

HB

214

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

Senate Rules Committee 4/29/97 10:52 am

Alaska State Legislature
House of Representatives

Committees

Rules Committee, Chair
Legislative Council
International Trade & Tourism
Military & Veterans Affairs
World Trade & State/Federal Relations



Interim:
10928 Eagle River Rd. Suite 141
Eagle River, AK 99577

Session:
Alaska State Capitol
Juneau, AK 99801

TO: Senator Tim Kelly
Chair
Senate Rules Committee

FROM: Representative Pete Kott 
Chair
House Rules Committee

DATE: April 24, 1997

RE: HB 214: Request for Floor Action.

I respectfully request that you calendar HB 214, dealing with workers' compensation matters, for floor action at your earliest convenience. This bill is merely housekeeping in nature, and there is no opposition. I would anticipate that it would require less than 5 minutes of floor time.

Attached hereto, please find a Sponsor Statement, a Sectional, and backup material.

Thank you in advance for your kind assistance in this matter.

Representative Pete Kott

Juneau Office (907) 465-3777 Toll Free 1-800-861-KOTT(5688) Fax (907) 465-2819
Eagle River Office (907) 694-8944 Fax (907) 694-8945 E-Mail: representative_pete_kott@legis.state.ak.us



Alaska State Legislature House of Representatives

Committees
Rules Committee, Chair
Legislative Council
International Trade & Tourism
Military & Veterans Affairs
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Interim:
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Juneau, AK 99801

SPONSOR STATEMENT AND SECTIONAL ANALYSIS HB 214

HB 214, which is supported by the Department of Labor, makes two important adjustments to Title 23 pertaining to workers' compensation. Sections 1 and 2 amend AS 23.30 to comport with federal law. Sections 3 and 4 amend Alaska workers' compensation law to reflect changes made to public assistance eligibility.

Section 1:


This section aligns AS 23.30.022 with 42 U.S.C. 12101-12213 (Americans with Disabilities Act). It amends AS 23.30.022 to provide that an employee who, following a conditional offer of employment, makes a false representation during a medical inquiry or examination regarding the employee's physical condition, may be barred from receiving workers' compensation for an injury causally connected to the false representation. Currently, AS 23.30.022 refers to false representations of physical condition in an "employment application or preemployment questionnaire".

The ADA prohibits many employers from making inquiries designed to obtain information regarding disabilities prior to a conditional offer of employment, including inquiries made in the employment application and preemployment questionnaire. An employer subject to the ADA could not comply with the ADA and benefit from AS 23.30.022, while an employer who did not comply with the ADA might benefit at the expense of an employee's rights under the ADA. Section 1 of HB 214 replaces the "employment application or preemployment questionnaire" language of the current statute with the ADA permitted examinations or inquiries after a conditional offer of employment. The employer who complies with the ADA will be able to benefit from AS 23.30.022, and employment candidates will not be asked to choose between exercising their rights under the ADA and potentially losing their workers' compensation benefits.

Section 2:

Under existing law, before an employer can benefit from the Second Injury Fund, the employee must either have been hired or retained in employment after the employer learns of a permanent physical impairment. This section deletes the option that an employer, to benefit from the Second Injury Fund, acquire knowledge of a qualifying impairment before hiring an

Representative Pete Kott

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employee. As amended, in order to obtain Second Injury Fund reimbursement, it will be sufficient for an employer to have "retained" an employee in employment after acquiring knowledge of the employee's impairment.

Section 3:

The Alaska temporary assistance program, AS 47.27, was enacted in 1996 as part of welfare reform. One of its provisions, AS 47.27.035, requires that, unless exempt under that statute, participants in the Alaska Temporary Assistance Program participate in "work activities". "Work activities", as defined in AS 47.27.900, includes paid employment and paid on-the-job training, as well as unpaid activities such as community work service and job search and preparation activities. Section 3 of HB 214 would amend AS 23.30.230(a), which contains the current list of persons excluded from workers' compensation coverage, to add Alaska Temporary Assistance participants who are engaged in an unpaid work activity. This amendment ensures that workers' compensation coverage is provided only to those who are involved in a wage earning activity.

Section 4:

Defines "on-the-job training", as that phrase is used in Section 3 of this bill.

Section 5:

Because the amendments contained in sections 3 and 4 are linked to the new AS 47.27.035, Section 5 of this bill ties the effective date of Sections 3 and 4 to the effective date of AS 47.27.035.

Section 6:

Establishes an immediate effective date, except as provided in Section 5.

HB 214 will make Alaska law consistent with Federal ADA law and will clarify an area of legal uncertainty created with the passage of welfare reform. I urge your support.

Alaska State Legislature
House of Representatives

COL-JRS
JRS:SU

MAY 08 1995

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May 5, 1995

Mr. Paul Grossi
Director

Division of Workers' Compensation
PO Box 25512
Juneau, Alaska 99811-5512

Re: Draft Workers Compensation Pamphlet

Dear Mr. Grossi:

Thank you for providing me a draft copy of the Workers' Compensation pamphlet. I have had an opportunity to review it and have a few comments for your consideration.

I urge you to request an opinion from the Attorney General concerning the current viability of AS 23.30.022. It has been alleged that this statute conflicts with the Americans With Disabilities Act. If so, I would suspect that it is preempted under the Supremacy Clause of the United States Constitution. Should that prove to be the case, I request that you delete references to it in the pamphlet.

I note that the draft contains language that does not reflect the Gilmore decision. I recommend that you await the final status of HB 237 and if it becomes law incorporate its changes into the pamphlet. Should it not become law, the pamphlet should reflect the Gilmore decision.

Should you have any questions, or if I may be of any assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Kott", written over a horizontal line.

Pete Kott
District 24

cc House Labor and Commerce Committee members
Representative Berye Davis



Representative Pete Kott



A

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LABOR Office of the Commissioner

TO: The Honorable Bruce Botelho
Attorney General
Department of Law

THRU: David Ramseur
Acting Chief of Staff
Office of the Governor

FROM: *Tom Cashen*
Tom Cashen
Commissioner

DATE: May 12, 1995

FILE: OM 1-3 B

PHONE: 465-2700

SUBJECT: Request for
Attorney General
Opinion Regarding
AS 23.30.022 and
AS 23.30.205(c) as
Related to ADA

X AG Opinion
Binder

The Department of Labor's Workers' Compensation Division is requesting a formal Attorney General's opinion concerning AS 23.30.022 and AS 23.30.205 (c). It is alleged that AS 23.30.022 and AS 23.30.205 (c) are in direct conflict with the Americans with Disabilities Act (ADA). If that is the case, are these statutes preempted under the Supremacy Clause Act of the United States Constitution?

The Workers' Compensation Division provides every injured worker in Alaska an informative pamphlet regarding the workers' compensation system and process. AS 23.30.022 is referenced in the current pamphlet. An insert advising injured workers to contact the Equal Employment Opportunity Commission with any questions regarding their injury as related to ADA is included with the pamphlet. The insert is a temporary measure until language acknowledging the potential conflict is published in a new pamphlet. Is the language found in the insert sufficient?

Attached is a copy of a letter from Representative Kott requesting an Attorney General opinion, the current Workers' Compensation pamphlet, and a pamphlet insert.

Attachments (3)

cc: Representative Pete Kott
Dwight Perkins, Legislative Liaison, DOL
Paul Grossi, Director, WC
Jak Sanders, Admin Officer, WC

protects the Fund against spurious or collusive claims.

Sea-Land Services, 737 P.2d at 795, citing U.S. Pipe & Foundry Co. v. Caraway, 546 S.W.2d 215, 219 (Tenn. 1977). The written record requirement also serves to reduce litigation on the question of whether the employer had knowledge of the pre-existing impairment. Sea-Land Services, supra; Ketchikan Gateway Borough v. Saling, 604 P.2d 590 (Alaska 1979); A. Larson, Workmen's Compensation Law, Sec. 59.33(f), Vol.2, p. 10-523 (1992).

2. False Statement Exclusion

As part of a general reconstruction of the workers' compensation laws in 1988, AS 23.30.022 was adopted. § 5 ch 79 SLA 1988. It provides:

An employee who knowingly makes a false statement as to the employee's physical condition on an employment application or preemployment questionnaire may not receive benefits under this chapter if

(1) the employer relied upon the false representation and this reliance was a substantial factor in the hiring; and

(2) there was a causal connection between the false representation and the injury to the employee.

This provision protects the employer from compensation liability where the employee misrepresents his physical condition, the employer relies on the false representation to the extent that it was a substantial factor in hiring, and the employee incurs an injury which is causally connected to the false representation. Unlike AS 23.30.250, which imposes a criminal penalty for willful misrepresentation in the workers' compensation process, this provision addresses knowing misrepresentation prior to the injury and protects the employer as well as excludes the employee. It complements the Second Injury Fund mechanism. If the employee divulged the information, the employer had a "written record" and could file a claim for Fund protection if an injury resulted in significant disability. On the other hand, if the employee knowingly concealed the information, the employer would not have access to Fund reimbursement in the event of injury, but in certain cases¹ the employer would be able to avoid liability altogether.

¹The misrepresentation exclusion applies only where the employee's misrepresentation is causally related to the injury; e.g., in those cases where the employer could have provided

The reasoning behind these restrictions was set forth at length in the House Education and Labor Committee:

Historically, employment application forms and employment interviews requested information concerning an applicant's physical or mental condition. This information was often used to exclude applicants with disabilities -- particularly those with so-called hidden disabilities such as epilepsy, diabetes, emotional illness, heart disease and cancer -- before their ability to perform the job was even evaluated.

In order to assure that misconceptions do not bias the employment selection process, the legislation sets forth a process which begins with a prohibition on pre-offer medical examinations or inquiries. . . . This prohibition against inquiries regarding disability is critical to assure that bias does not enter the selection process.

H.R. Rep. No. 485, 101 Cong., 2d Sess., pt. 2, at 72-73 (1990).

The ADA provides that state and local governments may not exclude a qualified person with a disability from participation in government services, benefits or programs, nor deny benefits of government services, benefits or programs by reason of such disability. 42 U.S.C. § 12132. Such programs include services of the workers' compensation division and eligibility for workers' compensation benefits.

While concern was expressed in Congress regarding ADA conflicts with OSHA workplace safety standards or other state health regulations, no explicit discussion of conflicts with second injury funds or workers' compensation laws is contained in committee reports.⁵ Regarding potential conflict with workplace safety laws, the United States Attorney General was directed to "exercise coordinating authority to avoid and eliminate such conflicts." H.R. Rep. No. 485, 101st Cong. 2d Sess., pt.2, at 136 (1990).

4. Federal Preemption

Article VI of the Constitution of the United States

⁵There was testimony relating "myths about job performance, safety, insurance costs" as a barrier to employment. H.R. Rep. No. 485, 101st Cong., 2d Sess., pt 2 at 33 (1990).

While courts are not to seek out conflicts between state and federal regulation where none clearly exist, Huron Portland Cement Co. v. Detroit, 362 U.S. 440, 446 (1960), "under the Supremacy Clause, from which our pre-emption doctrine is derived, any state law, however clearly within a State's acknowledged power, which interferes with or is contrary to federal law, must yield." Gade v. National Solid Wastes Management Ass'n, 505 U.S. at 108, 112 S.Ct. 2388; quoting in part Felder v. Casey, 487 U.S. at 138; 108 S.Ct., at 2307.

Congress did not express a clear and manifest intent to preempt state workers' compensation laws in enacting the ADA. The ADA is designed to prevent discrimination on the basis of disability; not to compensate those who suffer disability as a result of work-related injury. Congress disclaimed any intent to occupy the field of disability law, stating that the ADA is not to be construed to "invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State . . . that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act." Sec. 501(b). Moreover, the EEOC's interpretive guidance to the federal regulations enforcing the ADA's restrictions on employer medical inquiries provide that state workers' compensation laws are not preempted by the ADA. 29 CFR 1630, App. 1630.14(b). However, the EEOC also states that "ADA requirements supersede any conflicting state workers' compensation laws." EEOC Technical Assistance Manual, Sec. 9.6(b), Part IX, p.6 (1992). In this instance, federal preemption by the ADA of the state's workers' compensation laws must rest on the existence of a conflict between the ADA and the state law.

5. Preemption of Second Injury Fund Written Record Requirement

AS 23.30.205(c) requires an employer to have written knowledge of a permanent physical impairment before the injury and that "the employee was hired or retained in employment after the employer acquired that knowledge". The ADA, on the other hand, strictly prohibits any pre-employment inquiries into the existence of a "disability or the nature or severity of a disability". 42 U.S.C. § 12112(c)(2)(A). The ADA definition of disability is sufficiently broad⁶ to encompass many of the Second Injury Fund's

⁶The ADA defines "disability" as

- (a) a physical or mental impairment that substantially limits one or more of the major life functions of such individual;
- (b) a record of such impairment; or
- (c) being regarded as having such an impairment.

42 U.S.C. 12102(2). Not all of the listed conditions would

Tom Cashen
Department of Labor
AGO 661-95-0748

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1630.14(b), and inquiries to current employees are limited to those "job-related and consistent with business necessity." 42 U.S.C. § 12112(c)(4)(A).⁸ With regard to entrance examinations, the EEOC cautions that, although inquiries that are not job-related are permitted:

employers may, as a practical matter, find it desirable to avoid requiring such examination/inquiries. This is so because an employer's obtaining information unrelated to the job can be probative of an employer's knowledge of an individual's disability if discrimination is alleged at a later time.

EEOC Guidance on Pre-Employment Disability-Related Inquiries and Medical Examinations under the ADA (No. 915.002, May 19, 1994) at n.59. Thus, while an ADA covered employer has a window of opportunity to make broad inquiry into the existence of listed conditions, and the EEOC acknowledges the role of second injury funds in limiting the cost of injury to an employer, the EEOC cautions that the employer may find it more advantageous not to make such inquiries.

It is the position of the EEOC that:
the ADA does not prohibit employers from obtaining information about pre-existing injuries and providing needed information to second injury funds. . . . [A]n employer may make such medical inquiries and require a medical examination after a conditional offer of employment and before a person starts work, so long as the examination or inquiry is made of all applicants in the same job category.

EEOC Technical Assistance Manual, Sec. 9.5, Part IX, p.6, (1992). The Manual makes no statement about information acquired after hire. After the employment entrance inquiries, inquiries must be "job related and consistent with business necessity". It could be argued that broad inquiries after the employment entrance window are "consistent with business necessity", but it is more difficult to tie such inquiries to the specific employee's job, even solely for Second Injury Fund purposes.

⁸It could be argued that it is consistent with business necessity for an employer to make sufficient record to claim Fund protection in the event of a future serious work-related injury, particularly as the existence of the record is necessary for Fund reimbursement.

The federal agency charged with enforcement of the ADA has approved transmission of information properly obtained to second injury funds, 28 C.F.R. 1630, App. 1630.14(b). Since the employer must obtain the knowledge and record it to send to a second injury fund, the EEOC evidently does not view a requirement that an employer establish by written record that the employee was retained in employment after the employer had knowledge of the listed impairment as having direct and substantial effect on implementation of the ADA. Such a written record requirement may or may not induce some employers to evade the ADA. However, speculation that an employer may be tempted to violate the ADA to obtain a state benefit does not render the state statute invalid. An otherwise valid state statute will not be struck down "merely because the public reacts to it in a manner inconsistent with federal law." Kosikowski v. Bourne 659 F.2d 100, 105 (9th Cir. 1981) (dismissing argument that local ordinance was preempted because it induced unsafe practices and caused pilots to attempt to violate federal regulations). Compare, Tellis v. United States Fidelity and Guar. Co., 625 F. Supp. 92, 95 (N.D.Ill. 1985) (in claim against employer based on scheme to defraud worker of benefits by false statement that he would be returned to work, RICO does not preempt state workers' compensation exclusive remedy rule), aff'd, 805 F.2d 741 (7th Cir. 1986), cert. granted and vacated on other grounds, 483 U.S. 1015, 107 S.Ct. 3255 (1987), aff'd on other grounds, 826 F.2d 477 (7th Cir. 1986).

6. False Statement Exclusion

AS 23.30.022 provides that an employee who "knowingly makes a false statement as to the employee's physical condition on an employment application or preemployment questionnaire" may not receive workers' compensation benefits if the employer substantially relies on the false statement "in hiring" and the employee's injury is causally related to the false statement.

The ADA prohibits preemployment inquiries as to physical condition prior to a job offer. Therefore, an employer with more than 15 employees cannot comply with the ADA and obtain relief from liability under this statute. Since the statute does not exclude employees from coverage based on post-offer misrepresentations, as in an entrance examination or a legitimate job-related inquiry, the employer cannot obtain relief under this statute in other circumstances when the information is obtained in compliance with the ADA.¹⁰ The statute also requires the employer to demonstrate

¹⁰If the "pre-employment questionnaire" in A23.30.022 is defined as a "post-offer entrance questionnaire" which complies with the ADA, an employer could avoid conflict. However, a preemployment questionnaire is not generally meant as being completed after an offer of employment. Also, taken in

Christopher G. Bell, "Integrating the Americans with Disabilities Act into the Workers' Compensation System", Disability Law Reporter, Vol.2, No.6, p.3, 13 (June 1993). The EEOC takes the position that under the ADA an employer may withdraw an offer to, or fire, a person who knowingly provides a false answer to a lawful inquiry about their physical condition or workers' compensation history. EEOC Technical Assistance Manual, supra.

7. Effect of Federal Preemption.

A state statute that actually conflicts with federal law is void to the extent that the conflict exists. Edgar v. MITE Corp., 457 U.S. 624, 102 S.Ct. 2629 (1982). In those cases where Congress did not intend to occupy the whole field, the state statute is invalid or void only to the extent of the actual conflict; Planned Parenthood of Billings v. State of Montana, 648 F. Supp. 47 (D.C. Mont. 1986); Consolidated Rail Corp. v. City of Bayonne, 724 F. Supp. 320 (D.C. N.J. 1989); and inconsistent provisions only of state law may be preempted. Matter of Baby K., 16 F.3d 590 (4th Cir. 1994). The extent of the preemption depends on the extent of the conflict. Boyle v. United Tech Corp., 487 U.S. 500, 512, 108 S.Ct. 2510, 2518 (1988).

Federal preemption may invalidate otherwise valid state law "as it is applied", Hankin v. Finnel, 964 F.2d 853 (8th Cir. 1992) (invalidating application of state's incarceration reimbursement lien against judgment paid by state in inmate's 1983 action against state prison guard); Texas Employers' Ins. Ass'n v. U.S., 569 F.2d 874, 875 (5th Cir. 1978) (application of state workmen's compensation anti-assignment statute against V.A. hospital invalid); or specific provisions of state law, Alessi v. Raybestos-Manhattan, Inc., 451 U.S. 504, 101 S.Ct. 1895 (1981) (invalidating state law prohibiting pension benefit offsets of workmen's compensation benefits); or specific operation of state law. Employee Benefits Committee, Etc. v. Pascoe, 679 F.2d 1319, 1322-23, (9th Cir. 1982) (invalidating operation of Hawaii workers' compensation law barring any rule to relieve the employer from liability). Thus while specific operation or provision of state law may be invalid, the remaining applications or provisions are not preempted. District of Columbia v. Greater Wash. Bd. of Trade, 506 U.S. 125, 113 S.Ct. 580 121 L.Ed.2d 513 (1992).

A finding of federal preemption in this instance would invalidate only those specific offending parts of the state workers' compensation law, since neither the operation of second injury funds in general nor false statement exclusions are barred by the ADA. Specifically, in AS 23.30.205(c), the words "hired or" and, in AS 23.30.022, the words "on an employment application or preemployment questionnaire" and "this reliance was a substantial factor in the hiring" are the portions of the statutes that present

Tom Cashen
Department of Labor
AGO 661-95-0748

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Since the ADA bars inquiry into physical conditions in employment applications or pre-employment questionnaires, an employer may not require an employee to divulge such conditions at the risk of losing future workers' compensation under AS 23.30.022.

Because it is impossible to comply with conflicting provisions of the ADA (federal law) and the specific offending provisions of AS 23.30.205(c) and AS 23.30.022, identified more specifically above, the federal law (the ADA) would preempt the state law provisions regarding the Second Injury Fund (reimbursement based on hire after acquiring written knowledge of impairment) and the false statement exclusion (concealment of conditions on employment applications or pre-employment questionnaires). These provisions could be deemed void.¹¹ The insert provided does not give notice of the effect of preemption by the ADA.

We hope this memorandum answers your questions.

KSK:lea

Attachment

¹¹There has been no published ruling from any court on this precise issue to date.

NOTICE

At page 3, the following is added to the section "WHAT IF YOU DON'T TELL THE TRUTH." Alaska Statute 23.30.022 states:

An employee who knowingly makes a false statement as to the employee's physical condition on an employment application or preemployment questionnaire may not receive benefits under this chapter if

(1) the employer relied upon the false representation and this reliance was a substantial factor in the hiring; and

(2) there was a causal connection between the false representation and the injury.

A federal law, the Americans with Disabilities Act (ADA), may limit your employer's right to ask you about your physical condition (health). You can get information about the ADA as it relates to employment by calling the federal Equal Employment Opportunity Commission at 1-800-669-4000, or writing the Commission at 907 First Avenue, Suite 400, Seattle, Washington 98104-1061.

(See Reverse for More Information)

April 23, 1997

HB 214 (Labor & Commerce)

Dear Senator,

I read HB 214 and I have some concerns that I would like you to consider.

*Section 1. AS 23.30.022 is amended to read:

Sec.23.30.022. False statements by employee. An employee who knowingly makes a false statement as to the employee's physical condition in response to a medical inquiry, or in a medical examination, after a conditional offer of employment [on an employment application or preemployment questionnaire] may not receive benefits under this chapter if

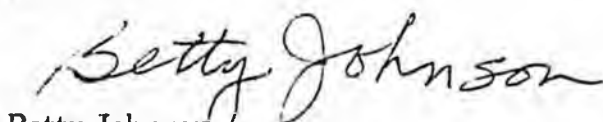
- (1) the employer relied upon the false representation and this reliance was a substantial factor in the hiring; and
- (2) there was a causal connection between the false representation and the injury to the employee.

My objection is to the word "conditional." This allows employers to make a "conditional" offer of employment until the employee completes the medical inquiry or questionnaire. If the employee reveals ANY condition, the employer has the option of withdrawing the conditional offer of employment. While the revised statute may meet the requirements for the Americans with Disabilities Act (ADA), it still allows employers to discriminate against any employees who have ANY disability. Not all employees who have some type of disability are going to have work related injuries. Yet this amendment punishes the masses for a few who may have work injuries. The amended AS 23.30.022 without the word "conditional" offers all the protection an employer needs to prevent the employee who lied about his preexisting condition on his application from getting workers' compensation benefits. Is this change in the language helping small employers, or potentially costing them tens of thousands of dollars in defense litigation costs?

One of the biggest complaints to the Workers' Compensation Division is from employees who have been injured on the job, released to return to work and find that the employer will not take them back. Alaska has no statute that requires an employer to reemploy an injured worker, even if he/she is fully recovered. If the employer won't reemploy a fully recovered employee with a good employment record, what is the likelihood that they will offer an employee a job after the employee reveals a previous injury or preexisting condition?

I urge you to vote NO on this amendment to HB 214. It isn't good for employees (constituents) because it may deprive them of the ability to earn a fair living for themselves and their families.

Sincerely,



Betty Johnson
Juneau, Alaska

email: bettmark@alaska.net

FISCAL NOTE

No. 4
 Bill Version: HB 214
 (H) Publish Date: 4/7/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... employer's knowledge of an employee's BRU: Civil Division
physical condition ... purposes of the Alaska Worker's Compensation . . Component: General Legal Services
 Sponsor: House Rules Committee
 Requester: House Labor and Commerce Committee COMPONENT SERIAL NO.: 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 214 amends AS 23.30.022, relating to false statements by an employee as to the employee's physical condition, and AS 23.30.205(c), relating to injury combined with preexisting impairment, to bring Alaska's workers' compensation laws into conformance with the federal Americans with Disabilities Act.

The Alaska temporary assistance program (the successor to the Aid to Families with Dependent Children program), AS 47.27, was enacted in 1996 as part of welfare reform. One of its provisions, AS 47.27.035, requires that, unless exempt under that statute, participants in the Alaska temporary assistance program must participate in "work activities" in order to receive assistance or services under the program. "Work activities" includes paid employment and paid on-the-job training, as well as unpaid activities such as community work service and job search and preparation activities. HB 214 would also amend AS 23.30.230(a), the list of persons excluded from workers' compensation coverage, to add to that list Alaska temporary assistance program participants who are engaged in unpaid work activity. The amendment would draw the distinction that ensures

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone: 465-5370
 Division: Administrative Services Division Date: 4/1/97
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 4/1/97
 Agency: Department of Law

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ANALYSIS CONTINUATION:

that workers' compensation coverage is provided only to those who are involved in a wage earning activity.

Passage of this legislation would have no fiscal impact on the Department of Law.

FISCAL NOTE

No. 3
 Bill Version: HB 214
 (H) Publish Date: 4/7/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

BILL NO. _____

Revision Date: _____
 Title: Workers Comp: Temp Assistance/
 Med Condit
 Sponsor: House Rules
 Requestor: House L&C

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

COMPONENT SERIAL NO. 344

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURE						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 Sections 1 and 2 of this proposed bill amend the current workers' compensation provisions so that they correspond with 42 U.S.C. 12101 - 12213 Americans with Disabilities Act, also know as the ADA. Section 3 establishes an exclusion from coverage under the Alaska Workers' Compensation Act for participants in certain work activities required under the Alaska temporary assistance program so that only those participants who are involved in wage earning activities will be subject to workers' compensation coverage.

Prepared by: Paul Grossi, Director *Paul Grossi* Phone: 465-2790
 Division: Workers' Compensation Date: 3/28/97
 Approved by Commissioner: Tom Cashen, Commissioner *Tom Cashen*
 Agency: Department of Labor Date: 3/28/97

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FISCAL NOTE

No. 2
 Bill Version: HB 214
 (H) Publish Date: 4/7/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to an employer's knowledge
of an employee's physical condition...
 Sponsor: Rules Committee
 Requestor: House Labor and Commerce

Dept. Affected: Health and Social Services
 BRU: Public Assistance
 Component: ATAP
 COMPONENT SERIAL NO. 220
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
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 EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY98	FY99	FY00	FY01	FY02	FY03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

POSITIONS	FY98	FY99	FY00	FY01	FY02	FY03
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This legislation provides includes ATAP participants, except for those engaged in subsidized and unsubsidized employment or on-the-job training, in the list of persons who are not covered by worker's compensation. It has no fiscal impact.

5/4/97

Prepared by: Jim Nordlund
 Division: Public Assistance

Phone: 465-2680
 Date: 04/03/97

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 4-3-97

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FISCAL NOTE

No. 1
 Bill Version HB 214
 (H) Publish Date: 4/7/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to an employer's knowledge of an employee's physical condition for purposes of the Alaska Workers' Compensation Act..."
 Sponsor: Rules Committee
 Requestor: (H) Labor and Commerce Committee

Department Affected: Administration
 BRU: Risk Management
 Component: Risk Management
 COMPONENT SERIAL NO. 0071

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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 EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ None

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.)
 There is no fiscal impact on the Division of Risk Management.

Prepared by: J. Brad Thompson, Director
 Division: Risk Management

Phone: 465-5723
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 4/2/97

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