

**HB**

**404**

ALASKA INDEPENDENT INSURANCE AGENTS AND BROKERS, INC.  
(AIIAB)  
POSITION PAPER

HOUSE BILL 404 – JOINT INSURANCE ARRANGEMENTS  
**STRONGLY OPPOSE**

The AIIAB opposes this Special Interest legislation in its present form (Version A).

This legislation has been proposed in the past with similar format and has failed to garner support for the following reasons:

- The legislation provides no consumer protection to the extended class of participants (Sec.21.76.020).
- The verbiage may be misleading in that the bill extends eligibility to other than Municipal entities that generally do not have the sophistication, risk management, or a taxation base to pay assessments.
- Only two of the fifteen general municipal powers are required for participation (Sec. 29.35.010). Any corporation in Alaska would automatically qualify for a JIA based on two of these powers, namely (11) the ability to borrow money and issue evidence of indebtedness, and (14) the rights to sue or be sued.
- Consumers may not be aware of the absence of regulatory protections that include unfair claims practices, unfair trade practices, the State Guarantee Association Act and financial solvency requirements.
- As currently proposed the State General Fund would have no authority to collect tax from premium generated by any participant. (This may represent millions of dollars each year in lost general fund revenues.)

Under current law, there is no regulatory authority provided by the Division of Insurance or any other governmental body. The extent of financial or market conduct review is limited to providing an annual financial statement only; there are no statutory consequences or accountability.

**Our Association would support this legislation *only* with the following amendment:**

Sec. 21.76.020. Regulation by the Division of Insurance and annual report.

- (a) A joint insurance arrangement [~~may not be~~ is] considered insurance for the purpose of [~~any other law of~~] the state and is [~~not~~] subject to regulations adopted by the director.

*(Bracketed is deleted, underlined is added.)*

## Chapter 29.35. MUNICIPAL POWERS AND DUTIES

### Sec. 29.35.010. General powers.

All municipalities have the following general powers, subject to other provisions of law:

- (1) to establish and prescribe a salary for an elected or appointed municipal official or employee;
- (2) to combine two or more appointive or administrative offices;
- (3) to establish and prescribe the functions of a municipal department, office, or agency;
- (4) to require periodic and special reports from a municipal department to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;
- (7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;
- (8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450 ;
- (9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;
- (10) to regulate the operation and use of a municipal right-of-way, facility, or service;
- (11) to borrow money and issue evidences of indebtedness;
- (12) to acquire membership in an organization that promotes legislation for the good of the municipality;
- (13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;
- (14) to sue and be sued;
- (15) provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners.

### Sec. 29.35.015. Investment pools.

A municipality may invest money in investment pools for public entities as authorized under AS 37.23 only if that municipality has obtained the consent of its governing body through an ordinance authorizing the

March 17, 2000

Re: HB 404, an Act relating to joint insurance arrangements and providing for an effective date.

A fiscal note is not yet available for this bill. It has been requested and hopefully will be ready by March 21.

## The AML/JIA is ~ Alaska's PREMIER Risk Management Pooling Program

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**NEWS FLASH !!** Important Topics for  
Program Members !

### Limits Double! Rates Guaranteed!

↳ **From \$5.25 million to \$10.25 million, at no additional cost!**

Beginning July 1, 1999, AML/JIA members will enjoy liability limits of \$10.25 million in most of their liability lines. What's more, the current rates are guaranteed for two years .

"AML/JIA is a great partner, and we trust their judgement in coverage and defense issues," said Carl Oswald, second vice-president with Genesis Underwriting Management Company. "When AML/JIA asked for increased limits, we were comfortable with providing them."

Executive Director, Eileen Terwilliger, said that rates will remain at the present level after review from the pool's actuary. "AML/JIA rates are set once every two years after an actuarial review," explains Terwilliger. "We can't and won't play with our rates to buy business like a commercial insurance company can. We simply live up to our mission statement: provide the most cost-effective risk financing and quality loss control services to meet the needs of local governments and school districts."

Limits were increased to \$10.25 million per occurrence for general liability, public officials liability, school leaders errors and omissions , and auto liability with no aggregate. Employment related practices coverage is slightly lower at \$10 million per occurrence, again with no aggregate. In all instances, defense costs are outside the stated limits, which means attorney fees won't erode the \$10.25 million limit, a real advantage in the high dollar claims bracket.

All-Risk Property coverage limits were raised to \$750,000,000 blanket limits per occurrence with automatic reinstatement of the full limit after each and every loss. "The AML/JIA's broad property coverage is a real market leader," says Terwilliger. "To be able to offer coverage of this caliber, without raising rates, is what the AML/JIA is all about." The property program has a \$5,000 deductible, with higher deductibles available upon request.

Earthquake coverage of \$100,000,000 is provided to all members and is exclusive to the AML/JIA. It has a program aggregate of \$100,000,000 that is dedicated only to AML/JIA members. Floods are covered up to \$250,000,000

annually with a program aggregate. Like the earthquake coverage these limits can only be eroded by flood losses sustained by members of the AML/JIA. In fact, there is no sharing of risk with other public entities or pooling programs in other states in any of the AML/JIA's property coverages.

Boiler and machinery coverage is offered at \$50,000,000 per occurrence if members choose to purchase it.

Workers' compensation continues to provide statutory limits and \$2,500,000 in employers' liability.

"We are excited to offer these increased limits, while at the same time keeping the rates level, or in the case of property and auto liability, considerably lower," Terwilliger says. "Better still, our financial picture looks very strong. Rates are locked in for two years."

This article is intended to aid your understanding of the AML/JIA self-insurance and pooling program. It is not intended to replace, supersede or supplement your Participant Coverage Memorandum, the association's bylaws or the Cooperative Participation Agreement. For more information on coverage issues, consult your Participant Coverage Memorandum or call Eileen Terwilliger with questions at 800-337-3682.

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## COVERAGE & SERVICES

Go to: [CORE PROGRAM](#) / [LELP PROGRAM](#) / [LARGE MUNI PROGRAM](#) / [LOSS CONTROL](#) / [SAFETY TRAINING](#) / [PUBLICATIONS](#) / [CLAIMS](#)

### The AML/JIA Mission - We're leading the way!

Since 1988, the AML/JIA has earned a reputation for its dynamic response to our member's coverage needs. To this end, we have developed several programs specifically targeted to Alaska municipalities and school districts.

*A tradition of excellence and opportunity*

### MISSION STATEMENT

The Alaska Municipal League Joint Insurance Association, Inc., is a member-driven pool dedicated to providing stable, cost-effective risk financing and quality loss control services designed to meet the needs of local governments and school districts.

### Loss Control Services To Our Members

#### LOSS CONTROL

For in-depth information on coverage and limits click here: [➤](#)

Let us help your municipality or school district with your toughest risk management question, assist to solve your scariest loss control problem, work with you to help your employees work safer and smarter, develop programs and policies to help your administration avoid unnecessary liability or exposure to loss. Our comprehensive range of REAL services is available today. If your entity is not a member YET, look at what you're missing.

#### SAFETY TRAINING

For in-depth information on coverage and limits click here: [➤](#)

Is training an area where we could help?  
Beginning with our newest training program: Public Entity Risk Management Seminar or "PERMS", there are literally dozens of

training topics available to our members. If you have a training need, and don't see the topic listed here, just contact our office at: 1-800-337-3682.

### **NEWSLETTERS & PUBLICATIONS**

For in-depth information on coverage and limits click here: ➤

A list of sample waivers, reference documents, sample RFP's, contracts, safety manuals, newsletters, OSHA checklists, crisis management plans, sample legal documents, safety bulletins and more, our enormous reference libraries give you a resource for documents and current information like never before. For more detailed information and articles, go to the NEWSLETTER or PUBLICATIONS page.

### **CLAIMS SERVICES**

For in-depth information on coverage and limits click here: ➤

Bringing Claims in-house was a BIG step in increasing services to our members. The AML/JIA strives to provide the highest quality claims response and handling available to Alaska's public entities.

**For more information on:**

- How to file a claim
- Some do's and don't about claims for administrators
- How your claim is handled

## **Coverage - From the Smallest School to the Largest Municipality**

### **The CORE Program**

For in-depth information on coverage and limits click here: ➤

**Local Government at its BEST:** Alaskans excel at working together to solve tough problems. So in 1988, Alaska's cities, boroughs and school districts created the AML/JIA's Core Program - the kind of affordable coverages and protection that Alaskan municipalities and school districts needed. Participants have joined together to provide our own:

- Workers' Compensation
- General Liability
- Public Officials Liability
- Employment Related Practices
- Auto Liability
- Auto Comprehensive and Collision
- All-Risk Property
- Earthquake and Flood


### **The Law Enforcement Liability Pool (LELP) Program**

For in-depth information on coverage and limits click here: ➤

**How Police Departments Find Solutions:** As any officer will tell you, police work doesn't come without risks. But those risks don't have to include bankrupting your municipality. Municipal taxpayers are asked to pay millions of dollars in claims every year in Alaska for wrongful death, excessive force, false arrest and other

claims.

### **The Large Muni Program**

For in-depth information on coverage and limits click here: 

**First Dollar Coverage? Large Self-Insured Retention?** Our Core and LELP coverages can be designed to fit with your unique requirements for coverage. The AML/JIA large muni program is as flexible as you need it to be.

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### The Core Program - the Heart of the AML/JIA

■ Established by Alaska Statute 21. 76, in July of 1988, the AML/JIA was created by 37 Alaskan cities, boroughs and school districts to stabilize insurance costs, gain needed services and obtain reliable coverage. Over the years, the program has increased in coverage and limits. Today the AML/JIA is the LEADER in Alaska's municipal insurance market, with substantial expertise to support our local governments in the years ahead.

■ The AML/JIA CORE program consists of bundled coverage for:

GENERAL LIABILITY

PUBLIC OFFICIALS' LIABILITY

SCHOOL LEADERS' E & O

EMERG. MEDICAL PROF.  
LIABILITY

EMPLOYEE DISHONESTY BOND

WORKERS' COMPENSATION

AUTO COMP. & COLLISION

FLOOD COVERAGE

AUTO LIABILITY

EMPL. RELATED PRACTICES

SEXUAL MISCONDUCT

EMPLOYEE BENEFIT  
LIABILITY

EXCESS POLICE PROF.  
LIABILITY

EMPLOYERS' LIABILITY

ALL-RISK PROPERTY

EARTHQUAKE COVERAGE

... and OTHER COVERAGES as requested!

■ **GENERAL LIABILITY - FY2000 Limits: \$10,250,000 per occurrence**  
Covers legal liability for claims of monetary damages that arise from negligence or alleged negligence from:

- Premises and Operations
- Products and Completed Operations
- Liability Assumed by Contract
- Host Liquor Liability
- Automobile Ownership
- Hired and Non-Owned Use
- Police Liability for LELP Program Members
- Wrongful Acts
- Sexual Misconduct
- Athletic Participation

Persons Insured: 1) The named insured; 2) Officials of the named insured; 3) Employees while acting on behalf of the named insured; and 4) Volunteers while acting on behalf of the named insured.

■ **PUBLIC OFFICIALS' - FY2000 Limits: \$10,250,000 per occurrence**

Coverage includes:

- School Leaders' E & O
- Employment Related Practices (see next)

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**■ BOND - FY2000 Limits \$50,000**

A standard \$50,000 Employee Dishonesty Bond is included at no additional charge to all CORE Program members. In addition to this bond, other bonds are available (at request) in limits up to \$1,000,000.

- In-House Bond Services
- Notary Bonds
- Performance Bonds
- Crime/Employee Dishonesty Bonds
- Public Officials' Bonds

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**■ EMPL. RELATED PRACTICES - FY2000 Limits \$10,000,000 per occurrence**

The AML/JIA provides \$5,000,000 with a \$10,000 deductible for most members, endorsed coverage:

- Provided to Members at no Additional Cost
- ERP Hotline Support Service - 30 minutes free legal consultation
- Age Discrimination - related to employment
- Racial Discrimination - related to employment
- Sexual Harassment - related to employment
- Sexual Discrimination - related to employment
- Wrongful Termination

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**■ AUTO LIABILITY - FY2000 Limits \$10,250,000 per occurrence**

Coverage includes:

- Uninsured/Underinsured Motorists  
PD = \$50,000 / BI = \$50,000,000 / CSL = \$5,000,000

**■ AUTO COMP. & COLLISION -**

Coverage includes:

- Hired and Non-Owned Vehicles
- Replacement Costs on Public Safety Vehicles
- \$500 Member Deductible

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**■ WORKERS' COMPENSATION - Statutory Limits**

Workers' Compensation covers:

- Work-related Accidents - for employees of the AML/JIA participants
- Occupational Diseases - for employees of the AML/JIA participants

- Statutory Limits

Includes Employer's Liability - FY2000 Sublimit: \$2,500,000

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### **■ ALL-RISK PROPERTY**

Program A = FY2000 Limits per occurrence \$750,000,000

Scheduled buildings, contents, stock, mobile/contractor's equipment, valuable papers, fine arts, computer hardware, computer software which is owned or in which there is an obligation to insure. Includes:

- Business Interruption
  - Service Interruption
  - Extra Expense
  - Transit
  - Accounts Receivable
  - Valuable Papers
  - Animals
  - Demolition/Increased Cost of Construction
  - Ordinance or Code Deficiency
  - EARTHQUAKE - \$250,000,000 (Program A)
  - FLCOD - \$100,000,000
  - BOILER & MACHINERY (optional) - \$50,000,000
  - No Co-Insurance Clause
  - Replacement Cost
  - All-Risk Deductible - \$5,000 standard (higher available at lower rates)
  - Earthquake Deductible - 2% with a \$100,000 minimum
  - Flood Deductible - \$100,000 minimum
- 

### **■ OTHER COVERAGES**

The AML/JIA has many other coverages available (as requested) outside the CORE Program. These coverages include:

- Airport Liability
  - Marina Keepers Liability
  - Warfinger's Liability
  - Hull - P & I
  - Travel Accident Insurance
  - Above Ground and Underground Storage Tanks
- 

**⚠ NOTE:** *This summary of coverage is intended to aid your understanding of the AML/JIA self-insurance and pooling program. It is not intended to replace, supercede or supplement your Participant Coverage Memorandum, the Association's Bylaws or the Cooperative Participation Agreement.*

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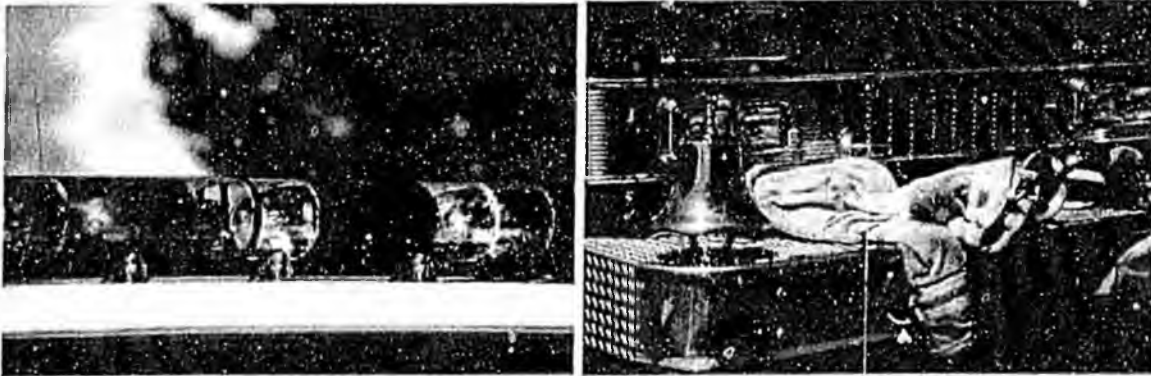
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### The Law Enforcement Liability Program Police Professional Coverage

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#### ■ The LELP Program - How Police Departments Find Solutions

Police work doesn't come without risks. Municipal taxpayers are asked to pay millions of dollars in claims every year in Alaska for wrongful death, excessive force, false arrest and other claims. Protection from these risks is critical, and the AML/JIA Law Enforcement Liability Protection (LELP) Program



#### ■ Training and Services

The AML/JIA has earned the reputation for being the leader in training and services for the LELP Program. Each year, the LELP Program sponsors training sessions designed for Alaska's law enforcement agencies and certified by the Alaska Police Standards Council:

- Law Enforcement Management Institute
- Jail Suicide Prevention
- Skid Car Training
- Dispatch Training

AML/JIA members receive on-site safety and liability audits and are assisted with questions regarding department liability and officer safety. The AML/JIA has developed highly acclaimed model policies and procedures manuals for police, jail and dispatch operations.

#### ■ Ownership


LELP members are owners of the program. Police chiefs from member entities form the LELP Advisory Committee, which establishes its own budget, recommends training and programs, and advises the AML/JIA Board of Trustees regarding issues affecting law enforcement. As a partner in the program, your entity will work together with scores of other Alaska police departments to protect your officers and citizens.

### ■ 2000 LELP Advisory Committee Members

- Thomas Lee Clemons, Chief, City of Sand Point
- Robert Petit, City of Bethel
- Milton Haken, City of Nenana
- Gerald Meece, City of Galena
- Gregory Goodman, City of Haines

■ For more information on our Law Enforcement Liability Protection Program, or the LELP Advisory Committee, contact **Risk Manager Kevin Smith** at [kevins@jnu.amljia.org](mailto:kevins@jnu.amljia.org) or call (907) 586-3222.

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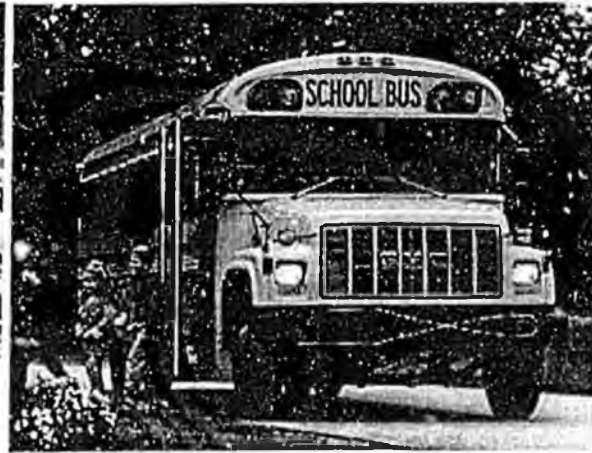
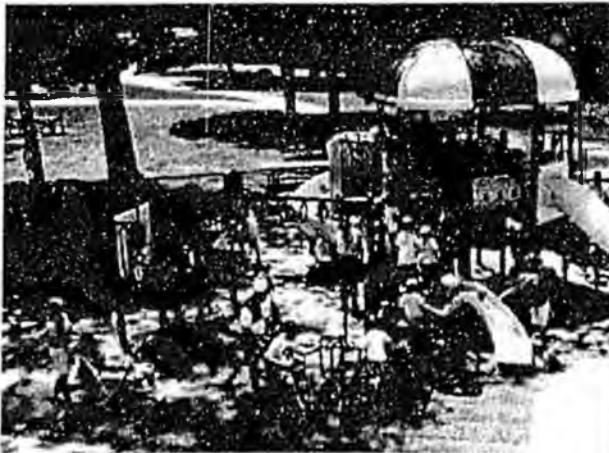
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### The Large Muni Program Customized Coverage for Large Entities

#### Special Programs for Our Largest Members

Some of our largest municipalities and school districts need special coverages and services. The AML/JIA's Large Muni Program is custom-made for the unique needs of Alaska's largest public entities by combining broad coverages and higher limits and levels of self-insured retention program tailored to your needs at the most, to create an economical cost.



#### Coverages Available for The Large Muni Program:

GENERAL LIABILITY  
PUBLIC OFFICIALS' LIABILITY  
SCHOOL LEADERS' E & O  
EMERG. MEDICAL PROF.  
LIABILITY

EMPLOYEE DISHONESTY BOND

WORKERS' COMPENSATION  
AUTO COMP. & COLLISION  
FLOOD COVERAGE

AUTO LIABILITY  
EMPL. RELATED PRACTICES  
SEXUAL MISCONDUCT  
EMPLOYEE BENEFIT  
LIABILITY  
EXCESS POLICE PROF.  
LIABILITY  
EMPLOYERS' LIABILITY  
ALL-RISK PROPERTY  
EARTHQUAKE COVERAGE

... and OTHER COVERAGES as requested!

#### Special Exposures

When the public entity combines municipal services, schools, police

departments and other specialized exposures like hospitals, boat harbors, and airports, savings can be realized by exploring some of the programs available for large municipalities.

### Enhanced Loss Control Services

The Large Muni Program provides options for loss control services and/or services designed to complement those your in-house risk management or broker may be offering already. Special claims handling is also available.


### Partnership

Many public entities retain the services of a broker. Working with your broker is always our pleasure. The AML/JIA works closely with our current members' brokers, creating a strong partnership that benefits the member, securing the best coverage, services and price.

### Call Us!

Or stop by our offices. We would enjoy working with you to create a highly customized proposal. A quote for coverage is always free, and in the end may save you thousands of dollars.

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February 18, 2000

**CITY OF SEWARD**  
P.O. BOX 167  
SEWARD, ALASKA 99664-0167



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Fax (907) 224-4038

March 13, 2000

Representative Gary Davis  
Room 513  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Davis:

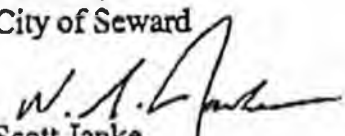
As you are aware, municipal governments and school districts are experiencing financial pressures, particularly in rural Alaska. Many of the smallest cities are on the brink of dissolution. Regardless of the size of the community, some of the services have been and are being out-sourced to local Native organizations or non-profits, such as the library, animal control, museums, senior citizen centers and even plowing roads in some communities.

As a member of the Alaska Municipal League Joint Insurance Association's pooling arrangement, the City of Seward has, as have all other pool members, been fortunate to have good insurance coverage for the services we provide at reasonable rates. Our concern is that as we transfer municipal services to non-profits or Native Village groups, that those entities be allowed to utilize the same sound and proven mechanism for securing good insurance coverage at reasonable rates so that our constituency is protected.

Adequate insurance protection at reasonable rates in rural Alaska is difficult to obtain. As more and more small cities drop the services that have been funded by the State and local Native Village governments and/or non-profit organizations take over those services, the State of Alaska shares in the liability for those functions. Having adequate insurance protection serves to protect the State's interests as well.

Therefore we are very supportive of HB404.

Sincerely,  
City of Seward

  
Scott Janke,  
City Manager

Phone: 907-224-4047  
Fax: 907-224-4038  
E-mail: [citymgr@seward.net](mailto:citymgr@seward.net)

rlg



P.O. Box 46  
Kotzebue, Alaska 99752

City Hall  
442-3401

Police Dept.  
412-3351

Fire Dept.  
442-3401

Public Works  
412-3401

February 29, 2000

Rep. Gary Davis  
Room 513  
State Capitol  
Juneau, Alaska 99801-1182

Dear Rep. Davis:

As you are well aware, municipal governments and schools are experiencing extreme financial pressures, particularly in Rural Alaska. Many of the smallest cities are on the brink of dissolution. Regardless of the size of the community, some of the services have been and are being out-sourced to local Native organizations or non-profits, such as the library, animal control, museums, senior citizen centers, and even plowing roads in some communities.

As a member of the Alaska Municipal League/Joint Insurance Association's pooling arrangement, the City of Kotzebue has, as have all other pool members, been fortunate to having good insurance coverage for the services we provide at reasonable rates. Our concern is that as we transfer municipal services to non-profits or Native Village groups, that those entities be allowed to utilize the same sound and proven mechanism for securing good insurance coverage at reasonable rates so that our constituency is protected.

Adequate insurance protection at reasonable rates in Rural Alaska is difficult to obtain. As more and more small cities drop the services that have been funded by the State and local Native village governments take over those services, the State of Alaska shares in the liability for those functions. Having adequate insurance protection serves to protect the State's interests as well.

Therefore we are very supportive of HB404. If there are any questions we can answer, please do not hesitate to call.

Sincerely,

A handwritten signature in dark ink, which appears to read "Nancy E. Gestad". The signature is fluid and cursive, written over the typed name and title.

Nancy E. Gestad  
City Manager

**KOTLIK TRADITIONAL COUNCIL  
P.O. BOX 20210  
KOTLIK, ALASKA 99620  
Phone (907) 899-4326/4836 FAX (907) 899-4790**

2 March 2000

The Honorable Representative Gary Davis  
House of Representatives  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Re: Letter of Support Regarding HB404

Dear Mr. Davis:

This is a letter of support to the Alaska Municipal League Joint Insurance Association, Inc, (AML/JIA) regarding HB404. Our firm supports the efforts of AML/JIA's position to make it legal to add traditional council and nonprofits to the pooling statute. It will be a benefit for the 227 Federally recognized Native village governments in Alaska.

Last year I contacted AML/JIA for insurance, but was told tribal councils were not included. I have had problems finding insurance coverage since then. The passage of this bill will enable tribal governments alleviate the problems of finding coverage, therefore providing the insurance needed for their employees, buildings owned, and other assets.

If you have questions please contact me at (907) 899-4836.

Regards:.



Pius Akaran  
Tribal Administrator

UGASHIK TRADITIONAL VILLAGE  
206 E. Fireweed Lane, # 204  
Anchorage, Alaska 99503  
phone (907)338-7611  
fax (907)338-7659

March 7, 2000

Representative Gary Davis  
House of Representatives  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Mr. Davis:

I would ask that you give your support to House Bill 404, a bill which would allow Alaska Native Village Councils, Native Associations and nonprofits to pool for worker's compensation, general liability, and property insurance just as municipalities organized under stat law and school districts presently can.

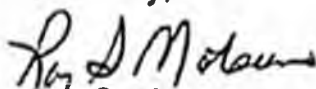
We had worker's compensation insurance and we were dropped because they said "the organization was without prior insurance history" and are in an "assigned risk" group so that they could charge us higher rates.

I feel that they insurance companies are in cahoots with each other, they cancel policies and pass you on to other insurance companies after we get "assigned risk" and "without prior insurance history" tacked onto our organization. This allows the new insurance company to charge us at a higher rate.

Also one of the companies did charge us a "broker fee" and tried to charge us again, but we challenged it and did not pay the second time.

There definitely needs to have something changed with this to help the organizations out that are in the same situation as we are. Thank you.

Sincerely,



Roy S. Matsuno  
Tribal Administrator

March 17, 2000

Re: HB 404, an Act relating to joint insurance arrangements and providing for an effective date.

A fiscal note is not yet available for this bill. It has been requested and hopefully will be ready by March 21.



# Alaska State Legislature

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## HOUSE COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

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Representative John Harris, Representative Carl Morgan, Co-Chairmen  
State Capitol, Room 110, Juneau, Alaska 99801-1182  
(907) 465-3882

### AGENDA

March 21, 2000

1. Call meeting to order
  
2. Roll call      Rep. Dyson  
                     Rep. Kookesh  
                     Rep. Halero  
                     Rep. Murkowski  
                     Rep. Joule  
                     Rep. Morgan  
                     Rep. Harris
  
3. Consideration of bills on agenda  
  
                     HB 404 – Joint Insurance Arrangements
  
4. Announcements or other business  
  
                     Next meeting: Wednesday, March 22 – 5:00 pm, Room 519
  
5. Motion to adjourn



# ALASKA STATE LEGISLATURE

REPRESENTATIVE GARY DAVIS

## SPONSOR STATEMENT House Bill 404

*An Act relating to joint insurance arrangements and providing for an effective date*

House Bill 404 amends AS 21.76.010(a) to expand the types of entities allowed to enter into joint insurance arrangements for the purpose of assuming risks from losses or purchasing coverage. Native village councils, Native associations and nonprofit corporations could enter into these agreements provided that the council, association or corporation exercises at least two of the general municipal powers described under AS 29.35.010.

Unincorporated communities in which Native councils, Native associations or small nonprofit corporations exercise traditional governmental functions have great difficulty in obtaining affordable insurance coverage in the traditional market. Small, nonprofit corporations such as friends of the library, senior citizen centers and other organizations within municipalities also experience this difficulty.

House Bill 404 would allow these entities to enter into the cooperative agreements currently enjoyed by organized municipalities in Alaska. They would be able to obtain the needed insurance at a more affordable rate provided to larger insurance pools and by sharing the risk for potential losses.

In order to qualify for the ability to enter into an agreement, the nonprofit corporation, or the Native association or village council would need to exercise at least two of the general powers given to organized municipalities in the state.

Joint insurance agreements may be entered into for the following types of insurance coverage: disability, property, casualty, surety, marine, wet marine and transportation and mortgage guaranty. It may not be entered into for health, life or title insurance purposes.

This legislation was requested by the Alaska Municipal League/Joint Insurance Association and has the support of their umbrella organization, the Alaska Municipal League as well.

(A) is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or a state of the United States, and has been granted authority to operate with fiduciary powers; and

(B) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies.

(g) An insurer may receive credit for reinsurance transactions if the reinsurance agreement meets all applicable requirements established by the director.

(h) A domestic ceding insurer may not be allowed credit if the assuming insurer's accreditation has been revoked by the director.

(i) In this section, a "reinsurance transaction" means a transaction stemming from a contract by which the assuming insurer agrees to indemnify the ceding insurer in whole or in part against liability or losses that the ceding insurer might incur under a separate contract of insurance with its insured. (§ 1 ch 120 SLA 1966; am §§ 20, 21 ch 50 SLA 1990; am § 22 ch 21 SLA 1991; am §§ 19 — 22 ch 67 SLA 1992; am §§ 17, 18 ch 62 SLA 1995; am § 10 ch 81 SLA 1997)

**Revisor's notes.** — Subsection (i) was formerly AS 21.12.120. Renumbered as (g) in 1991 and as (i) in 1993, at which time former (h) and (i) were relettered as (g) and (h), respectively. In 1991, the introductory clause of (i) was rewritten to reflect the reorganization and a manifest error in an internal reference in § 21, ch. 50, SLA 1990, which enacted former AS 21.12.120, was corrected.

**Effect of amendments.** — The 1991 amendment, effective June 11, 1991, corrected a drafting error in the second and third sentences in subsection (c) as enacted by § 20, ch. 50, SLA 1990.

The 1992 amendment by §§ 19, 21, and 22, ch. 67, SLA 1992, effective July 1, 1992, rewrote paragraph (a)(2); in item (a)(4)(A)(iv), substituted "\$100,000,000" for "\$50,000,000," inserted "certified" near the end, and added the phrase beginning "or for" at the end; added item (a)(4)(A)(v); inserted "that contain an evergreen clause" and the phrase beginning "not later than" and ending "annual statement" in paragraph (c)(3); and added subsections (h) and (i). The 1992 amendment by § 20, ch. 67, SLA 1992, effective January 1, 1994, rewrote subsection (a) to incorporate

references to accreditation by the National Association of Insurance Commissioners and made related textual changes.

The 1995 amendment, effective July 1, 1995, in subsection (a), rewrote paragraph (2) and, in subparagraph (4)(A), added "or an accountant holding a substantially equivalent designation as determined by the director" at the end of items (iii)-(v), in item (iii), inserted "certified" near the end, and rewrote item (iv); and substituted "An insurer" for "A life insurer" at the beginning of subsection (g).

The 1997 amendment, effective July 1, 1997, deleted "by the insurer's domiciliary regulator and" following "certification of the insurer's solvency" in subdivision (a)(4)(A)(iii).

**Editor's notes.** — Section 83, ch. 50, SLA 1990 provides that this section as amended by § 20, ch. 50, SLA 1990, "applies to all reinsurance transactions having an inception, anniversary, or renewal date on or after July 1, 1991."

**Collateral references.** — 43 Am. Jur. 2d, Insurance, §§ 1831 to 1841.

46 C.J.S., Insurance, §§ 1220 to 1242.

**Sec. 21.12.030. Definitions not mutually exclusive.** It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of coverage within one definition does not exclude it from the definition of another kind of insurance coverage if the coverage may be reasonably included. (§ 1 ch 120 SLA 1966)

**Sec. 21.12.040 Life insurance defined.** Life insurance is insurance on human lives. The transaction of life insurance includes also the granting of endowment benefits, additional benefits for death or dismemberment by accident or accidental means, additional benefits for the insured's disability, and optional modes of settlement of proceeds of life insurance. Transaction of life insurance does not include workers' compensation insurance. (§ 1 ch 120 SLA 1966)

**Collateral references.** — 43 Am. Jur. 2d, Insurance, §§ 2, 3.

44 C.J.S., insurance, §§ 1, 25 to 27.

**Sec. 21.12.050. Health and health care insurance defined.** (a) Health insurance is insurance of human beings (1) against bodily injury, disablement, or death by accident or accidental means; (2) against the resulting expenses of the injury, disablement, or death; (3) against disablement or expense resulting from sickness or childbirth; (4)

against expense incurred in prevention of sickness; (5) for dental care; and (6) including every insurance that applies to injury, disablement, or death. Transaction of health insurance includes disability insurance and stop-loss insurance but does not include workers' compensation insurance. Health care insurance described in (b) of this section is a type of health insurance under this subsection.

(b) Health care insurance means that part of health insurance that provides benefits for medical care whether provided directly, through reimbursement, or other method.

(c) In this section, "stop-loss insurance" means insurance purchased by a self-insured employer to cover benefits the employer incurs in excess of a preset limit. (§ 1 ch 120 SLA 1966; am § 7 ch 56 SLA 1996; am §§ 11, 12 ch 81 SLA 1997)

**Cross references.** — For statement that the purpose of the amendments to this section made by ch. 81, SLA 1997 was to implement minimum federal standards, see § 1, ch. 81, SLA 1997 in the 1997 Temporary and Special Acts.

**Effect of amendments.** — The 1996 amendment,

effective September 9, 1996, rewrote this section.

The 1997 amendment, effective July 1, 1997, rewrote subsection (a) and added subsections (b) and (c).

**Collateral references.** — 43 Am. Jur. 2d, Insurance, §§ 2, 3.

44 C.J.S., Insurance, §§ 1 to 3, 18.

**Sec. 21.12.052. Disability insurance defined.** Disability insurance is insurance that provides periodic income payments when income is interrupted or terminated because of disability resulting from sickness, injury, or dismemberment, or a combination of sickness, injury, or dismemberment. (§ 8 ch 56 SLA 1996)

**Effective dates.** — Section 8, ch. 56, § 8, which enacted this section, took effect on September 9, 1996.

**Sec. 21.12.055. Annuities and annuity contract defined.** (a) Annuities means all agreements to make periodical payments if the making or continuance of all or some of a series of payments or the amount of a payment is dependent upon the continuance of human life, except payments made under AS 21.12.040. The business of annuities is considered to include additional benefits operating to safeguard the contract from lapse, or to provide a special surrender value, or special benefit, or annuity, in the event of the total and permanent disability of the holder.

(b) Annuity contract means a contract providing for an annuity as defined in (a) of this section. (§ 1 ch 120 SLA 1966)

**Sec. 21.12.060. Property insurance defined.** Property insurance is insurance on real or personal property of every kind and of every interest therein, whether on land, water, or in the air, against loss or damage from any and all hazard or cause, and against loss consequential upon the loss or damage, other than noncontractual legal liability for loss or damage. Property insurance does not include title insurance as defined in AS 21.66.480. (§ 1 ch 120 SLA 1966)

**Revisor's notes.** — In 1991, "AS 21.66.480" was substituted for "AS 21.12.100" to correct a manifest error in ch. 120, SLA 1974.

#### NOTES TO DECISIONS

**Contamination of groundwaters.** — Contamination of groundwater qualifies as property damage.

*Mapco Alaska Petro., Inc. v. Central Nat'l Ins. Co.*, 784 F. Supp. 1454 (D. Alaska 1991).

**Collateral references.** — 43 Am. Jur. 2d, Insurance, § 468 et seq.

44 C.J.S., Insurance, § 14.

Damage from sonic boom as within property insurance policy. 74 ALR2d 754.

Construction of property insurance provision excluding liability for destruction caused by order of civil authority. 84 ALR2d 683.

"Contamination" within coverage, or exception or exclusion from coverage, of property damage policy. 96

ALR2d 1360; 72 ALR4th 633.

Loss by heat, smoke, or soot without external ignition as within standard fire insurance policy. 17 ALR3d 1155.

Failure to disclose prior fires affecting insured's property as ground for avoidance of fire insurance policy. 4 ALR5th 117.

**Sec. 21.12.070. Casualty insurance defined. (a) Casualty insurance includes**

(1) vehicle insurance: insurance against loss of or damage to a land vehicle or aircraft or a draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability, or expense resulting from or incidental to ownership, maintenance, or use of the vehicle, aircraft, or animal; and provision for medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal representatives of persons killed, irrespective of legal liability to the insured, if issued as an incidental coverage with or supplemental to insurance on the vehicle, aircraft, or animal;

(2) liability insurance: insurance against legal liability for the death, injury or disability of a human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, if issued as an incidental coverage with or supplemental to liability insurance;

(3) workers' compensation and employer's liability: insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;

(4) burglary and theft: insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from an attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to money, coins, bullion, securities, notes, drafts, acceptances, or other valuable papers and documents, resulting from any cause;

(5) personal property floater: insurance upon personal effects against loss or damage from any cause under a personal property floater;

(6) glass: insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;

(7) boiler and machinery: insurance against any liability and loss or damage to property or interest resulting from accident to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;

(8) leakage and fire extinguishing equipment: insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to the sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

(9) credit: insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(10) malpractice: insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury or disablement of a person, or arising out of damage to the economic interest of a person, as the result of negligence in rendering expert, fiduciary, or professional service;

(11) elevator: insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and to make inspection of and issue certificates of inspection on elevators;

(12) livestock: insurance against loss or damage to livestock, and services of a veterinary for the animals;

(13) entertainments: insurance indemnifying the producer of a motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation due to death, accidental injury, or sickness of performers, participants, directors, or other principals;

(14) miscellaneous: insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within another kind of insurance as defined in this chapter, if the insurance is not disapproved by the director as being contrary to law or public policy.

(b) The provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance defined in (a)(1), (2), (4), and (10) of this section, shall for all purposes be considered to be the same kind of insurance to which it is incidental, and is not subject to provisions of this title applicable to life or health insurance. (§ 1 ch 120 SLA 1966; am § 9 ch 56 SLA 1996)

**Cross references.** — For appointment of casualty insurer inspectors as special boiler inspectors, see AS 18.00.240.

**Effect of amendments.** — The 1996 amendment, effective September 9, 1996, substituted "health" for "disability" in subsection (b).

**Collateral references.** — 43 Am. Jur. 2d, Insurance, §§ 497 to 529, 703 to 728.

44 C.J.S., Insurance, §§ 1 to 49.

Liability insurance coverage for violations of anti-pollution laws. 87 ALR4th 444.

Who is executive officer of insured within liability insurance policy. 1 ALR5th 132.

Homeowner's liability insurance coverage of emotional distress allegedly inflicted on third party by insured. 8 ALR5th 254.

#### **Sec. 21.12.080. Surety insurance defined. Surety insurance includes**

(1) fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship;

(3) insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including loss while being transported in armored motor vehicles or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to an insured's premises or to the furnishings, fixtures, equipment, safes, and vaults on an insured's premises caused by burglary, robbery, theft, vandalism, or malicious mischief, or attempted burglary, robbery, theft, vandalism, or malicious mischief. (§ 1 ch 120 SLA 1966)

**Collateral references.** — 35 Am. Jur. 2d, Fidelity Bonds and Insurance, §§ 1 to 28.

45 C.J.S., Insurance, § 891.

#### **Sec. 21.12.090. Marine, wet marine and transportation insurance defined. (a) "Marine insurance" includes**

(1) insurance against any and all kinds of loss or damage to

(A) vessels, craft, aircraft, cars, automobiles, and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to, or in connection with any and all risks or perils of navigation,

transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting shipment or during delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks;

(B) a person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of the insurance (but not including life insurance or surety bonds or insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance, or use of automobiles);

(C) precious stones, jewels, jewelry, gold, silver, and other precious metals, whether used in business or trade or otherwise and whether in the course of transportation or otherwise;

(D) bridges, tunnels, and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks;

(2) "marine protection and indemnity insurance", meaning insurance against, or against legal liability of the insured for loss, damage, or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss of or damage to the property of another person.

(b) For the purposes of this title "wet marine and transportation" insurance is that part of marine insurance that includes only

(1) insurance upon vessels, crafts, hulls and of interests in or with relation to vessels, crafts, and hulls;

(2) insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(3) insurance of freights and disbursements pertaining to a subject of insurance coming within this section; and

(4) insurance of personal property and interests in personal property, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transshipment, or reshipment incident thereto. (§ 1 ch 120 SLA 1966)

**Revisor's notes.** — In 1991, in (b)(2), "contracts of marine protection" was substituted for "contracts of marine protection" to correct a manifest error in ch. 120, SLA 1966.

**Opinions of attorney general.** — A court would probably be more likely to classify pollution liability policies for tankers and barges as "marine insurance" or "wet marine and transportation insurance" than as

"liability insurance" or "miscellaneous insurance" and, therefore they should be eligible for the lower rate of taxation specified in AS 21.09.210(d), July 25, 1989, Op. Att'y Gen.

**Collateral references.** — 43 Am. Jur. 2d, Insurance, §§ 681 to 702.

45 C.J.S., Insurance, §§ 852 to 876.

*Sec. 21.12.100. Title insurance defined. [Repealed, § 8 ch 120 SLA 1974. For current law see AS 21.66.480.]*

**Sec. 21.12.110. Mortgage guaranty insurance defined.** Mortgage guaranty insurance includes insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument consisting of a lien or charge on real estate. (§ 5 ch 206 SLA 1976)

*Sec. 21.12.120. [Renumbered as AS 21.12.020(g).]*

## Chapter 14. Risk Based Capital for Insurers.

### Section

- 10. Risk based capital reports
- 20. Company action level event
- 30. Regulatory action level event
- 40. Authorized control level event
- 50. Mandatory control level event
- 60. Risk based capital plan

### Section

- 70. Foreign insurers
- 80. Hearings
- 90. Confidentiality; restrictions on use
- 100. Penalty for violation
- 200. Definitions

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**Effective dates.** — Section 3, ch. 76, SLA 1994 makes this chapter effective January 1, 1995.

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**Sec. 21.14.010. Risk based capital reports.** (a) A life and health domestic insurer, property and casualty domestic insurer, or other insurer required by the director shall, on or before March 1, submit to the director a report of its risk based capital covering the previous calendar year. The report must be in a form and contain the information required by risk based capital instructions. A domestic insurer required to submit a report under this subsection shall file the report with

(1) the National Association of Insurance Commissioners; and

(2) the insurance regulatory agency in each state in which the insurer is authorized to transact business if the insurance regulatory agency has requested the report in writing from the insurer; a report requested under this paragraph shall be delivered

(A) not later than 15 days from the receipt of a request if the report has already been filed with the director; or

(B) at the time the report is filed with the director, if the report has not yet been filed with the director.

(b) An insurer's risk based capital shall be determined under the formula contained in the risk based capital instructions.

(c) If a domestic insurer files a report that the director determines to be inaccurate, the director may adjust the report to correct the inaccuracy. The director shall notify the insurer of an adjustment and the reason for it.

(d) If a domestic insurer transacts business only in this state and the insurer's total annual written premium plus monetary consideration received on an annuity is less than \$2,000,000, the insurer may apply annually to the director for an exemption from submitting the report required under this section.

(e) The director shall establish risk based capital instructions by regulation. (§ 1 ch 76 SLA 1994; am § 13 ch 81 SLA 1997)

**Effect of amendments.** — The 1997 amendment, effective July 1, 1997, in subsection (a), deleted “, if required by the director” from the end of the first

sentence; in subparagraph (a)(2)(B), inserted “yet” near the end; and made a minor stylistic change.

**Sec. 21.75.900. Definition.** In this chapter,

(1) "material transaction" means a transaction, other than a claim payment, involving more than one-half of one percent of the reciprocal insurer's admitted assets as of December 31 of the prior year;

(2) "reciprocal insurance" is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an "attorney-in-fact" common to all such persons;

(3) "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves. (§ 1 ch 120 SLA 1966; § 209 ch 67 SLA 1992)

**Revisor's notes.** — Paragraph (1) enacted as AS 21.75.345 and renumbered in 1992. Paragraphs (2) and (3) were formerly AS 21.75.280 and 21.75.290.

respectively, and were renumbered in 1992, at which time minor word and punctuation changes were made to reflect the reorganization.

## Chapter 76. Joint Insurance Arrangements.

### Section

- 10. Authority to establish joint insurance arrangements
- 20. Regulation by division of insurance and annual report
- 30. General provisions of cooperative agreements
- 40. Financial provisions of agreements
- 50. Contracting with private administrators
- 60. Delegation of power to settle claims

### Section

- 70. Excess insurance
- 80. Joint insurance fund
- 90. Filing of agreement
- 100. Regulations
- 110. Subrogation
- 120. Debt financing
- 900. Definitions

**Sec. 21.76.010. Authority to establish joint insurance arrangements.**

(a) Municipalities and their public corporations, city and borough school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions in order to either assume risks from losses to the participants on a group basis or purchase coverage for the participants on a group basis.

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for health insurance, life insurance, and title insurance.

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

(d) For purposes of AS 23.30.075, a joint insurance arrangement is considered to be an association duly authorized to transact workers' compensation insurance in the state. (§ 1 ch 136 SLA 1986; am § 3 ch 97 SLA 1992; am § 81 ch 56 SLA 1996)

**Effect of amendments.** — The 1992 amendment, effective June 20, 1992, inserted "and their public corporations" in subsection (a).

The 1996 amendment, effective September 9, 1996, deleted "disability insurance," following "this title except for" in subsection (b).

**Sec. 21.76.020. Regulation by division of insurance and annual report.** (a) A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations adopted by the director.

(b) By October 1 of each year, the administrator of a joint insurance arrangement shall prepare and deliver to the Legislative Budget and Audit Committee and the director a report showing the true and correct financial condition of the joint insurance arrangement. The report must

(1) be attested to by the administrator and the board of directors;

(2) include an analysis, certified by a member of the American Academy of Actuaries, of the sufficiency of the loss reserves; and

(3) be certified by a certified public accountant. (§ 1 ch 136 SLA 1986; am § 2 ch 85 SLA 1989; am § 96 ch 81 SLA 1997)

**Cross references.** — For legislative findings and purpose in connection with the 1989 amendment of this section, see § 1, ch. 85, SLA 1989 in the Temporary and Special Acts.

**Effect of amendments.** — The 1997 amendment, effective July 1, 1997, inserted "and the director" in the first sentence of subsection (b) and made minor stylistic changes.

**Sec. 21.76.030. General provisions of cooperative agreements.** A cooperative agreement must provide for the proper operation of the joint insurance arrangement, and include provisions for

(1) administration of the arrangement by a board of directors, specifying the number of members of the board and other requirements necessary for the proper functioning of the board;

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

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

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

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

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

(7) the method of apportioning costs and disposition of excess contributions;

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

(9) terminating the arrangement and disposing of its assets; and

(10) establishing and administering a joint insurance fund. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.040. Financial provisions of agreements.** (a) A cooperative agreement must include a provision requiring an annual determination by a casualty actuary who is a member of the American Academy of Actuaries that procedures for establishing reserves for losses of the joint insurance arrangement are actuarially sound.

(b) A joint insurance arrangement shall be subject to an annual independent audit. The audit shall be conducted in accordance with generally accepted auditing standards and must include a review of the actuarial assumptions used for establishing the reserves under (a) of this section. The audit report must include certification from a casualty actuary who is a member of the American Academy of Actuaries that the actuarial assumptions continue to be sound and the level of the reserves are adequate. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.050. Contracting with private administrators.** A cooperative agreement may authorize the board of directors to enter into contracts for services necessary to perform the functions of a joint insurance arrangement. The person contracting to perform the functions must be appropriately licensed under this title if this title so requires. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.060. Delegation of power to settle claims.** A cooperative agreement may delegate to the board of directors, or authorize delegation by the board to another person or group, the power to compromise, arbitrate, or otherwise settle claims on behalf of the arrangement. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.070. Excess insurance.** A cooperative agreement may authorize the board of directors to purchase excess or catastrophic insurance on behalf of the joint insurance arrangement. The cost of the insurance shall be apportioned in the manner specified in the joint insurance agreement. The board may purchase insurance under this section only from an insurer authorized to do business in the state, except that an arrangement formed by municipalities or school districts may purchase insurance under this section from a risk-sharing pool established by a national association of similar entities if the risk-sharing pool meets the qualifications for an unauthorized insurer under AS 21.34.040(b) and (d) and 21.34.220 and has capital and policyholders surplus in an amount at least as great as would be required if the association were a domestic multiple line insurer. An arrangement may purchase insurance under this section for property and liability risks from unauthorized insurers allowed for use by licensed Alaska surplus lines brokers. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.080. Joint insurance fund.** (a) A joint insurance arrangement shall establish a joint insurance fund. The fund consists of money

(1) contributed by members of the joint insurance arrangement through budgetary appropriations or transfers from a self-insurance reserve;

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

(3) collected by the joint insurance arrangement through subrogation of a claim paid from the fund to a member of the arrangement.

(b) An expenditure may be made from a joint insurance fund only to

(1) pay claims, losses, or benefits, including interest on them, and the administrative and adjustment expenses incurred in connection with them, involving the types of protection for which the fund provides coverage as specified in the joint insurance agreement;

(2) pay contractual obligations of a joint insurance fund established by a municipal joint insurance arrangement to the Alaska Municipal Bond Bank Authority or other lender; and

(3) purchase insurance coverage for members of a municipal joint insurance arrangement on a group basis.

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

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

(e) Within 150 days of the end of the fiscal year, the administrator shall furnish a detailed report of the operation and condition of the fund to the board of directors and the director of the division of insurance.

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

(g) A fund may not be terminated unless the administrator certifies that an amount of money sufficient to pay accrued and contingent expenditures has been placed in a fully collateralized escrow account. (§ 1 ch 136 SLA 1986; am § 3 ch 85 SLA 1989; am § 97 ch 81 SLA 1997)

**Effect of amendments.** — The 1997 amendment, effective July 1, 1997, rewrote subsection (e).

**Sec. 21.76.090. Filing of agreement.** The board of directors shall file a copy of the cooperative agreement with the director of insurance at least 60 days before the effective date of the agreement. The agreement shall be available for public inspection. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.100. Regulations.** A cooperative agreement may authorize the board of directors to adopt rules not inconsistent with law for the fair and equitable administration of the joint insurance arrangement and the joint insurance fund. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.110. Subrogation.** A joint insurance arrangement has a right of subrogation with respect to its participants to the same extent that an insurer has a right of subrogation with respect to one of its insureds. (§ 1 ch 136 SLA 1986)

**Sec. 21.76.120. Debt financing.** (a) A municipality or a municipal joint insurance arrangement may authorize the issuance of negotiable or nonnegotiable bonds, notes, or certificates of participation to establish reserves and to self-insure against liability not covered by excess insurance or reinsurance. A bond, note, or certificate issued under this subsection by a municipal joint insurance arrangement shall be secured and payable from participating members of the municipal joint insurance arrangement as provided in the cooperative agreement.

(b) A municipality that has entered into a municipal joint insurance arrangement may enter into contracts and agreements concerning debt issued under (a) of this section and provide for matters that affect the security of the debt. Bonds, notes, and certificates of participation issued under (a) of this section may be sold at either public or private sale as provided by the participants in the municipal joint insurance arrangement in the manner and at the price the participants determine. (§ 4 ch 85 SLA 1989)

**Cross references.** — For legislative findings and purpose in connection with the enactment of this section, see § 1, ch. 85, SLA 1989 in the Temporary and Special Acts.

**Sec. 21.76.900. Definitions.** In this chapter

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

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

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

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

(5) "fund" or "joint insurance fund" means a fund established under AS 21.76.080;

(6) "joint insurance arrangement" means a joint insurance arrangement authorized under AS 21.76.010. (§ 1 ch 136 SLA 1986)

## Chapter 78. Rehabilitation and Liquidation.

### Section

- 10. Jurisdiction of delinquency proceedings
- 20. Commencement of delinquency proceedings
- 30. Injunctions and orders
- 40. Grounds for rehabilitation
- 50. Grounds for liquidation
- 60. Grounds for conservation, foreign insurers
- 70. Grounds for conservation, alien insurers
- 80. Grounds for ancillary liquidation
- 90. Order of rehabilitation
- 100. Order of liquidation, domestic insurers
- 110. Order of liquidation, alien insurers
- 120. Order of conservation or ancillary liquidation of foreign or alien insurers

### Section

- 130. Conduct of delinquency proceedings against domestic and alien insurers
- 140. Conduct of delinquency proceedings against foreign insurers
- 150. Claims of nonresidents against domestic insurers
- 160. Claims against foreign insurers
- 170. Form of claim
- 180. Priority of certain claims
- 190. Attachment and garnishment of assets
- 200. Uniform Insurers Liquidation Act
- 210. Deposit of money collected
- 220. Exemption from fees



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ANCHORAGE OFFICE

## POSTION PAPER

The Alaska Municipal League Joint Insurance Association (AML/JIA) supports changes to AS 21.76 adding small nonprofits, Native associations, and Native village governments to the existing pooling statute.

Each month, the AML/JIA receives phone calls from Native village governments seeking insurance coverage. They are disappointed to discover that this is permitted for municipal governments organized under state law, but not for the 227 Federally recognized Native village governments in Alaska. Apparently, they have had some trouble finding coverage in the traditional market.

It is also common to hear from our member municipalities or school districts that are seeking coverage for small-nonprofit partners such as friends of the library, senior citizen centers, the humane society (animal control) or others who perform traditional governmental functions.

It is the AML/JIA's view that as state aid to municipalities declines, more services are being dropped or shifted to other service providers. Since existing pools organized under AS21.76 are accustomed to dealing with these exposures, it makes sense to permit these entities to pool with the new service providers as well.

A number of municipalities have dissolved in the past six years, and many more are seriously questioning their future. In many of these cases, especially where municipal governments have already dissolved, Native village governments have stepped in to provide services.

Since the *Venette* decision, it seems clear that these Native village governments in Alaska do not have taxing authority over non-members in the absence of Indian Country. This lack of taxing authority is a concern for some, who feel that state-organized municipalities with taxing authority could be paying for losses in small communities without taxing authority in the unlikely event of a pool failure. This is already the case.

Page 1 of 3

Local Government at its BEST!  
Visit our website: [www.amljia.org](http://www.amljia.org)

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February 9, 2000  
AML/JIA Position Paper

Many small communities such as Platinum (52) may have the authority to tax, but without a tax base they are essentially in the same position as Native village governments. This one reason why Alaska's pools have structured themselves to use excess insurance or reinsurance to avoid the catastrophic losses that could threaten a pool's financial integrity. The assessment provisions presently in statute were placed there to provide a level of comfort to the lawmakers of the mid-80's when the pooling concept was still a new idea. As a practical matter, it would be financial suicide for a pool to assess a member (possibly requiring them to go back to the taxpayers). This has never happened and is essentially a safety valve that fourteen years after the initial law was passed seems inconceivable to use.

In fact, the tax issue would only arise if all a pool's assets were insufficient to fund a loss. The AML/JIA presently exceeds all national pooling standards by a significant margin, and has admitted assets of approximately \$16 million. Since the AML/JIA is never exposed to more than \$250,000 on any loss it would take more large losses in a single year than we have experienced in the past 12 years total to exhaust the financial resources of the organization.

The Alaska Municipal League (AML) also supports the idea of adding Native village governments to the pooling statute. The 2000 Policy Statement (Local Govt. Powers, D, 2) states:

2. *Risk-Pooling: The League supports legislation enabling tribal organizations that provide municipal services to pool for the purposes of risk sharing and insurance services. As state funds to municipalities decline, tribal entities are filling the void to provide municipal-type services to Alaska's citizens. Pooling is a cost-effective, efficient method for handling insurance needs of all entities providing these critical public services. Amending AS 21.76 to permit tribal organizations to pool with municipalities helps keep the cost of providing public services lower. (am 11/99)*

In summary, both the AML & the AML/JIA support the idea of amending AS21.76 to include groups such as nonprofits and Native village governments providing municipal services. In fact, it is important to note that in the absence of a municipal government, the State of Alaska may be

FROM : GILLESPIE & ASSOCIATES  
FEB-08-00 WED 01:31 PM

AMLJIA

PHONE NO. : 907 463 5522  
FAX NO. 907 210 3013

Feb. 09 2000 03:18PM P4  
11 03/00

February 9, 2000  
AMLJIA Position Paper

facing liabilities associated with the public infrastructure such as schools. As public sector services in Alaska continue to shift to different public sector service providers, the need for affordable coverage and loss control services continues to be an important issue. Alaska's public entity pools seem a logical mechanism to provide affordable, quality risk financing to protect municipalities, Native village government organizations, small nonprofits, and the State of Alaska's citizens.

If I can answer any questions regarding this proposal, please let me know.

Sincerely,



Eileen Terwilliger, ARM  
Executive Director  
AMLJIA

**Alaska Municipal League Joint Insurance Association, Inc.**

**FY2000 Participants**

- |   |                                     |                                   |
|---|-------------------------------------|-----------------------------------|
| 51 Akhiok                               | 117 Gambell                         | 63 Nuiqsut                        |
| 7 Akutan                                | 4 Golovin                           | 85 Nulato                         |
| 89 Alakanuk *                           | 60 Goodnews Bay                     | 146 Nunapitchuk                   |
| 86 Aleknagik                            | 133 Haines *                        | 53 Old Harbor                     |
| 82 Aleutians East Borough               | 134 Haines Borough/Schools          | 19 Ouzinkie                       |
| 88 Aleu. East Boro Schools              | 157 Homer - PI                      | 20 Palmer *                       |
| 118 Ambler                              | 160 Hoonah - SD                     | 57 Pelican                        |
| 147 Anch.SD/Aquarian Chtr - WC          | 67 Hoonah Schools                   | 72 Pilot Point                    |
| 148 Anch.SD/FamilyPartnership Chtr - WC | 13 Hooper Bay                       | 43 Pilot Station                  |
| 164 Anch.SD/Village Chtr - WC           | 41 Houston                          | 98 Platinur1                      |
| 149 Anch.SD/Walden Chtr - WC            | 130 Hughes                          | 68 Point Hope                     |
| 99 Anderson                             | 31 Huslia                           | 119 Port Alexander                |
| 55 Aniak                                | 84 Hydaburg                         | 144 Port Heiden - BM              |
| 81 Anvik                                | 124 Iditarod Area Schools - RL      | 23 Port Lions                     |
| 46 Atka                                 | 153 Kaktovik                        | 156 Pribilof School District - WC |
| 50 Atkasuk                              | 107 Kaltag                          | 163 Ruby/Ruby Electric - WC       |
| 10 Barrow                               | 69 Kasann                           | 59 Russian Mission                |
| 95 Bethel * - RL                        | 154 Kenai Pen. Boro/Schools         | 87 St. George                     |
| 100 Bettles                             | 48 Kiana                            | 32 St. Mary's *                   |
| 101 Brevig Mission                      | 38 King Cove *                      | 137 St. Mary's Schools - RL       |
| 74 Bristol Bay Borough/Schools *        | 56 Klawock *                        | 145 St. Michael                   |
| 91 Buckland                             | 78 Kobuk                            | 35 Sand Point*                    |
| 103 Cheformak                           | 93 Kodiak * - B                     | 108 Savoonga                      |
| 104 Chevak                              | 102 Koliak Island Borough/Schools   | 106 Saxman                        |
| 80 Chignik                              | 39 Kotlik                           | 83 Scammon Bay                    |
| 37 Chuathbaluk                          | 15 Kotzebue *                       | 96 Selawik                        |
| 167 Clark's Point                       | 165 Koyuk                           | 138 Seldovia - PI                 |
| 112 Coffman Cove                        | 155 Koyukuk                         | 34 Seward *                       |
| 47 Cold Bay                             | 114 Kuspuk Schools                  | 152 Sheldon Point                 |
| 131 Copper River Schools - RL           | 158 Kwethluk *                      | 1 Soldotna *                      |
| 159 Cordova/Schools/Medical Ctr. * - B  | 97 Lake & Peninsula Borough         | 162 SW Region School District - N |
| 66 Craig Schools                        | 62 Larsen Bay                       | 94 Tanana                         |
| 52 Deering                              | 71 Lower Kalskag                    | 161 Tanana School District - WC   |
| 141 Delta Junction - WC                 | 136 Lower Yukon Schools - RL        | 58 Teller                         |
| 90 Denali Borough                       | 168 Manokotak                       | 27 Tenakee Springs                |
| 36 Dillingham *                         | 128 Marshall *                      | 28 Thorne Bay                     |
| 109 Dillingham Schools                  | 110 McGrath                         | 65 Togiak *                       |
| 105 Diomede                             | 16 Mountain Village *               | 8 Unalakleet *                    |
| 11 Eagle                                | 2 Nenana *                          | 122 Valdez (LELP)* - WC           |
| 70 Eck                                  | 121 Nenana City Schools - WC        | 6 Wainwright                      |
| 113 Egegik *                            | 166 New Stuyahok                    | 79 Wasilla *                      |
| 151 Ekwok                               | 45 Newhalen                         | 49 White Mountain                 |
| 12 Elim                                 | 17 Nikolai                          | 21 Whittier *                     |
| 5 Emmonak *                             | 33 Nome *                           | 116 Wrangell *                    |
| 61 False Pass                           | 42 Noorvik                          | 76 Yakutat, City & Borough *      |
| 73 Fort Yukon *                         | 169 North Pole (LELP)* - WC         | 139 Yakutat Schools - SD          |
| 142 Galena * - WC                       | 150 North Slope Borough (LELP)* - B | 140 Yukon Flats Schools - WC      |

138 CORE Participants

3 LELP only

**141 Total Participants**

Fw: HB 404

**Subject:** Fw: HB 404  
**Date:** Mon, 6 Mar 2000 11:54:14 -0900  
**From:** "Kevin Smith" <kev@pobox.alaska.net>  
**Reply-To:** "Kevin Smith" <kevins@jnu.amljia.org>  
**To:** "Rep. Gary Davis" <Representative\_Gary\_Davis@legis.state.ak.us>  
**CC:** "Deb Davidson" <Deb\_Davidson@legis.state.ak.us>, <ftasnvc@bristolbay.com>

Dear Rep. Davis:

I received this e-mail of support for HB404 that you might wish to add to your growing collection.

-- Kevin Smith

----- Original Message -----

**From:** ftasnvc  
**To:** [kevins@jnu.amljia.org](mailto:kevins@jnu.amljia.org)  
**Sent:** Monday, March 06, 2000 11:03 AM  
**Subject:** HB 404

The South Naknek Village Council supports passage of HB 404. We are a federally recognized tribe and have been providing services to all community members since our inception in the early 60's. Although we are part of the Bristol Bay Borough, we provide our own water and sewer, health services and federal and state grants.

We support HB 404 since it would lower our insurance premiums.

## City of Soldotna

177 North Birch • Soldotna, Alaska 99669 • Phone: (907) 262-9107



March 17, 2000

The Honorable Gary Davis  
House of Representatives  
State Capitol  
Room 513  
Juneau, Alaska 99801-1182

Dear Representative Davis:

The City of Soldotna is a charter member of the Alaska Municipal League/Joint Insurance Association and as such fully support HB404 which would allow the AML/JIA risk pool to expand to include Native associations, Native village councils and non-profits exercising at least two municipal powers as listed in AS 29.35.010.

It is our belief that adding these entities will make the pool stronger, as well as provide the needed affordable coverage and loss control services to those who are now attempting to provide such items even though they are not part of a municipality.

We support HB404 as the best way to provide them with coverage while hopefully lowering the cost of providing public services for us all.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Lancaster".

Ken Lancaster  
Mayor