

HB

302

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO : CSHB 302 (STA)

Revision Date: _____
 Title: Workers' Compensation for
Recreational Activities
 Sponsor: Representative Navarre
 Requestor: Senate Judiciary

Department Affected: Labor
 BRU: Workers' Compensation
 Component: Workers' Compensation

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MF/TIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Paul B. Arnoldt, Director *Paul B. Arnoldt* Phone: 465-2790
 Division: Workers' Compensation Date: 4/1/94

Approved by Commissioner: Charles W. Mahler *Charles W. Mahler*
 Agency: Department of Labor Date: 4/1/94

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DISTRICT 9



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SPONSOR STATEMENT

April 19, 1994

TO: Senator Robin Taylor, Chairman, Senate Judiciary Committee

FROM: Representative Mike Navarre

SUBJECT: House Bill 302, An Act excluding certain sports officials and certain recreational activities from workers' compensation coverage.

.....

House Bill 302 offers a solution to recreational sponsorship by saying that as long as the participation is voluntary and not a condition of employment then no workers' compensation liability extends to the employer/sponsor.

Recent interpretations of law have placed generous Alaskan employers in jeopardy concerning team sponsorships. Recreational activities funded by an employer, according to court interpretation, implies liability for injury that occurs while the employee is participating in an optional recreational activity. For example, an employer supplies uniforms, umpiring fees, field rental fees or other team related items, the courts have treated that involvement as an employer-sanctioned activity. The result has been that many employers are reluctant to increase their risk and legal exposure for a recreational activity and are less likely to support recreational leagues throughout Alaska.

House Bill 302 passed the House Labor & Commerce Committee on February 24th with four do pass recommendations.

House Bill 302 passed the House State Affairs Committee on March 24th with four do pass recommendations.

House Bill 302 was waived from House Finance Committee on March 25th, because there is no financial impact to the State.

House Bill 302 passed the House on March 29th 38-0.

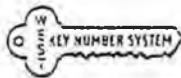
Thank you for your consideration.

APPENDIX—Continued

Villages' subsistence life styles would be minimally affected by the Cascaden disposal. There was a reasonable basis for the decision by DNR to hold the land disposal at Cascaden. The decision was not unreasonable, arbitrary, or an abuse of discretion. The Decision of the DNR is hereby affirmed.

DATED at Fairbanks, Alaska, this 24 day of May, 1990.

/s/ Richard D. Savell
RICHARD D. SAVELL
Superior Court Judge



Judi J. LeSuer-Johnson, Appellant.

v.

ROLLINS-BURDICK HUNTER OF
ALASKA and National Union Fire
Insurance Co., Appellees.

No. 3681.

Supreme Court of Alaska.

April 12, 1991.

Employee who was injured while playing softball on employer-sanctioned team at employer-provided field sought workers' compensation benefits. The Workers' Compensation Board awarded benefits and the Superior Court reversed and remanded. On remand, the Board denied benefits and appeal was taken. The Superior Court, Third Judicial District, Anchorage, Ralph Stemp, J., affirmed and employee appealed. The Supreme Court held that employee was entitled to benefits.

Reversed and remanded.

1. Workers' Compensation Ⓒ664

Employee who was injured while playing softball on employer-sanctioned team at

field rented by league to which employer paid money for ball field rental was entitled to workers' compensation benefits. AS 23.30.265(2).

2. Workers' Compensation Ⓒ664

Portion of workers' compensation statute defining "arising out of and in the course of employment" with regard to employer-sanctioned activities at employer-provided facilities is not limited to remote job sites as statute is written. AS 23.30.265(2).

Chancy Croft, Anchorage, for appellant.

Patricia L. Zobel, Deirdre D. Ford, Staley, DeLisio, Cook & Sherry, Anchorage, for appellees.

Before MATTHEWS, C.J., and
RABINOWITZ, BURKE, COMPTON and
MOORE, JJ.

OPINION

PER CURLAM.

[1] Appellant Judi LeSuer-Johnson (LeSuer) was injured on June 4, 1986, while playing softball at an Anchorage ballpark for the Rollins-Burdick Hunter (RBH) team against an "insurance league" opponent. The injury occurred after work hours, on a field rented by the insurance league. LeSuer, an employee of RBH, filed a claim for workers' compensation, alleging that the injury arose out of and in the course of her employment. An Alaska statute enacted in 1982 defines "arising out of and in the course of employment" to include

employer-required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer-sanctioned activities at the employer-provided facilities; but excludes activities of

a personal nature away from employer-provided facilities.

AS 23.30.265(2).

LeSuer's argument that her injury arose out of and in the course of her employment is based on her employer's connection to the softball team. RBH provided balls, bats, T-shirts and caps for the team members. It paid \$250 to the league's organizers who rented the ballfield and purchased bases. RBH encouraged its employees to either play on the team or attend the game as spectators. In her job interview LeSuer was asked if she played softball and if she would like to play on the company team. She stated that joining the team was voluntary, but she personally felt pressured to play by co-employees who wanted to be sure that RBH had enough players to field the team each week.

The Workers' Compensation Board found for LeSuer. The board concluded that participation on the softball team was both employer-sanctioned and that it occurred at an employer-provided facility:

We find RBH gave support and encouragement for their employees to participate on the team. By paying the league fee, providing part of the uniform, providing bats and balls and permitting employees to perform activities such as picking up the T-shirts and hats as part of their work duties RBH sanctioned the activity....

Next we consider whether the injury occurred at an employer-provided facility. Defendants argued that the injury was not on Employer's premises. However, the legislature chose to use the term "facility" and not premises. We find this terminology distinction is important. Thus the injury does not have to occur on an employer's property to be compensable.

The term "provide" is defined in *Webster* at 1144 as "to make available, supply, afford; furnish with...." We find that paying the league fee RBH made available to its employees a field on which to play softball. We conclude that

the softball game was at an employer-provided facility.

RBH appealed the board's decision to the superior court. The court held that where, as here, a remote job site was not involved, a four-part test rather than the two-part test set out in the statute was appropriate. The court stated:

The criteria analyzed in *Larson*, 1A *The Law of Workman's Compensation* § 22.24(a)-(f), for determining whether an injury on a company team is compensable are the appropriate factors to weigh in deciding this case. They are primarily the time and place of the recreation, the degree of the employer initiative and encouragement, the financial support and equipment furnished, and the benefit to the employer.

The court remanded this case to the board for an analysis using these factors. On remand, the board found in favor of RBH with one member dissenting.

LeSuer then appealed to the superior court, which affirmed the board's decision on remand. LeSuer now appeals this decision.

[2] In our view, the first decision of the board was correct. That portion of AS 23.30.265(2) which pertains to employer-sanctioned activities at employer-provided facilities is not limited to remote job sites as the statute is written. If the legislature had intended such a limitation it could have easily been expressed. The board's conclusions that playing for the RBH softball team was employer-sanctioned and that the injury occurred at an employer-provided facility are supported by substantial evidence.

For the above reasons, the decision of the superior court is REVERSED and this case is REMANDED to reinstate the first decision of the board.

