

**HB**

**147**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 147(L&C)  
(H) Publish Date: 1/1/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title Omnibus Insurance RDU Insurance (116)  
Component Insurance  
Sponsor Rules by request of the Governor  
Requester House Labor & Commerce Component No. 354

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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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 (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation does not have a fiscal impact on the operations of the division since there are no union health trust sections in the current version.

Prepared by: Linda S. Hall, Director Phone: 907 269 7500  
Division: Insurance Date/Time: 3/29/05 5:59 PM  
Approved by: Edgar Blatchford, Commissioner Date: 3/29/2005  
Agency: Commerce, Community, and Economic Development

4/15/05

24-GH1983\G.3

Bullock

4/15/05

adopted N/D

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE MEYER

TO: CSHB 147(L&C)

1 Page 15, line 25, following "whether":

2 Delete "an"

3

4 Page 15, line 26:

5 Delete "insurer"

6 Insert ", "

4/15/05  
adopted No

24-GH1083\G.1  
Bullock  
4/15/05

AMENDMENT

2

OFFERED IN THE HOUSE  
TO: HB 147(L&C)

BY REPRESENTATIVE MEYER

- 1 Page 11, lines 28 - 29:
- 2 Delete "a self-funded multiple employer welfare arrangement regulated under
- 3 AS 21.85"
- 4 Insert "any person issued or required to obtain a certificate of authority under this
- 5 title to transact life insurance, annuities, and health insurance or to provide coverage for
- 6 the cost of medical care"
- 7
- 8 Page 17, line 2, following "annuities,":
- 9 Delete "or"
- 10
- 11 Page 17, lines 2 - 5:
- 12 Delete "offered or provided by an insurer, or in connection with coverage
- 13 offered or provided by a self-funded multiple employer welfare arrangement
- 14 regulated under AS 21.85 or the Comprehensive Health Insurance Association
- 15 created under AS 21.55"
- 16 Insert ", or the provision of coverage for the cost of medical care"

4/15/05  
adopted N/A

24-GH1083VG.2  
Bullock  
4/15/05

AMENDMENT

3

OFFERED IN THE HOUSE  
TO: CSB 147(L&C)

BY REPRESENTATIVE MEYER

1 Page 2, line 8, through page 3, line 21:

2 Delete all material.

3

4 Renumber the following bill sections accordingly.

5

6 Page 14, following line 31:

7 Insert a new bill section to read:

8 **\*\* Sec. 22.** AS 21.36 is amended by adding a new section to read:

9

10 **Sec. 21.36.065. Limitation on owner controlled and contractor controlled**  
11 **insurance programs.** (a) An owner controlled insurance program or a contractor  
12 controlled insurance program is subject to both AS 21.39 and AS 21.42, must be  
13 approved by the director, and shall be allowed only for a major construction project.  
14 Owner controlled and contractor controlled insurance programs are limited to property  
15 insurance as defined in AS 21.12.060 and casualty insurance as defined in

16 AS 21.12.070.  
17 (b) In this section, an owner controlled or contractor controlled insured  
18 program does not include

18 (1) builder's risk or course of construction insurance;

19 (2) insurance relating to the transportation of cargo or other property;

20 (3) insurance covering one or more affiliates, subsidiaries, partners, or  
21 joint venture partners of a person; or

22 (4) insurance policies endorsed to name one or more persons as  
23 additional insureds.

1 (c) In this section,

2 (1) "contractor" means a person who meets the definition of  
3 "contractor" in AS 08.18.171 and who undertakes the performance of a construction  
4 project for a project owner, its agent, or its representative;

5 (2) "contractor controlled insurance program" means an insurance  
6 program where one or more insurance policies are procured on behalf of a contractor,  
7 its agent, or its representative, by its insurance producer, as defined in AS 21.27.900,  
8 for the purpose of insuring the contractor and one or more of the following:

9 (A) the project owner;

10 (B) a subcontractor;

11 (C) an architect;

12 (D) an engineer; or

13 (E) a person performing professional services;

14 (3) "major construction project" means the process of constructing a  
15 structure, building, facility, or roadway or major renovation of more than 50 percent of  
16 an existing structure, building, facility, or roadway having a contract cost of more than  
17 \$50,000,000 of a definite term at a geographically defined project site;

18 (4) "owner controlled insurance program" means an insurance program  
19 where one or more insurance policies are procured on behalf of a project owner, its  
20 agent, or its representative, by its insurance producer, as defined in AS 21.27.900, for  
21 the purpose of insuring the project owner and one or more of the following:

22 (A) the contractor;

23 (B) a subcontractor;

24 (C) an architect;

25 (D) an engineer; or

26 (E) a person performing professional services;

27 (5) "project owner" means a person who, in the course of the person's  
28 business, engages the service of a contractor for the purpose of working on a  
29 construction project;

30 (6) "subcontractor" means a person to whom a contractor sublets all or  
31 part of a contractor's initial undertaking."

1

2 Renumber the following bill sections accordingly.

3

4 Page 15, line 25:

5 Delete "AS 21.12.140"

6 Insert "AS 21.36.065"

7

8 Page 15, line 29:

9 Delete "AS 21.12.140"

10 Insert "AS 21.36.065"

11

12 Page 17, line 26:

13 Delete "22"

14 Insert "21"

15

16 Page 17, line 28:

17 Delete "22"

18 Insert "21"

19

20 Page 17, line 29:

21 Delete "22"

22 Insert "21"

## Committee Changes to HB 147

Discussions from the Committee and public testimony prompted the removal of the following parts of HB 147 24-GH1083A:

Section 28: Page 15, line 6 – Page 17, line 25

Section 29: Page 17, line 26 – Page 18, line 3

Section 30: Page 18 lines 4 – 20

Section 33: Page 19 lines 12 – 15; lines 20 – 28

In addition, a new Section 3 was added into CSHB 147(L&C) on Page 2, line 8 – Page 3, line 21 and a new Section 24 on Page 25 lines 24 – 29. This amendment addresses the limitations on the use of Owner Controlled Insurance Programs (OCIP) and Contractor Controlled Insurance Programs (CCIP) to the construction of large (\$50,000,000.00+) projects of public or private nature over a defined period of time at a specified location or region.

All of the abovementioned changes have been completed with the input and consent of the Division of Insurance (the bill's sponsor).

## Section Analysis of HB 147/SB 108

Sec.	Statute	Change	Purpose or Effect
1	21.09.160	Amended	Removes requirement that the director provide specific notice to agents appointed with an insurer of the suspension or revocation of the insurer's certificate of authority; clarifies automatic suspension or revocation of authority of a managing general agent of an insurer whose certificate of authority has been suspended or revoked.
2	21.09.160(c)	Added	Requires an insurer to notify its agents and managing general agents of the insurer's suspension or revocation.
3.	21.24.040(a)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
4.	21.24.040(c)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
5.	21.24.130(d)	Amended	Provides public protection by permitting the director to release an insurer's statutory deposits to a guaranty fund of which the insurer is a member, if a right to receive all or a portion of the deposit is assigned to the guaranty fund.
6	21.27.010(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900; changes reference to the specific third party administrator statutes.
7	21.27.100	Amended	Eliminates requirement for insurer or managing general agents to file appointments with the division; requires the insurer and producer to maintain a listing of agents/managing general agents and to provide the list upon request of the director.
8	21.27.110	Amended	Eliminates requirement for an insurer or reinsurer to file termination of appointments with the division since appointments will no longer be filed with the division; however, an insurer or reinsurer will be required to file notice of termination when the termination is for cause.
9	21.27.380(a)	Amended	Allows the director to notify a licensee of renewal by means other than mail.
10	21.27.630(b)	Amended	Replaces the term "class of insurance" with the defined term "class of authority."
11	21.27.630(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900.
12	21.27.630(k) and (l)	Added	Removes the requirement of an admitted insurer to file and obtain a separate third party administrator registration; adds a requirement for a third party administrator who qualifies for exemption to file a certification with the director.
13	21.27.650(a)	Amended	Includes a requirement for a person who meets an exemption

			provision under the chapter to file a certification with the division.
14	21.27.660	New	Clarifies that the Comprehensive Health Insurance Association is considered an insurer for the purposes of a person who acts as a third party administrator on behalf of that association.
15	21.27.650(q)	Added	Authorizes the director to immediately suspend a third party administrator's registration, without advance notice or hearing, if the administrator is insolvent, in bankruptcy, in receivership or other delinquency proceeding or is using methods or practices injurious to policy holders or the public.
16.	21.27.900(33)	New	Defines appointment
17.	21.34.040(d)	Amended	Specifies the timing for financial reporting for alien insurers to coincide with their filing dates for stockholder reports; eliminates duplication.
18.	21.34.100(a)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
19.	21.34.100(f)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
20.	21.36.030(a)	Amended	Expands provision prohibiting misrepresentation and false advertising to include electronic communications.
21.	21.36.030(a)	Amended	Adds reference to health discount plans to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21; specifies that misleading references to health discount plans are considered unfair trade practices.
22.	21.36.155	New	Adds provision to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21 and establishes guidelines for regulation of these products.
23.	21.36.195	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
24.	21.51.405	New	Requires that rates for health insurance policies not be excessive, inadequate or unfairly discriminatory. The change makes the standards applicable to individual health insurance rates the same as those that apply to other types of insurance and brings Alaska law in line with other states.
25.	21.55.500(16)	Amended	Clarifies that the plan administrator for the Comprehensive Health Insurance Association must be registered as a third party administrator.
26.	21.66.080(a)	Amended	Allows the director to designate the location for filing of financial statements for title insurers to be consistent with other insurers.
27.	21.66.085(b)	Amended	Changes the due date for financial statements for title insurers to be consistent with other insurers.

28.	21.85.200 - .230	New	Provides for division oversight of certain self-funded governmental plans that are exempt from coverage under the state's group plan.
29.	21.85.500	New	Defines self-funded governmental plans.
30.	21.89.120	New	Clarifies the director's authority to adopt regulations regarding the regulation of motor vehicle service contracts and guaranteed automobile protection products.
31.	21.90.900(42)	Amended	Expands definition of third party administrators to include administrators for the Comprehensive Health Insurance Association or for self-funded employer plans subject to AS 21.85.
32.	21.90.900(43)	Amended	Expands definition of transact to apply in the context of providing coverage for medical care.
33.	21.90.900(45) - (47)	New	Adds definitions for guaranteed automobile protection, health discount plan and motor vehicle service contract.
34.	21.24.040(b); 21.27.330(b); 21.27.650(p)	Repealed	Removes reference to use of safe deposit boxes; eliminates requirement for firms to file and pay a fee for branch offices; and removes provision that defines transact with respect to operating requirements for third party administrators as it has been moved to a definition section at the end of the article pertaining to third party administrators.
35.	Uncodified Law	Amended	Allows regulations for implementation for certain sections but not before those sections are effective.
36.	Uncodified Law	Amended	Provides revisors instructions regarding title of section 21.85 and restructuring of section into three articles.
37.	Effective Date		Makes certain sections effective July 1, 2005.
38.	Effective Date		Makes all other sections effective immediately.

HB 147			
	TRUST	MEWA	INSURER
Certificate of Authority		X	X
Deposit		200,000	300,000
Capital & Surplus	30% Claim Liability	0	Up to 5.2 Million
Risk Based Capital Analysis			X
Reserves	Statute 21.18	Statute 21.18	Statute 21.18
Audited Annual Statement	Traditional	Yes - 21 pages	Yes - 120 pages
Non-Audited Quarterly	X	X	X
Biographical Affidavits		X	X
Premium Tax		X	X
Fees			\$2,350
Fidelity Bond	10% of Claim Liability	ERISA	X

## HOUSE BILL 147

### A. FILING REQUIREMENTS

1. Contribution Rates : Adequate to pay claims
2. Plan Description : To participants so know what is covered
3. Administrative Services : Qualified handling of claims
4. Financial Audit : Solvency Analysis
5. Actuarial Opinion : Reserves for claims, Stop Loss Coverage for plan protection, recommendations for financial condition
6. Number of employees & dependents covered

### B. ADDITIONAL REQUIREMENTS

1. Scope of Insurance Code
2. Director Authority for Hearings and Orders
3. Managed Care – Internal and External Review/Judgement such as utilization or pre-authorization
4. Records
5. Reserve requirements
6. Trade Practices
7. Group Life
8. Mandates
9. Group Health – Federal Requirements such as HIPPA
10. Rehabilitation & Liquidation
11. Definitions

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES



⊕ **2 AAC 39.900. Exemption from group health and life insurance coverage for state bargaining units**

⊕ (a) A bargaining unit of the executive branch of the state may be exempted from the coverage of the group insurance policy or policies covering state employees, their spouses, and eligible dependents by entering into a collective bargaining agreement that meets the requirements of (b) and (c) of this section, and if the commissioner of administration approves the exemption.

(b) A collective bargaining agreement exempting a bargaining unit from the coverage of a group policy or policies as provided in (a) of this section must provide for the indemnification of the state for liability for any consequence, loss, injury, or claim arising from the exemption.

(c) An alternative insurance program implemented as a result of an exemption permitted under this section must comply with all applicable federal and state law and regulations, and, beginning July 1, 2004, meet the requirements of mandatory coverage set out in AS 39.30.090 (a)(2), and the requirements of 2 AAC 39.910 and 2 AAC 39.915.

⊕ **History:** Eff. 6/9/89, Register 110; am 7/1/2003, Register 166

⊕ **Authority:** AS 39.30.090



Sec. ~~39.30.090~~ Procurement of group insurance.

(a) The Department of Administration may obtain a policy or policies of group insurance covering state employees, persons entitled to coverage under AS 14.25.168 , AS 22.25.090 , AS 39.35.535 or former AS 39.37.145, employees of other participating governmental units, or persons entitled to coverage under AS 23.15.136 , subject to the following conditions:

(1) A group insurance policy shall provide one or more of the following benefits: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, hospital expense insurance, surgical expense insurance, dental expense insurance, audiovisual insurance, or other medical care insurance.

(2) Each eligible employee of the state, the spouse and the unmarried children chiefly dependent on the eligible employee for support, and each eligible employee of another participating governmental unit shall be covered by the group policy, unless exempt under regulations adopted by the commissioner of administration.

(3) A governmental unit may participate under a group policy if

(A) its governing body adopts a resolution authorizing participation, and payment of required premiums;

(B) a certified copy of the resolution is filed with the Department of Administration; and

(C) the commissioner of administration approves the participation in writing.

(4) In procuring a policy of group health or group life insurance as provided under this section or excess loss insurance as provided in AS 39.30.091, the Department of Administration shall comply with the dual choice requirements of AS 21.86.310 , and shall obtain the insurance policy from an insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a health maintenance organization authorized to operate in this state under AS 21.86. An excess loss insurance policy may be obtained from a life or health insurer authorized to transact business in this state under AS 21.09 or from a hospital or medical service corporation authorized to transact business in this state under AS 21.87.

(5) The Department of Administration shall make available bid specifications for desired insurance benefits or for administration of benefit claims and payments to (A) all insurance carriers authorized to transact business in this state under AS 21.09 and all hospital or medical service corporations authorized to transact business under AS 21.87 who are qualified to provide the desired benefits; and (B) to insurance carriers authorized to transact business in this state under AS 21.09, hospital or medical service corporations authorized to transact business under AS 21.87, and third-party administrators licensed to transact business in this state and qualified to provide administrative services. The specifications shall be made available at least once every five years. The lowest responsible bid submitted by an insurance carrier, hospital or medical service corporation, or third-party administrator with adequate servicing facilities shall govern selection of a carrier, hospital or medical service corporation, or third-party administrator under this section or the selection of an insurance carrier or a hospital or medical service corporation to provide excess loss insurance as provided in AS 39.30.091 .

(6) If the aggregate of dividends payable under the group insurance policy exceeds the governmental unit's share of the premium, the excess shall be applied by the governmental unit for the sole benefit of the employees.

4



benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department shall procure any necessary excess loss insurance under AS 39.30.090.

# Alaska Public Employees Association/AFT (AFL-CIO)

State Headquarters/Juneau Field Office

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# APEA/AFT



March 16, 2005

The Honorable Tom Anderson,  
Alaska State Representative and  
Chair, House Labor & Commerce Committee  
State Capitol Room 408  
Juneau, AK 99801

RE: Opposition to HB 147 - Insurance

Dear Representative Anderson:

APEA/AFT wishes to express strong concerns about several sections of HB 147, which is currently before your committee.

The legislation impacts just a small number of our members but is both significant and negative in its impact. We represent approximately 300 school district employees in the Juneau School District, who work in maintenance, nursing, para-educators, and administrative clerks. Like many Alaskans, they have seen their health benefits costs increase to prohibitive levels.

The Juneau Education Support Staff (JESS) worked long hours with the school administration to reduce and control the staggering costs of the employees' health insurance program. Between 2002 and 2004, our Blue Cross health insurance premiums increased \$268.00 per employee per month, from \$500 to \$768. Last spring, we signed a contract to form our own health insurance trust. We have worked during the past year to finally establish that trust, and succeeded in reducing the monthly contribution rate to \$685 per employee, more than \$75.00 below the existing plan cost and saving substantial amounts of money to both the employees and the school district.

Unfortunately, provisions within HB 147 will pertain to our new trust and will result in the imposition of large fees and unanticipated costs to the trust. The new fees and costs do not improve or enhance our health insurance plans. Our members have taken the initiative to help bring their medical insurance costs down, thus helping both the state and the school districts, but if HB 147 passes as currently written, our members will be punished for their efforts and successful reduction of health insurance costs. We ask that you exempt our small group from excessive, costly and unnecessary requirement.

Thank you for giving us this opportunity to bring the issue to your attention. Please feel free to contact me should you need additional information.

Sincerely,

Pete Ford

Southeast Regional Manager

Cc: Members of the House Labor and Commerce Committee

*Anchorage Field Office*

3310 Arctic Blvd., Suite 200, Anchorage, Alaska 99504

*Fairbanks Field Office*

825 College Road, Fairbanks, Alaska 99701

## Statement of Opposition to HB 147 from Willis of Alaska

We are opposed to HB 147 because we believe the proposed legislation in Section 28 regarding Division oversight of certain governmental self-funded plans would cause many of our clients to incur a large expense of time and money, for a purpose that is not readily apparent to us.

The cost of healthcare has risen dramatically over the last 5 years, and is continuing to rise at a double digit pace. In Alaska, there are few options for employers when it comes to funding health benefits. Many have chosen a self-funded plan because it affords them more choice in designing a plan and serves as an efficient method for funding health benefits. If this bill becomes law, it will make the self-funded plan a much less attractive and would shift market share over to one of a handful of fully insured carriers writing business in Alaska. This means less competition in the healthcare market and higher costs for the State of Alaska and its employees.

**PUBLIC  
EMPLOYEES**



Submitted by Colleen Sovie at the request of Public Employees Local 71

**Opposition to Alaska State Legislature House Bill 147 / Senate Bill 108  
Sections 28 and 29**

**Summary:** Sections 28 and 29 of HB 147/SB 108 impose unnecessary regulation and costly administrative burden on Trust health plans which were established through the collective bargaining process to provide benefits to state employees.

**JIM ASHTON**  
Business Manager/  
Secretary-Treasurer

**ROBERT JOHNSON**  
President

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Imposes a Costly Administrative Burden

- The bill would require the Trusts to file actuarial reports and other documents. Two annual reports would be required, as well as a report each quarter. The estimated cost to the Trust in actuarial fees to produce the required filings is a minimum of \$40,000-\$50,000, assuming the actuary was already familiar with the plan. The fees could increase significantly if the actuary were not already familiar with the plan. In addition, we anticipate administrative costs and legal fees related to these filings.
- The bill requires the Trust maintain a fidelity bond covering each trustee in an amount not less than 10% of the benefits paid during the preceding plan year. For a large Trust, such as the ASEA/AFSCME Local 52, a bond of at least \$6.4 million would be required. This is substantially larger than the bonding requirements of ERISA and it is unusual for a health trust to carry a bond of this size. Consequently, coverage may be difficult or impossible to obtain. A bond of this size may no longer be considered an ERISA bond and may carry higher rates. A substantial deductible may also be required.
- The Division of Insurance will bear additional administrative expenses in order to review and process these filings.
- The State and State employees will also bear this administrative burden. The funds held by the Trusts' health plans are to be used to provide health benefits to plan participants. Every dollar that is diverted to administrative expenses is a dollar that is not available to provide health benefit coverage.

Interferes With Collective Bargaining

- This bill would allow the State to unilaterally determine the benefits to be provided to covered participants, because the Trust would be required to comply with all State-mandated benefits, the State-mandated requirements for the plan administered by the Department of Administration, and regulations adopted by the director. Although the Trust plans currently provide coverage at a level that is as high as or higher than what is mandated by the State, the Trust benefits are tailored to the participant group. The Trusts were originally created through the collective bargaining process in order to allow the health benefit contributions to be used in such a way to better benefit participants.
- Under this regulation, the Trust would be required to provide any additional information requested by the director, "relating to the financial condition, transactions, and affairs of the plan." This requirement could be used, to the State's advantage, during the collective bargaining process.

Imposes Requirements which may be Impossible to Meet

- The bill requires that the Trust "establish and maintain a plan of operation that ensures that the plan will remain solvent as certified to by a qualified actuary." It is unlikely that an actuary would assume the liability to "ensure" solvency of any health plan.
- The bill requires filing of contribution rates at least 60 days before the end of the plan year (June 30 for both the PE71 and ASEA plans). The employer contribution is funded by the legislature, and historically the funding has not been passed by the legislature early enough to enable this filing.

Is Unnecessary

- Each of the Trusts was approved by the Division of Retirement and Benefits and has an existing Letter of agreement in place allowing the provision of coverage to the members of the sponsoring union.
- Each Trust plan is subject to PHSA, HIPAA, COBRA, WHCRA, FMLA, USERRA, MHPA and other federally mandated requirements.
- The Trusts are also regulated by the IRS and have received tax-exempt determination letters as qualified voluntary employee beneficiary associations and must comply with all of the Treasury Regulations associated with VEBA qualification.
- The Trusts already report to the State under the terms of the LOAs.
- Both the PE71 and ASEA plans voluntarily comply with the fiduciary standards set forth in ERISA. The Trustees are fiduciaries, receive fiduciary training, are insured as fiduciaries, and purchase fidelity bonds to protect against dishonesty.
- The Trust plans already provide Summary Plan Descriptions to covered participants.
- The Trust plans undergo an annual audit by a qualified independent certified public accounting firm qualified in employee benefit plan audits. The participants are entitled to a copy of the audit results.
- Participants have an opportunity to appeal denied benefit claims; if they are dissatisfied with the appeal determination, the participant may arbitrate, and if dissatisfied with the decision of the arbitrator may file suit in State Superior Court.
- The Trusts are subject to the jurisdiction of the State of Alaska Superior Courts.



Alaska Independent  
Insurance Agents & Brokers, Inc.

March 14, 2005

Representative Tom Anderson, Chairman  
Labor & Commerce Committee  
24<sup>th</sup> Legislative, 1<sup>st</sup> Session  
Alaska State Capitol  
Juneau, AK 99801-1182

House Bill 147 – Alaska Statutes Section 21 Insurance

Dear Representative Anderson,

Enclosed is a proposed amendment to this legislation addressing limitations on the use of Owner Controlled Insurance Programs (OCIP) and Contractor Controlled Insurance Programs (CCIP) to the construction of large (\$50,000,000.00 +) projects of public or private nature over a defined period of time at a specific location or region.

OCIP and CCIP's have been designed in the past to provide for uniformity of insurance coverage limits and forms for a specific large construction project involving an array of various industry trades. Examples that are often described as OCIP and CCIP projects include the Trans Alaska Pipeline, Hoover Dam, and the Sears Tower in Chicago.

There are large employers in Alaska that are proceeding with or contemplating the use of OCIP and CCIP's for the maintenance and repairs of their existing facilities.

There are several problems with using this insurance method for maintenance and repair programs:

(1). The removal of any insurance clients out of the already fragile Alaska insurance market may lead to further deterioration of that competitive arena. The total volume of insurance business in Alaska is so small that any reduction in the available insurance risks would lead to additional insurance markets exiting the state.

(2). Any loss of the current insurance market will adversely affect the remaining clients overall bottom line cost. Fewer insurance markets leads to higher costs for the rest of the clients not involved with the OCIP and CCIP.

(3). OCIP and CCIP include all owners, contractors, and sub-contractors for all aspects of the construction project. All employers are defined and included on the insurance program. No dual employer situations exist, and the insurance provided is the sole source and remedy for the public and employee exposures. This is not so clear when the OCIP and CCIP form of insurance is used for maintenance or repairs of existing facilities.

Employees of XYZ sub-contractor may have several locations and jobs throughout the state for operations during the year, but only a small portion is performed on an OCIP facility. XYZ sub-contractor would provide workers compensation benefits to their employees during travel exposures around the state, but the OCIP or CCIP program might only provide benefits for the employee while actually present at the maintenance site. If the employee is being sent to the OCIP site by XYZ sub-contractor but not included for benefits until they actually arrive at the maintenance site, who is responsible for the travel exposure? This could lead to a lot of unnecessary litigation to determine the employer/employee status at the time and place of injury.

This proposed language amendment is designed to clarify when an OCIP or CCIP may be used, and would be subject to the Division of Insurance oversight and approval.

Please give this amendment your consideration. Thank you.

Sincerely,

Michael F. Combs, CIC  
Legislative Committee  
Alaska Independent Insurance Agents & Brokers, Inc.



DIVISION OF INSURANCE

*Frank H. Murkowski, Governor*

March 8, 2005

Mr. Greg Culbert  
P.O. Box 229  
Galena, AK 99741

Dear Mr. Culbert:

Thank you for your input on HB 147. You were concerned that the bill would subject your city's health care program to State jurisdiction.

Section 28 of the bill would apply to self-funded governmental plans that are currently exempt from the Division of Insurance's jurisdiction (a group policy covering state employees and their dependants under Alaska Statute (AS) 39.30.90 and regulations adopted thereunder). Currently, 2 AAC 39.900 allows an exemption from coverage under a group policy for "bargaining units of the executive branch of the state" i.e., state employee union health trusts. Therefore, section 28 would only apply to the five state employee union health trusts since these are the only "bargaining units of the executive branch of the state" exempt under 2 AAC 39.900.

Section 28 of HB 147 would not apply to political subdivisions because a political subdivision is not a bargaining unit of the executive branch of the state. Therefore, the provisions in Article 2 (AS 21.85) of the bill would not be applicable to municipalities, school districts, or other political subdivisions that self-fund their health plans.

Also, note that under AS 39.30.090, the state may obtain a policy of insurance covering "participating" political subdivisions approved by the Commission. A political subdivision that self-funds its health plan is clearly not participating in a health insurance policy purchased by the state and therefore AS 39.30.090 would not apply and since AS 39.30.090 does not apply, Section 28 of HB 147 would not apply to such self-funded political subdivisions.

Please feel free to contact me with any additional questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Linda S. Hall". The signature is written in a cursive, flowing style.

Linda S. Hall  
Director

LH/KC/go4635.2  
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Mr. Chairman:

My name is Patricia Nault. I am here today as a Trustee of the ASEA Health Benefits Trust which I will refer to in my remarks as "the Trust". The Trust is one of the entities that would be subject to the requirements proposed in Sections 28 & 29 of HB 147. By definition in the Trust Agreement, Trustees are members of ASEA Local 52, so I am also a union member and beneficiary of the Trust.

Since 2001, the Trust has been providing employee health benefits under a self-insured plan to approximately 7,000 ASEA members and an additional 10,000 dependents of these members under provisions of the union's collective bargaining agreement with the State.

I am a relatively new Trustee, having been elected to this responsibility in November 2004 by fellow union members. I ran for this seat because I felt that by virtue of 1) the experience and knowledge I have gained in 12 years of working in policy and program development at the Department of Health & Social Services and 2) my master's degree in public administration, earned in 1999 from the University of Alaska Southeast, I could contribute to the long-term success of the Trust. In the total of 20 years I have worked as a state employee I have relied on the health benefits provided to state employees to take care of my family's health care needs. I am now doing my part to make sure future state employees who are members of Local 52 can continue to count on a good benefits package at a reasonable out-of-pocket cost.

I am here to express my concern that the requirements on self-funded government plans proposed in HB147 will increase the Trust's administrative costs without

Thank you, Mr. Chairman; I'm Chris Pace, a state employee. My comments are against sections 28 and 29 and the fiscal note.

One of the positive reasons I like working for the state is that we benefit from a self-funded government health plan sponsored by our union, Alaska State Employees Association. We enjoy more health benefits from our precious health care dollars because we've been successful in keeping our administrative overhead costs down.

HB 147 would reverse that. This bill would result in administrative overhead expense that I don't want or need. My health plan is already being regulated as a trust under Alaska Statute Title 13, and through our contract and letter of agreement by the Division of Retirement and Benefits.

I hear about other bills aimed at keeping health care costs down. The worker's comp bill would pay doctors and hospitals at 1999 rates to keep health care costs down. The PERS and TERS bills are partly to keep future state and municipal employee health care costs down. Legislation to cap medical malpractice awards is aimed at keeping doctor's insurance costs and rising health care costs down. But HB 147 will do the opposite and drive my state employee health care cost up.

It won't provide any additional money for doctor visits, prescriptions or dental care. It would only move money out of state employee paychecks and into the pockets of actuaries, accountants and bond brokers.

I know the legislature is always cautious when it comes to adding new laws that increase the financial burden and regulatory costs on the private sector in Alaska. Well, here is a bill that would increase health care costs for thousands of state employees, and yet the fiscal note only includes funding for one additional regulatory official at the Division of Insurance. Shouldn't the fiscal note also include funding to pay the union health plans for more actuaries, or for buying the huge fidelity bonds that would be required?

Those added costs weren't factored into the contracts we just negotiated with the state. Your health plan, the one for the commissioners, directors, legislators and your legislative staff, isn't going to be burdened with these new costs - only the union plans will have to pay. That's not a level playing field. I'm just afraid that the tab for these additional regulatory costs is going end up on the backs of state government employees.

So, I urge you to either not pass this bill - HB 147 - or else to fix it here in committee and remove sections 28, 29 and the fiscal note. Again, thank you.