over the last 10 months and have come up with a package of legislative suggestions that we feel comes as close to that as possible.

In proposing these changes we fully understand that there are still issues out there that were not addressed, and that some will criticize our efforts. Both labor and management know this process must continue and that we are not done by any means. However because of the complexity of some issues, the Workers Compensation Act itself, and time constraints, problems not addressed at this time will have to wait until next year.

The process was one of give and take on both sides, and negotiations over these very sensitive issues was, at times strained. ~~I~~ personally feel, labor and management have proven here what the real meaning of labor-management cooperation is all about. Working together to solve problems and improve things for both in the process is truly a WIN-WIN situation.

*Not only address
the table, but on
both side as
well*

As to the changes we are suggesting in the Workers Compensation Act, I would like to follow this opening statement with what labor feels was the intent of both sides.

But first I would like to thank all members of the committee for their hard work and support, without which none of this would have been possible.

The following is what labor feels was the committees intent.

SEC. 23. 30. 001 INTENT OF THE LEGISLATURE

This section is one that management felt they needed in order to keep the courts from changing legislative intent or being too liberal in favor of claimants, labor agrees that the courts do at times make intent decisions without enough regard to equal fairness. And in order to try and control the cost of the system, ~~we both agree this language is necessary.~~

*We agreed with the intent. However some language changes in
this may still be necessary.*

SEC. 23. 30. 005. ALASKA WORKERS COMPENSATION BOARD

The intent of this section is simply to provide a way for selecting or removing Certified Insurance Rehabilitation Specialists and/or Physicians for/or from the rosters that will be used to provide services under AS.23.30.041 and AS.23.30.095.

SEC.23.30.020

This section is intended to protect the employer from the employee who lies or makes false statements on an employment application or questionnaire. This is connected to AS.23.30.247. *which -J will discuss later.*

SEC.23.30.040 AND 23.30.155 AND 23.30.155 (M)

These three sections deal with language that is needed in order to get the proper and timely reports so all those concerned can make decisions with adequate information.

SEC.23.30.041 REHABILITATION OF INJURED WORKERS

Labor's intent is the same as management's in regards to this section. The present .041 we feel did not work. It put claimants and providers in an adversarial position from the start.

When you have carriers in control of a mandatory system, that's tied to the claims process, you wind up with abuse on both sides and a lack of trust that keeps the program from working. We must make VOC. REHAB. voluntary, take the selection process out of the hands of the carriers and remove it from the claims process. End result should be more cooperation from both the injured worker and those performing the service. Less litigation and therefore much less cost.

SEC. 23.30.055

Labor feels the employers wanted this as an added amount of protection connected to AS.23.30.247.

SEC.23.30.095 MEDICAL EXAMINATIONS

The intent here is to provide adequate medical service at reasonable rates and remove the adversarial position that results in excessive litigation and abuse. We must get away from the, you get your doctor, i will get mine and our attorneys will be in touch syndrome.

Limit changeing physicians-Limit number of treatments before an independent medical evaluation.

In disputed cases only, the board can select a physician or physicians to do an unbiased evaluation, not chosen by the carrier or claimant.

This should result in a medical provision that is much less costly.

SEC.23.30.105 TIME FOR FILING OF CLAIMS

The intent here is to define the meaning of benefits.

SEC.23.30.120 (b)

This is connected to AS.23.30.265 (17) which has defined language addressing stress, and 120 explains the presumption of compensability that both sides agreed to.

SEC.23.30.130

This is the same as AS.23.30.105. It defines the meaning of benefits

SEC.23.30.155 PAYMENT OF COMPENSATION

Labor felt they had to have this because of the hardship put on claimants that go for months or years with no compensation benefits while two or more carriers fight over which is responsible to pay the benefits.

SEC.23.30.175 RATES OF COMPENSATION

(a)

The intent here is to lower the maximum weekly wage and raise the minimum. This is more a labor issue, and will provide more money to those that earn less, which is the majority of claimants.

(b)

By adjusting the rates of compensation to the cost of living (if lower) for those that move out of Alaska, we feel you remove a major disincentive to return to work.

SEC.23.30.180

An employees ability to work, may be different in other areas of our state or other states. This is intended to address that.

SEC.23.30.185

We have agreed to limit Temporary Total Disability to two years and remove the claim process from VOC. REHAB. by paying Permanent Partial Disability benefits when medical stability is reached.

SEC.23.30.190

The intent here is to provide more money for those that in most cases have impairment ratings that are higher than 20%. This will cost the employers a bit more, but is needed.

Present system loads most of the money on the lower end and keeps those that have significant injuries from receiving adequate compensation for their loss. The A.M.A. guidelines will be used and backs and necks will be rated under our proposed changes. Present cap of 60,000 dollars will change to whole man value of 240,000.

SEC.23.30.200

Once medical stability is reached and is rated claimant goes to Permanent Partial Disability (tied to 041).

SEC.23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE

The intent here is to provide more concrete rules for determining spendable weekly wages, and by doing so cut the guess work by the board and reduce the amount of litigation over this section of the act.

SEC.23.30.225 OFFSETS (c)

If employee starts receiving payments from a pension or profit sharing plan, then their compensation benefits will be offset only by amount figured into the comp. rate.

SEC.23.30.247 DISCRIMINATION PROHIBITED

This is intended to simply stop employers from not hiring or promoting because an employee may have filed a Workers Compensation claim in the past.

SEC.23.30.265 (17)

Puts controls on when an employee can claim mental stress and seems to be the fairest way to handle a very sensitive issue. Labor agreed to this.

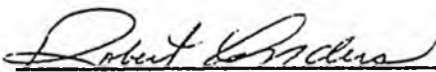
(32) Provides for vested pension and profit sharing plan contributions to be included in gross earnings. (Important to labor)

SEC.23.30.265 (**) MEDICAL STABILITY

Defines in more detail when medical stability will take place.

Labor's intent on all of these proposed legislative changes is that they be applied from JULY 1 1988 forward and not retroactively.

Thank You
Sincerely,
Robert Anders



Co-Chair Joint Labor-Management
Task Force

Gov's Oversight Comm. on Worker's Comp

Darlene Norris - acting chair
561-5454

Paul Roller - Div. of Ins.
562-3626

Chancy Croft

Jony Smith

Jim Sampson

Dick Block

Gordon DuPue

Future mtgs - Jan 12 - 19 - 26

5:30 @ Denali Towers - 16th Floor

GOVERNOR'S OVERSIGHT COMMITTEE
AGENDA FOR JANUARY 6, 1988

GOALS OF THE COMMITTEE:

1.) Review all information, suggestions, proposed legislation concerning amendments to the Alaska Workers' Compensation Act.

2.) Change in any Alaska Workers' Compensation Law should take into consideration the following:

a.) Reduction in Cost of Workers' Compensation premiums to Employers and Self Insurers to produce a better economy for business as well as incentives for re-employment of injured workers.

b.) Simplification of litigation in all areas of workers' compensation to include incentives to resolve claims and disputes short of formal review by the Department of Labor.

3.) As suggested by the Governor, the written proposal of the Task Force as discussed during the December 30, 1987 conference with the Governor's office, will be used as a nucleus to any proposed legislation supported by this Committee.

10:00 a.m. Discussion regarding Goals of Committee

11:00 a.m. Review of Proposals by Claimant's Counsel

1:00 p.m. Review of Task Force Recommendations

3:00 p.m. Determine areas of agreement on any and all proposals in the Committee's possession as well as determine what if any additional items or areas of law need review and revision.

4:00 p.m. Schedule next meeting of Oversight Committee

SENT 10/29/87 11:25

SUBJECT: THURSDAY #2
FROM: LSNCRTH
FOLDER: RUTH

SECURITY LEVEL: 2 RETENTION PERIOD: 9

.....+.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8..	001/01
BACK TO BUSINESS	001/02
PAUL ROLLER, DIV OF INSURANCE, ANCHORAGE, 562-3626. PAUL JUST	001/03
CALLED TO TELL ABOUT THE GOV'S WORKER'S COMP. GROUP. HE IS	001/04
COORDINATOR. MEMBERS ARE: CHANCY CROFT, TONY SMITH, JIM	001/05
SAMPSON, DARLENE NORRIS (PARALEGEL AND RELATIVE OF BEN GARDINO IN	001/06
SEWART), DICK BLOCK (FORMER DIRECTOR OF INSURANCE) GORDON DUPEU	001/07
(PRES. OF INDEPT. INSUR AGENTS FOR STATE), AND DR. MICHAEL JAMES	001/08
(VALLEY, M.D., WORKS A LOT WITH REHAB).	001/09
PAUL SAID TO FEEL OKEY ABOUT CALLING, ETC. AT ANY TIME. ALSO	001/10
RECOMMENDED ALASKA BUSINESS MONTHLY, MARCH ISSUE, FOR ARTICLE ON	001/11
WORKER'S COMP.	001/12
I AM DISAPPOINTED GUY FROM SACRAMENTO DID NOT GET THE NOMINATION.	001/13
FROM WHAT NBC SAID THIS MORNJNG ON GOOD MORNING AMERICA THAT THE	001/14
OTHER GUY IS MUCH LIKE BORK (EVEN TO BEARD) SO WE WILL SEE.	001/15

ALASKA STATUTES

TITLE 23. Labor and Worker's Compensation

Chapter 30. Alaska Worker's Compensation Act.

Sec. 23.30.095 Medical examinations. (a) The employer shall furnish medical, surgical, and other attendance for treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires, not exceeding two years from and after the date of injury to the employee. However, if the condition requiring the treatment, apparatus, or medicine is a latent one, the two-year period runs from the time the employee has knowledge of the nature of his disability and its relationship to his employment and after-disablement. It shall be additionally provided that, if continued treatment or care or both beyond the two-year period is indicated, the injured employee has the right of review by the board. The board may authorize continued treatment or care or both as the process of recovery may require. When medical care is required, the injured employee may designate a licensed physician inside the state to render the care except in cases where, by mutual consent between the employer and the injured worker. [IN THE JUDGMENT OF THE BOARD,] care or treatment or both can best be administered by the selection of another physician. Upon procuring the services of a physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD]. The injured worker shall choose a single attending physician and will be allowed one change in the choice of attending physician. Whenever the injured worker has made his initial free choice of attending physician and one change, he may not thereafter change physicians without the prior written consent of the employer, insurance carrier, self-insurance administrator, or the board. Consent may be given only upon a showing of good cause for change.

(b) If the employee is unable to designate a physician and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a physician and so advises the employer, the employer shall designate the physician. Designation under this subsection, however, does not prevent the employee from subsequently designating a physician for continuance of required medical care.

(c) A claim for medical or surgical treatment is not valid and enforceable against the employer unless, within 14 days following treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board may, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

(d) If at any time during the period the employee unreasonably refuses to submit to medical or surgical treatment, the board may by order suspend the payment of further compensation while the refusal continues, and no compensation may be paid at any time during the period of suspension, unless the circumstances justified the refusal.

(e) The employee shall, after an injury, at reasonable times during the continuance of the disability, if requested by the employer or when ordered by the board, submit to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit to any examination provided for in this section, the employee's rights to compensation shall be suspended until the obstruction or refusal ceases, and the employee's compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter, be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

(f) All fees and other charges for medical treatment or service are limited to the charges that prevail in the same community for similar treatment of injured persons of like standard of living where such treatment is paid for by the injured worker himself or someone acting for him. [AND SHALL BE SUBJECT TO REGULATION BY THE BOARD.] However, in no event shall the charges and/or fees for such services exceed the reasonable and customary charges for medical services rendered based upon the 90th percentile of the prevailing Health Insurance Association of America (H.I.A.A.) schedules for the area in which the services are rendered.

(g) [REPEALED BY § 27 CH 93 SLA 1982.] The employer may require an independent medical evaluation by a licensed physician or physicians of his choice. In the event of medical dispute regarding determinations of medical stability, degree of impairment or functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's independent medical evaluation, a second independent medical evaluation shall be conducted by a physician or physicians selected by the employer from a rotating list maintained by the Worker's Compensation Board. The opinions of the second independent medical examiner(s), based on objective medical findings or reasonable medical probability shall be given a presumption of greater weight than the opinion of the attending physician. Under this section it is required that:

1. An independent medical evaluation shall be obtained after the first fifteen (15) treatments unless this requirement is waived, in writing, by the employer.

2. When an independent medical evaluation is obtained, a narrative report must be completed and delivered within 28 days of evaluation with objective findings being given greater weight than subjective complaints.

3. The cost of any independent medical examination shall be born by the party requesting the evaluation at a fee agreed upon by the requesting party and the evaluating physician.

(h) Upon the filing with the board by a party in interest of an application or other pleading, all parties to the proceeding must immediately, or in any event within five days after service of the pleading, send to the board the original signed reports of all physicians relating to the proceedings which they may have in their possession or under their control, and copies of the reports shall be served by the party immediately on the adverse party. There is a continuing duty on the parties to so file and serve all the reports during the pendency of the proceeding.

(i) Interference by a person with the selection by an injured employee of an authorized physician to treat him, or the improper influencing or attempt by a person to influence a medical opinion of a physician who has treated or examined an injured employee is a misdemeanor.

(j) The board shall adopt and use a schedule for determining the existence and degree of permanent impairment consistent with the American Medical Association Guide to the Evaluation of Permanent Impairment. (§ 6(1) (2) ch 193 SLA 1959; am §§ 2,3 ch 42 SLA 1962; § 6(3) (5) ch 193 SLA 1959; § 6(6) ch 193 SLA 1959; added by § 4 ch 42 SLA 1962; am § 1 ch 74 SLA 1963; am § 86 ch 127 SLA 1974; am §§ 7 - 9, 27 ch 93 SLA 1982)

Senate Labor and Commerce Committee Hearings
on Proposed Changes to Workers Compensation Program

RCA Government Services has been doing business in Alaska for over 20 years. Currently we have operation and maintenance contracts for the U.S. Air Force's Long Range Radar System and the National Oceanic and Atmospheric Administration's (NOAA) Command Data Acquisition Station located at Gilmore Creek, Alaska.

With approximately 200 employees (down from a 1977 high of approx. 700) it is natural that we have an interest in the Alaska Workers Compensation statutes, as they represent a substantial cost of our doing business in this State.

RCA Government Services supports passage of this Bill.

We agree with the language in Section 1, Part C, paragraphs (1)-(3):

That workers compensation benefits paid to claimants residing in other states are unreasonably high, being based on Alaska's higher cost of living;

that the incentive to return to work is reduced by these higher rates;

and that the vocational rehabilitation system needs to be revamped to remove obstacles brought on by these higher levels of compensation.

Compensation paid by our carrier for lost time injuries to recipients residing outside Alaska totaled over \$500,000 in 1987. The average weekly compensation rate paid to these outside residents was \$492.00 (approx. \$12.00 per hour).

For claimant's residing outside Alaska, the incentive to return to work decreases significantly when taking a fulltime job in a comparable occupation earns less than the \$25,500.00 (net*) annual income paid by workers compensation for not working.

While the current statute contains time limits for entering and completing a rehabilitation program, enforcement seems to be non-existent. Claimants may go for years collecting temporary total disability (TTD) benefits before actually entering into a plan for re-employability.

RCA paid over \$100,000.00 in rehabilitation and medical benefits in 1987 to claimants living outside Alaska; ninety percent of whom had injury dates of 1984 or before.

Because this legislation would not become retroactive upon passage, we will continue paying benefits at higher rates to those already on the rolls without much hope of their returning to the workforce.

* Workers Compensation benefits are not taxable

It does not address all of the problems written into the current system from an employer's point of view (no cap on maximum weekly rates paid to claimants residing outside the State, etc.); but it is needed to reduce future drains on dollars earned in Alaska and spent elsewhere.

It does propose to address our concerns with regard to the "Brown" decision and its impact on compensation levels, return to work disincentives, the current vocational rehabilitation system and ultimately the high cost of workers compensation insurance for Alaskan employers.

Therefore we support the bill and urge for its early passage.

Thank You.

RCA GOVT. SERVICES
BLDG. 32-156
ELMENDORF AFB, AK
99506

The WCCA Sounder

"A publication for people concerned about workers' compensation reform"

January, 1988

Legislation

After more than a year's work, reform workers' comp legislation was finalized by a joint labor-management task force in December and has now been introduced in both the Alaska State House and Senate by the Labor and Commerce Committees.

WCCA President Steve Haag calls the bill one of the most important pieces of legislation lawmakers will address this session. "Passage of the bill as it exists will save hundreds of jobs that will otherwise be lost due to skyrocketing insurance rates," Haag says.

The proposed legislation makes substantial changes in statutes regarding vocational rehabilitation services. It also places limits on how often doctors may be consulted by a claimant without an independent medical examination. Limits on charges for medical services would also be imposed.

Among many provisions, the proposed legislation would reduce the maximum weekly compensation benefits while increasing the minimum weekly benefits. Under the new law, benefits could be readjusted if a claimant moved outside the state to an area with a lower cost of living.

House Labor and Commerce Committee Chairman Dave Donley, D-Anchorage, says the legislation needs to be viewed as a jobs bill. "Employers are having to layoff employees, in part, because of the high compensation rates and claims they have to pay. This is one area where the legislature can make a positive impact on the job situation in Alaska without spending more money," Donley notes.

Senate Labor and Commerce Committee Chairman Tim Kelly, R-Anchorage, says legislative action on the issue could be swift. "There's enough momentum so I think there will be a bill passed early in the session," Kelly says.

Lobbyists

WCCA has retained the services of Jerry Reinwand to serve as a legislative lobbyist during the 1988 session. Jerry, who served as chief of staff to Governor Jay Hammond, has earned the respect of both legislators and the Cowper administration.

WCCA has also retained the services of Dan Coffey to act as a liaison with Governor's office. Dan will focus efforts on keeping the Governor, Commissioners and division directors informed about WCCA activities and goals.

Both Jerry and Dan will play influential roles in assisting passage of legislation in 1988 and we look forward to a close, positive working relationship.

Write Now!

Legislators need to hear from every employer who will be affected by passage of reform workers' compensation legislation. A one or two-page letter to your legislator will help focus attention on the issue. Let your senator or representative know how workers' comp rates are threatening your business. Write today and ask a friend to write a letter as well.

Address your letters to: **Your Legislator**
P.O. Box V
Juneau, Alaska 99811

New Office

WCCA has established a permanent office and full-time staff to better serve our growing membership. WCCA welcomes Lynn Phillips as administrative secretary. Any questions about WCCA should be directed to Lynn at the new office phone number, 248-7630.

The new address is: **2204 Cleveland Ave.**
Anchorage, Alaska 99517

On The Road

WCCA continues to take its message to the people. Dick Cattanach was interviewed by the Fairbanks News-Miner earlier this month. WCCA President Steve Haag will travel to Sitka and Ketchikan to meet with the media while on a Southeast swing to testify before the Legislature. On January 21 Steve will address the Kenai Builders Association and plans are in the works for a speaking engagement in Fairbanks.

Thanks!

WCCA wishes to thank the Best Western Barratt Inn for supplying a room for the weekly Executive Committee meetings. Nikko Gardens also deserves thanks for supplying the meeting room for our monthly membership meetings. The support of these two businesses is greatly appreciated.

WCCA also thanks John Lewis for all his efforts to assist with the drafting and revising the 1988 legislation. John's recent visit to the state was a big boost to WCCA and we look forward to working with him during the session.

Hearings

Four hearings have been scheduled by the House and Senate Labor and Commerce Committees to obtain input on the proposed legislation.

January 19 & 21	Juneau
January 29	Anchorage
February 12	Anchorage

Watch the newspapers for location of the hearings, contact your local Legislative Information Office, or call the WCCA office for information. The testimony of every affected business is needed at these hearings. Put these important dates on your calendar and plan to attend. We need your support!

Seminar

Over 100 people turned out for an all day workers' compensation seminar in Fairbanks December 12. The seminar was sponsored by Unified Fairbanks in cooperation with the Associated General Contractors, Fairbanks Downtown Association, Greater Fairbanks Chamber of Commerce, Interior Manufacturers Association, National Electrical Contractors Association, Small Business Development Center of Alaska and the South Fairbanks Business Association.

Working groups have been meeting in Fairbanks since the seminar to plan strategies for accomplishing workers' comp reform during the 1988 Legislature in coordination with WCCA.

New Members

WCCA thanks these new member companies for their financial support.

Pacific Movers	Alyeska Air
National Bank of Alaska	Unocal
Alaska Pulp	Spenard Builders Supply
K & L Distributors	Arctic Slope Regional Corp.
Universal Motors	Enstar
Steel Fabricators	Doyon Drilling
Saupe Enterprises	Central Plumbing and Heating
Midas Muffler	Newberry Alaska
Alaska Oil Marketers Assoc.	Bailey's Rental
Smythe Movers	

Meeting Schedule

Board of Directors

Location to be announced

February 4, March 3
April 2

Executive Committee

WCCA Office
2204 Cleveland, Anchorage

January 20, February 3
February 17

Legislative Hearings

January 19 & 21
January 29
February 12

Juneau
Anchorage
Anchorage

Workers' Compensation Committee of Alaska
2204 Cleveland Ave.
Anchorage, Alaska 99517

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US Postage
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Permit No. 405
Anchorage, AK

**ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA**

Senator Kelly, Representative Donley, and Members of the Senate and House Labor and Commerce Committees:

My name is Warren Dvorak. I am the Benefits Manager for the Anchorage School District with responsibility for Worker's Compensation as well as all employee benefits programs.

The Anchorage School District employs over 5,000 people and we have self insured our Worker's Compensation claims since 1979. Our annual outlay for claims and expenses have steadily increased and in the last three years have jumped from \$880,000 to over \$1,500,000.

As a self insurer, we have detailed knowledge of many problems and inequities in the Alaska Worker's Compensation system brought about by ambiguities in the language of the Act and the absence of clear definitions of Legislative intent, benefit durations, and compensable conditions. The cost of these shortcomings to the Anchorage School District and the tax payers of Anchorage is substantial. For example:

1. This year in two claims based on alleged stress, we have paid out \$210,929 so far and could be required to pay an additional \$200,000+. Had this proposed legislation been in effect, almost all of it would have been saved;
2. An employee injured on the job has excellent employable skills and neither needed nor wanted job rehabilitation. So far we have wasted \$6,000 of District dollars on unnecessary rehabilitation services;
3. In a recent ruling by the Board against the District involving medical differences of opinion between the attending physician and two different independent medical examiners, the District has paid out \$83,128 to date and we estimate future costs of \$108,100 more. Under the proposed legislation we would not have incurred 90% of this expense; and
4. In a claim involving a 12% degree of permanent partial impairment to an employee we paid a settlement of \$60,000. Had this proposed legislation been in effect, our lump sum settlement would have only been \$11,520 !

In total, on just these five claims, the Anchorage School District has had to spend \$348,537 that would have been saved under the provisions of SB322 and HB352. **This is 23% of our total annual workers compensation expense!**

We understand that this proposed legislation is fair compromise carefully worked out over the past year by a joint task force representing both employers and organized labor. This makes it responsive to the needs of the two partners in any Worker's Compensation system, the injured worker's who benefit from it and the employers who pay for it.

On behalf of the Anchorage School District and all its employees, I urge you to support this legislation and assist in its speedy passage. Thank you for your consideration.