

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1111 SCOMM 33: WORKERS COMPENSATION, 1979-1982 //

Although the Commissioner claims repeated requests for new positions were denied, the same memorandum indicates that during the preceding three years the Commissioner requested a total of 4.5 positions and received 2.¹ The Division got the extra person requested in FY 79; in fact, that year the Commissioner got 97.8% of his workers' comp budget request -- and the 2.2% cut was not made by the Legislature, but by the Governor. Last year it was the Governor -- not the Legislature -- that took a major chunk out of the Division's budget request increase; the Legislature's comparatively dainty bite was more than restored by a supplemental appropriation from the Governor.

To summarize, while it is true that the Legislature has not devoted much time to workers' comp since 1976, it is difficult to demonstrate the Legislative cuts in the Administration's budgets are the primary cause of today's problems. To the contrary, a careful comparison between the increasing caseload and Administration budget requests indicates a major cause of current comp problems may be that the Department of Labor failed to anticipate or take timely measures to cope with the situation as it developed. Although the Commissioner acknowledged a critical situation in November 1977, until this year there was little outward indication of concerted Department of Labor efforts to get the comp program back on the track.²

¹ Different Department of Labor recapitulations give slightly different figures for the increase in comp personnel since FY 75. When he referred to repeated requests for new positions, the Commissioner may have been thinking of requests for major increases in comp personnel that were turned down in FY 72 and FY 75; those requests were made by the preceding Commissioners under a different administration.

² Possible signs of this effort might include: proposals for sweeping changes; press releases about comp; letters to unions, civic and business groups calling attention to comp problems; requests for meetings with legislators, legislative aides, the Governor and/or executive aides to discuss comp; contact with comp protest organizers, or comp reform groups such as OVIA.

The remainder of this section will focus on the specific problems the Division faces and the manner in which the Division has responded to these problems. The gist of this assessment is that the proposal to add staff and computerize the record-keeping system is commendable and long overdue, but other measures to improve the comp system are also necessary. Because the Workers' Comp Division seems to be too swamped to generate the momentum to make the necessary changes, it is to be hoped that the Legislature will encourage the Department to take an aggressive role in promoting reform of the comp system.

(2) Modernizing the Record-Keeping System

A Dept. of Labor internal review of Workers' Comp Division operations concluded that

. . . so much time is devoted to finding a case to put the various elements together, no time is left to question injury and first payment reports that may be months late. . . . the staff is so busy manipulating paper, there is no time for enforcement efforts when very late reports are received.¹

The analysis of paper flow described a system incapable of processing reports in a timely manner. For example, Alaska statutes require the carrier to make first payment within 14 days of notification; the law adds a 20 per cent penalty payment for noncompliance.² A Division tally disclosed during 1978 that out of 3,889 first payments to cover wage loss, only 1,093 (28 per cent) were made within the 14-day period required by law. The remaining 72 per cent were almost evenly divided between the 15-to-28-day period and over 28 days.³

¹ Department of Labor, Internal Review Section, Workmen's Compensation Division: Analysis & Recommendations (Nov. 23, 1979), p. 6.

² AS 23.30.155(b): "The first installment of compensation becomes due on the 14th day after the employer has knowledge of the injury or death." AS 23.30.155(e): "If any installment of compensation payable without an award is not paid within 14 days after it becomes due, as provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 20 per cent of it. . . ."

³ Dept. of Labor, "Report to the IALABC on Promptness," Exhibit K of Analysis & Recommendations (op. cit.).

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In its current budget request document, the Division cites similar figures and says it hopes improvements in the record-keeping system will enable the Division to assess the penalty, thereby providing incentive for compliance with the law. (Keep in mind that the purpose of the payment is to replace wages the worker who is laid up suddenly loses.)

The internal review also reports:

Anytime compensation is stopped or suspended, carriers and self-insured employers are required by law (AS.23.30.155) to notify the Workmen's Compensation Board within 16 days. Failure to report within that time should result in an assessment of a \$100 civil penalty. Penalties are now being assessed whenever the Board is made aware compensation has stopped and no report is made, but only as a result of claimant complaints. Carriers reporting beyond the 16 day deadline are not routinely penalized under the current system.¹

The failure to enforce compliance of A.S. 23.30.155(c) twice affected the affairs of Cary Ortberg, whose case is described above (Chapter 2.B.2.). Many claimants allege that carriers cut off payments to starve the claimant into accepting a compromise and release settlement. One claimant — a man with an eighth grade education and a 25-30% disability rating due to a back injury — alleges in an affidavit that, "I did not feel that \$17,500.00 was enough compensation for my injury . . . but Alpac had stopped paying me any money a couple of weeks previously, and I needed to settle because I needed the money."²

At this time an individual may holler and get his temporary benefits reinstated, but the Division has no way of knowing whether this is an isolated incident, or whether the carrier is similarly squeezing other claimants who

¹ Dept. of Labor, Analysis and Recommendations (op. cit.), p. 9.

² Affidavit of Roy L. Kuhl, Dec. 5, 1978. One Fairbanks attorney says he has a file of several similar affidavits alleging the carrier cut temporary benefit payments to increase negotiating leverage on a permanent settlement. At present the Division's record-keeping system is incapable of keeping tabs on this practice. (Affidavit in appendices.)

lack the knowledge or the capability to fight back.

The Division's most widely publicized problem is the delay in issuing hearing decisions. Although required by law to issue a finding within 20 days,¹ the current time lapse between hearing and decisions is 97 days. The Division is proposing to establish a second and entirely separate computer system to help speed the decision process. This system — a smaller system similar to the one that indexes Alaska statutes — would list Board decisions by key words and subject matter, giving hearing officers ready access to precedent decisions. This information storage and retrieval system would save hearing officers time in researching decisions and would also improve the quality and consistency of those decisions, according to the proposal. Moreover, ready access to precedent decisions and the knowledge that the Board would rely on the precedent might dissuade attorneys from bringing some cases to the Board, further reducing the workload.²

Both proposals are worthy of legislative attention and support; they will improve the quality of claims service by both the carrier and the state.³ In fact, the idea is so good that one cannot help wondering why the Division did not make this recommendation long ago.⁴

(3) Hearing Referees, Investigators

The Department's internal review considered "work flow, Division objectives and problems of coordination;" however, the review paid little attention

¹ AS 23.30.110(c). In 1979 this violation triggered a civil suit against the state.

² Dept. of Law has manually indexed recent Board decisions. To get an idea of what an index of Board decisions is all about, the reader might track down that compendium through Assistant Attorney General Kathy Kollhorst.

³ To be consistent, if the Legislature authorizes the claims-processing system it must also authorize the Board decision index. See Chapter 5.

⁴ AFL-CIO lobbyist Dwayne Carlson has been promoting the idea for years; in the past, he says, he has not had any support from the Department of Labor.

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to the operation of the Board. In view of the Board's delays in scheduling and in issuing decisions — apparent violations of AS 23.30.110(b) and (c) — and the Board's inability to investigate — apparent violations of AS 23.30.110(c) and AS 23.30.155(h) — it is surprising that the study did not look more closely at the manner in which the Board effects Division objectives.

In some states the Board retains a professional investigating staff. If the Board had its own capability of determining issues of fact — however minimal — the existence of this fact-finding capability might reduce the tendency to litigate a comp case "just for the hell of it." Another characteristic of other states the review did not consider was the utilization of referees to hear comp cases.¹ Under a referee system, the Board would hear only the cases in which one of the parties protested the hearing officer's decision. The internal review did recommend that the Division alter its organizational structure to isolate the adjudicators (hearing officers) from the personnel who process claims day-to-day. (This reorganization would not require Legislative approval per se; however, the change would not be possible unless the Legislature appropriates the additional positions the Division is requesting.)

Another practice from other states the review did not consider is the possibility of making all Board members full-time employees with responsibility for writing decisions. One factor that contributes to the current backlog is that the appointed labor and management representatives serve on a per-diem basis and do not write decisions.

¹ Oregon's Division staff includes both referees and investigators. Although the Division is not considering these ideas formally at this time, the Deputy Director did indicate that he would like to see the Division consider revising the hearing process. At this time, however, all hearing officers are working on cases and have their hands full trying to close out the backlog while keeping up with current cases.

(4) Rewriting the Statute

Because the statute governing workers' comp has been amended piecemeal over the years, the Commissioner of Labor told critics of the comp system Oct. 5, "Alaska is in real need of a real rewrite."¹ Despite the Commissioner's belief that a complete rewrite of the law is necessary, this year the Division plans to introduce only a few minor changes the Director describes as "mostly house-keeping," and the Division has no plans to rewrite the statute at this time. It is not clear when the Commissioner concluded a rewrite was necessary, or what action he has taken in this regard. Meantime, the comp claimant who wants to learn the law must wade through a statute that begins with a 13 page index to key terms (which are undefined), followed by 103 pages of densely packed legal phrasing and 9 pages of Board rules. For some suggestions on changes in the law, see Chapter 5.

(5) Explanatory Booklet

OVIA has asked for a booklet explaining the law to the lay person. Several states publish a condensed manual in simple terms because they believe a major cause of much time-consuming and expensive litigation before the Board is friction that arises when the lay person does not understand what the law expects of him/her, the carrier or the state.² To date there is no indication the Division has explored this reasonable suggestion that might spare claimants a great deal of anguish and could save the state a great deal of money in the long run.³

¹ Dept. of Labor tape, Oct. 5, 1979

² See speech of Minn. comp task force chief Steve Keefe (App. .)

³ Division of Insurance has been no more responsive to this proposal. See Ch. 3 .

(6) Claimant Complaints

When the Commissioner finally met with comp protestors Oct. 5, he took the position that he could not get involved in the operation of the Board. "They make these decisions and then their decisions are appealable in court. . . . I can't get involved in them or try to influence them on their decisions," the Commissioner stated.¹ In fact, Alaska statute names the Commissioner as chair of the Board (and permits him to designate the task to a subordinate) and gives his Department clear authority to carry out the operations of the Board.²

The Commissioner expressed the idea that the Board often leans toward the claimant. Conceding that the panel is bound to miss a few cases in the other direction, he said there is nothing he can do about the situation since he cannot interfere with the Board. But it is not clear that the Commissioner described the situation accurately, and it is clear that there are a number of things he could do. For starters, he could ascertain whether he is correct that only a few cases are at issue, rather than the operating procedures of the carriers, the Division and the Board, as some protestors allege. This could be done by a survey of random cases, or of cases selected because they bear a striking resemblance to each other or fit alleged patterns.

One such pattern the Division has ignored concerns the use by Alaska carriers of certain San Francisco specialists to evaluate individuals with back complaints.³ At least three claimants of whom this writer has knowledge allege

¹ Dept. of Labor recording. Apart from the fact that the Commissioner has statutory responsibility for the Board, his statement is surprising because the comp protestors were not asking him to intervene in individual cases; they were asking for review of and changes in the system the Commissioner supervises.

² AS 23.30.005(b): "The commissioner shall act as chairman and executive officer of the board. . . ." AS 23.30.005(h): "The Department of Labor may make . . . rules . . . and regulations to carry out the provisions of this chapter. . . ."

³ See for example 1977 letter from claimant Heffner (Chapter 2.B.5.).

that Alpac sent them to San Francisco for examination by Dr. Willard F. Pennell, M.D.; all three say that after one interview/examination Dr. Pennell determined each to be a malingerer and sent the carrier a long report describing his findings in detail; all three say Dr. Pennell's opinion played a significant part in the carrier's refusal to make payments and the Board's eventual decision against them.¹

What makes this pattern interesting is that Dr. Pennell's firm is featured in a legal textbook that says the firm consistently provides insurance companies with testimony damaging to plaintiffs seeking insurance payments. The author of the text, Marvin E. Lewis, past president of the American Trial Lawyers Association, says he has been up against insurance companies that have retained Dr. Pennell's firm in at least half a dozen cases. Is there a pattern? "They always say my client is faking it; I always win," snaps the San Francisco attorney.²

In the textbook, attorney Lewis shows the student how to do it. In one of the cases involving Dr. Pennell's partner, the lawyer told the jury:³

. . . Dr. Knox Finley (Dr. Pennell's partner) comes from a defense mill. That's what his office is, has to be. . . . nearly a hundred times he has testified on the stand like this . . . in injury cases and always for the City and always for . . . insurance companies. Besides that, he has been in every county of Northern California doing the same thing. . . . Then his two partners were doing the same thing. Then they were not only having these cases, but there were other plaintiffs who were injured that never got to Court . . . and they were doing all this . . . as a business of testifying for insurance companies. . .

¹ The three claimants are Robert MacArmour, Diane Black and Alice Angel. Early in 1979 Alpac's director of workers' comp told this writer she thought Alpac had sent at least half a dozen claimants to Dr. Pennell; in addition, at least one other Alaska claimant was examined by Dr. Pennell for another Alaska carrier. Dr. Pennell reportedly visited Alaska once and toured the trans-Alaska pipeline on a business trip to meet with Alpac officials.

² The attorney-author, Marvin E. Lewis, made this statement in an interview with the writer. The text, by Lewis and Robert L. Sadoff, M.D., is Psychic Injuries (New York: Matthew Bender. Vol. 12, Courtroom Medicine. 1975; updated annually). Dr. Pennell, a licensed psychiatrist and neurologist, is in good standing with the San Francisco Medical Society.

³ Marvin E. Lewis in Lewis & Sadoff, Psychic Injuries, p. 380.

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In view of the reputation of this firm, some claimants are surprised the Board has apparently relied heavily on Dr. Pennell's findings in some cases without exercising its authority to appoint an independent examiner. The Division contends it does not place undue emphasis on Dr. Pennell's testimony, but the Board decision against MacArmour noted the San Francisco specialist had found a "predisposed neurosis" and "conscious exaggeration of symptoms which seemed to change constantly." The Board continued:

These developed such a pattern that each new doctor he saw was put to the test of trying to sort out an objective symptom to go along with subjective symptoms. Because of the short periods of treatment, no one doctor ever sorted it out until the pattern was explained by Dr. Pennell.¹

In ruling against Diane Black twice, the Board cited Dr. Pennell both times. The second decision read in part:²

And after considering the medical evidence it (the Board) advised as follows:

We (the Board) believe, as stated in Dr. Pennell's report, that it is probable that some secondary gain or need for attention is motivating her to perpetuate her symptoms and that she will continue to seek treatment and take medication as long as it is provided. . . . Her claim for additional benefits should be denied and dismissed.

The Board considered all of the medical evidence and believed her disability was unrelated to the February, 1976 injury but rather, as stated by Dr. Pennell, to secondary gain and need for attention which was motivating her to perpetuate her symptoms.

We conclude that the Board did not make a mistake in determination of a fact in its November 1, 1977 decision.

Asked how many times the Board has encountered the testimony of Dr. Pennell, then-Director of Workers' Comp John Cook replied that he did not know. When

¹ For more on MacArmour's case, see articles by this writer in Alaska Advocate, Jan. 25 and Feb. 15, 1979, and Anchorage Daily News, April 30, 1979 (Appendix 9).

² In this passage from the Board's second decision against Black (May 24, 1978), the Board is quoting its earlier decision.

he was apprised of the allegations against Dr. Pennell, the Director said he could not assign staff to investigate because the Division was already overburdened. If the Division cannot respond to serious questions on major cases such as the use and influence of specialists such as Dr. Pennell, one wonders how well the Division investigates day-to-day controversies about other carrier practices — disputes in which the carrier repeatedly delays payment to chiropractors, allegations that certain doctors or lawyers are consistently hostile to claimants, charges that carriers stop temporary disability payments to increase leverage in negotiating a permanent settlement, etc.

(7) Summary

Although the Division's current proposal to add personnel and modernize its record-keeping system will reduce some problems, it will not deal with others. The budget request makes no reference to other necessary reforms such as:

- = major statutory revision;
- = explanatory booklet for claimants;
- = study to ascertain whether the Board should consider appointing its own case investigators, or whether a referee system should be adopted;
- = study of claimant complaints.

Specific reforms and aspects of the comp system the Legislature might consider overhauling are identified in Chapter 5.

C. Division of Insurance

Claimants who bring complaints about comp to the Division of Insurance are told as a matter of policy that benefit questions are not within that agency's jurisdiction. The only way the Division of Insurance can become involved in the delivery of comp services, explains Chief of Market Surveillance Don Koch, is if the claimants can document an unfair trade practice in accordance with AS 21.36.125. And that statute, as the Division interprets it, won't do the individual comp claimant much good. One hurdle to using the statute, says Koch, is that an unfair claim settlement practice must be treated in terms of resolved cases; you can't bring a trade practice violation charge, he says, until the case is closed. The second hurdle is that there are no guidelines to determine what constitutes an unfair claim settlement practice.¹

Despite the Division's oft-repeated assertion that it cannot become involved in comp claims, the workers' comp statute appears to give the Division of Insurance clear authority to become involved in comp claims problems.

AS 23.30.030(7) reads (emphasis added):

If the insurer fails or refuses to pay a final award or judgement (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the insurance commissioner shall revoke the approval of the policy form, and may not accept further proofs of insurance from it until it has paid the award or judgement or has complied with the violated provision of this chapter. . .

The Division's perception of unfair claim settlement practices does not prevent the Division from operating an Anchorage field office whose primary task

¹ For statement of the Division's interpretation of the law as it relates to workers' comp, see the Division's transcript of workers' comp rate hearing, Anchorage, Nov. 8, 1979.* Similar interpretation expressed to this writer in interviews in April and December 1979. Director of Insurance Kenneth Moore referred all substantive questions for this project to the Chief of Market Surveillance.
(* Claimant testimony portion appended to this report.)

is to respond to consumer complaints. If an employer is concerned about his workers' comp bill, the Anchorage office will look into the matter. But if an injured employee is concerned about his treatment, the Anchorage office will refer the individual to the Workers' Comp Division.

Last spring, when this writer asked the Anchorage office chief how many comp claimants bring problems to his office, he checked with his staff and reported back that his office routinely forwarded about three complaints a week to the Workers' Comp Division. He seemed somewhat surprised by the frequency of comp complaints and acknowledged that if comp were a field of insurance for which his office had responsibility, that rate of complaints would require attention. However, he explained, claimant comp problems are outside his jurisdiction.¹ In December Division officials said they had not instituted any procedures to keep tabs on the number of complaints shuffled over to the Workers' Comp Division; nor had efforts been made to learn what action, if any, the Workers' Comp Division takes on complaints about the insurance that accounts for almost one-fourth of the total insurance premium bill in Alaska.²

A widespread practice that clearly violates the comp statute, identified in the preceding section, is late payment of first benefits. According to the Workers' Compensation Division budget request, only 26 per cent of all comp claimants receive their first payment within 14 days of notifying their employer — illegal by AS 23.30.155(b).are the remaining 74 per cent. Advised of this statistic, the Division of Insurance Chief of Market Surveillance seemed surprised. If true,

¹ Interview in Anchorage, April 1979. See Anchorage Daily News, April 30, 1979.

² Interviews with Division personnel, December 1979.

he said, the practice might not be a trade practice violation. If the practice were that widespread, he explained, that could indicate the law — rather than the practice — ought to be changed.¹ One flaw in this flexible approach to enforcement is that the Workers' Comp Division does not agree (that agency says it wants to enforce the statute in question and hopes increased manpower and improved data-processing techniques will make this possible — see preceding section). Without going into the question of the extent to which an administrator should interpret a statute, this anecdote reinforces the general impression that impetus to resolve claimant problems is not coming from the Division of Insurance.

Although the Division puts out consumer information booklets on other types of insurance — auto and home-owners, for example — the agency has not done so for workers' comp. Again, Division officials say, delivery of services is the responsibility of the Workers' Comp Division.

Although the Division of Insurance is to be commended for listening to comp claimants at an informal meeting in Anchorage Nov. 7 and in the rate hearing Nov. 8, it must be noted that the officials apparently did little more than listen. Officials promised claimants at both meetings they would look into some of the complaints. As of Dec. 21, however, the only action that had been taken was to transcribe a tape-recording of the Nov. 8 hearing for forwarding to the Workers' Comp Division. Chief of Market Surveillance Koch did not attend the informal Nov. 7 meeting, and he says he never received a report on that meeting or a request to look into some of the problems with comp that were raised at that meeting (see chapter 2.A.1.).

¹ If being widespread makes a practice legitimate, then anything Alpac does would seem to be legitimate since that company writes 56 per cent of the comp premiums in Alaska.

This section can be summarized in one sentence: Although workers' comp is the largest insurance by premium dollar in Alaska and the Division of Insurance has a consumer complaint office and apparent statutory authority to involve itself in comp claim problems, claimants with comp problems get little help from the Division of Insurance. (The Division of Insurance spends much of its time on rate-setting matters for all kinds of insurance, including workers' comp; some aspects of the workers' comp rate-setting mechanism are considered in the next chapter.)

Chapter 4. A Brief Look at the Workers' Comp Rate-Setting Mechanism in Alaska

When legislators speak of comp rates, they usually refer to benefit rates for injured workers, which are set by the legislature; when employers talk about comp rates, they probably refer to the premium rates they pay, which are set by the insurance industry, subject to approval by the Division of Insurance.¹ The relationship between benefit rates and premium rates is not necessarily one-to-one.²

The premium an employer pays for workers' comp eventually finds its way into one of five categories:

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|-----|-----|---|
| 70% | — [| (1) injured worker income maintenance; |
| | | (2) injured worker medical expenses (including rehabilitation); |
| | | (3) litigation costs; |
| 30% | — [| (4) insurance company administrative costs; |
| | | (5) insurance company profits. |

As a general rule of thumb, the insurance industry puts the break-even point for comp at 70 per cent; in other words, if the carrier pays out 70 per cent of the premium for items (1), (2) and (3), the carrier will break even.

After studying the subject for two years, the chair of the Minnesota Workers' Compensation Task Force offered this observation about comp rates:

¹ For background information on Alaska premium and benefit rate levels, see the following:

Legislative Affairs Agency, Workers' Compensation Rates in Alaska
(A Study by Woodward and Fondiller Actuarial Consultants; Feb. 1977)
Legislative Affairs Agency, Workers' Compensation (The Feasibility
of Establishing A State Fund; Feb. 1977)
Division of Insurance, Hearings on Workers' Comp Rates, Ketchikan, Anchorage and Fairbanks, Nov. 1975 (2 vols.; on file with Division of Insurance)
Division of Insurance, Alaska Workman's Compensation Insurance Rate Hearing, Anchorage, Nov. 8, 1979 (on file with Division of Insurance)
Division of Insurance, Order 76-1 (Feb. 17, 1976)

² Due to the complexity of the insurance industry and the number of elements that are cranked into the rate base, there is bound to be some slack in the system.

One of my goals in Minnesota, when we started to study the insurance system was to satisfy myself whether there are excessive profits to insurance companies in the workers' compensation system in Minnesota. I spent a lot of time on that question and I came to three conclusions:

=First, the insurance companies sincerely believe they are losing money on workers' compensation insurance.

=Second, there are others who just as sincerely believe that they are getting rich.

=Third, and maybe most important of all, the Minnesota Commissioner of Insurance, whose responsibility it is to regulate workers' compensation rates in Minnesota does not know. In fact, there is evidence presented to him that points clearly in both directions.

In Minnesota, at least, the regulation of workers' compensation rates is hopelessly inadequate and frankly it's the Legislature's fault. . . . we haven't given him the staff. Workers' compensation rate requests are analyzed by part-timers loaned from other departments, people with experience in other areas of insurance, people whose primary responsibilities are regulation for solvency, not regulation of rates. But even if he had the staff, under the current system, at least in Minnesota, the Insurance Commissioner doesn't have enough information to be able to know whether he is promulgating a fair rate. . . .¹

A reasonable first step in dealing with Alaska workers' comp benefit and premium rates would be to ask the following questions:

(1) What percentage of the workers' comp premium bill goes to claimant income maintenance?

(2) What percentage goes to medical examinations, treatment and rehabilitation?

(3) What percentage goes to attorneys and other costs associated with disputed cases?

(4) What percentage goes to carriers for administrative costs?

¹ Remarks of Minnesota State Sen. Steve Keefe (chair, Minnesota workers' comp task force), Legis 50 Conference on Workers' Compensation, Portland, Ore. (June 14, 1979).

(5) What percentage goes to carriers as profit?¹

In Alaska, as in Minnesota, the information is not available to answer the basic question. The Division of Insurance requires exhaustive annual reports from all carriers and exercises its statutory authority on comp rate filings, but the columns of figures do not tell the lay person what percentage of the premium dollar goes into the five categories identified above.

The annual reports of the major carriers operating in Alaska do not answer the key questions because the figures from Alaska are lumped together with those of the other states in which the carrier operates. Another reason the annual reports leave questions unanswered is that the accounting process for insurance is rather complicated — the discrete elements of premium payments are rather intricately related.

Why so complicated? One reason is that the premium an employer buys on May 1 to cover accidents over the next 12 months will fall within two calendar years. During that period the carrier will be making some injury payments on the policy, but the carrier will also be making payments on injuries incurred on policies previously purchased. Moreover, some payments for injuries covered by the policy we began with will continue into the following policy year, and some injuries to be covered by that policy will not be identified as payable until some future date. The bookkeeping process to handle all this is bound to be tricky.

¹ Concerning profits on comp, the 1972 Report of National Commission on State Workmen's Compensation Law made the general observation that "... statutory underwriting profits . . . averaged only about 1 per cent of premiums, and the rate of return on net worth for all private carriers is not out of line with the return in other industries." (Report, p. 113.) The profit margin written into Alaska premium costs is 2.5 per cent; it is important to note that this figure does not include investment income and therefore does not reflect the profitability of workers' comp. The significance of investment income will be treated in this chapter.

Keeping tabs on comp profits is not an academic matter; in Alaska comp carriers collect over \$100 million annually. Let's look briefly at what the carrier does with the investment income from that money. A 1977 study of Alaska comp rates by an actuarial firm concluded that under the rate-setting procedures used in Alaska "nearly all of the investment income is excluded from the rate making process."¹ According to the report, in 1974 Alaska comp carriers earned \$2,257,000 in investments held to guarantee future comp payments. The underwriting operation for that year showed a net loss of \$669,000 for all carriers writing comp in Alaska, but the investment income enabled the carriers to pay expenses with \$1,588,000 left over (\$2,257,000 minus 669,000 = \$1,588,000). According to the report, the insurance companies' return on capital — a standard measure of profitability — was a healthy 12.4 per cent.² However, because comp investment income was excluded from rate-making calculations, comp underwriting in Alaska for 1974 showed on the books as a net loss; since Alaska rates allow a 2.5% profit, the 1974 "loss" data enabled the carriers to push comp premium rates higher when rates were subsequently readjusted to reflect actual experience. This hidden profit factor is often overlooked by some policymakers who hold rising benefit payments solely responsible for pushing comp premium rates higher. It follows from this analysis that one item the reader might like to keep in mind as he/she considers comp premium rates is investment income.

¹ Legislative Affairs Agency, Workers' Compensation Rates in Alaska (A Study by Woodward and Fondiller Actuarial Consultants; Feb. 1977), p. VII-6. Other jurisdictions handle investment income differently. In some states carriers have been required to write premiums at a theoretical loss to balance the profit they will earn on investment income before they eventually pay out on claims.

² Woodward and Fondiller study, p. VII-20. In light of the quadrupling of comp premiums since 1974, it would be interesting to develop current figures on investment income.

In Alaska comp rates are determined in the following manner: The carriers report data to the National Council on Compensation Insurance (NCCI), a national group formed by the carriers to process comp data and set up rates; the data is verified and analyzed by the NCCI,¹ then rates are sent back to the Alaska Classification and Rate Committee,² an Alaska carriers' group that reviews the work of the NCCI. That committee makes the final filing with the Division of Insurance.³

As the Division of Insurance sees its task in this complicated situation, the agency is supposed to make sure the rates provide a fair return for the carrier at a fair price; to make sure the rates for comp premiums are properly distributed among some 650 various categories of work that are charged differentially, depending on the hazards of the work; and to make sure the carriers are adequately reserved (i.e., that the carrier will have the money to cover the losses that can be expected to occur).

Late in 1978 the Alaska Division of Insurance commissioned a thorough review of insurance industry reserving practices to cover long-term injury payments in workers' comp.⁴ The broad issue of profit from investment income was not the focus of this study. One purpose of the study was to make sure that when an insurance carrier purchased an annuity to cover a long-term payment, the carrier entered the actual purchase price into the rate base -- not the amount the annuity actually paid out. The Division was concerned by indications that carriers might have been plugging in the higher pay-out amount into the rate base, even though the actual purchase price on the annuity was discounted; however, the study con-

¹ NCCI does not audit data carriers submit but does try to ascertain accuracy.

² The "C & R" acronym is used for this committee, as well as for Compromise and Release settlements discussed in Chapters 2 and 3. The fact that the same acronym is used indicates the lack of interaction between those who process the money and those who deliver the services for which that money was collected.

³ See Division of Insurance rate hearing transcript (op. cit.).

⁴ Milliman & Robertson Consulting Actuaries, Workers' Compensation Ratemaking Procedures (prepared for the State of Alaska Division of Insurance, Oct. 1, 1979). See also NCCI response and Milliman & Robertson reply, attached to report.

cluded that reserving was reported accurately, by and large. Although the study dealt with a portion of investment income from actual losses, much of the carriers' investment income comes from a category the report did not study -- investments known as "incurred but not reserved" (IBNR), which are set aside on statistical probability that a loss will occur in the future even though there is no known loss for which that money is set aside at the time.

Early in 1979 the Division returned an industry rate filing to the NCCI for more information before approving it; the filing was eventually resubmitted and was the subject of the Nov. 8 rate hearing in Anchorage. The hearing was not required by law, according to the Division, but it was decided to hold a hearing because none had been held since 1975. In all, approximately 50 people came to the Anchorage hearing. The group appeared to be evenly divided between insurance industry people there to praise the rates and employers there to curse them; a handful of those present -- three of whom eventually testified -- were there to express criticism of comp services for injured workers.

Although the Division deserves credit for attempting to involve the public in the rate-making procedure, it should be noted that copies of the rate filing were not available for public analysis prior to the hearing (in fact, there was only one copy of the filing). A spokesman for a Fairbanks company who came to Anchorage for the hearing told the Division he was disappointed that copies of the filing were not distributed so that comp purchasers could comment intelligently on the rates they were being asked to pay. At the time the hearing was held, the Milliman and Robertson report on reserve reporting had not yet been made public.¹

¹ The Division was waiting for carrier responses to the Oct. 1 report before releasing both the report and the responses. The carriers waived a special hearing on the report itself in exchange for an extension on the normal response time; the Division acquiesced.

Summary: This brief look at the comp rate-setting mechanism attempts to cut through a complicated area to identify a few key questions policymakers might consider noteworthy. The questions on which this chapter focuses are:

1. Where do comp premiums actually go? How much of the premium dollar goes to claimant income maintenance, medical expenses and rehabilitation? How much to litigation? How much to carrier overhead and profits?

2. A key factor sometimes overlooked in analyzing the profitability of comp is investment income. How is investment income treated in the rate structure and how does this income affect the apparent unprofitability of comp?

Chapter 5. Conclusions

The information gathered in this study suggests that in addition to supporting Administration requests for personnel and equipment to handle the increased caseload in workers' comp,¹ the Legislature should (A.) take immediate measures to abate the crisis in claimant services during the 1980 session while (B.) laying the groundwork for thorough review and possible major overhaul of the Alaska workers' comp system.

A. Recommendations for Immediate Action

Immediate short-term measures that might be taken include:

1. Hearings concerning Workers' Compensation Division and Division of Insurance failure to uphold certain provisions of the workers' comp statute (AS 23.30).

Although cumbersome and in need of revision (see long-term proposals, Part B. of this chapter), the Alaska workers' comp statute contains provisions that would, if enforced, guarantee the claimant more timely and equitable resolution of comp problems such as those described in Chapter 2. However, the agencies charged with carrying out the intent of the workers' comp statute have not enforced or complied with certain provisions; this failure appears to have contributed to a situation in which statutory abuse is widespread, to the detriment of the claimant the statute was enacted to protect. (In reviewing this list of statutory violations the reader should bear in mind that the Administration may be proposing legislation to abate some of these problems; legislative proposals were not available in time for inclusion in this report.)

¹ For background on the Administration's budget request, see Chapter 3B. Proposal covers personnel and two computer systems for recording (1) routine paperwork and (2) decisions of the Workers' Comp Board on disputed cases. It strikes this writer that it would be inconsistent to approve the routine claims filing system (which would enable the Division to crack down on carriers for failure to comply with AS 23.30) without also approving the Board decision index and the additional hearing officers (enabling the Division to comply with its statutory responsibilities).

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a. Workers' Comp Division Failure to Enforce Statutes

- (1) AS 23.30.110(c) and AS 23.30.155(h) both contemplate that the Workers' Comp Division shall investigate controverted claims, but the Division has no investigating staff or capability. In many cases the Board's investigation appears to be the hearing, at which the Board merely considers and attempts to adjudicate controverted cases on the basis of conflicting information presented. In some instances the Board's efficiency appears to be impaired by the lack of factual and technical information its own investigation (contemplated and/or required by statute) might have provided.
- (2) AS 23.30.155(c) requires a carrier who stops payment for any reason to notify the Board of this action. Information on compliance with and enforcement of this statute is not readily available, in part due to the abysmal nature of the Division's present record filing system. Carriers appear to be violating this statute in all resisted cases (cases in which the carrier declines to make payments but does not file a notice of controversion). The Director of Workers' Compensation believes the number of resisted cases equals the number of controverted cases; formal controversions have more than doubled since FY '75. It is not clear to this writer whether this violation: carries no penalty; carries an automatic 20 per cent penalty added to each improperly unpaid installment as per AS 23.30.155(e); or carries a \$100 civil penalty, as stated in the Department's internal review.¹ In view of the potential damage to claimants resulting from noncompliance, the Legislature may wish to determine (a) extent of violation, (b) which remedy is in force at this time, (c) how widely the sanction is applied and (d) whether both the sanction and the enforcement effort need to be strengthened.

¹ See Chapter 3.B.2. above for a description of the Division's operations; for potential impacts on the individual claimant, read case 2.B.2.

- (3) 23.30.155(b) requires employer to make first payment to cover wage loss within 14 days of notification of the injury; AS 23.30.155(e) imposes a 20 per cent penalty for noncompliance. The Division has documented widespread noncompliance; however, it appears that the Division has condoned this long-standing statutory violation by failure to assess the penalty.
- (4) AS 23.30.250 makes it a misdemeanor to wilfully make a false or misleading statement to obtain benefits. Although the Division and carriers say one of their headaches is identifying fraudulent claims and the Board has turned down claimants citing physicians' findings such as "conscious exaggeration," there is no apparent attempt to reduce this problem by apprising claimants of the statutory prohibition, or attempting to enforce that prohibition.
- (5) AS 23.30.110(c) requires the Board to issue findings within 20 days after a hearing is held, but for several years the average time lapse has been estimated at approximately 100 days. In view of the length of time it has taken the Administration to propose concerted efforts to resolve this illegal delay, the Legislature might wish to ascertain whether the current proposals to alleviate the problem are appropriate and sufficient.

(b) Division of Insurance Failure to Enforce Statutes

- (1) AS 23.30.030(7) says in part, "If the insurer fails . . . to comply with a provision of this chapter, the insurance commissioner shall revoke the approval of the policy form. . ." Despite this clear statement of statutory authority, the Division maintains it does not have authority to deal with comp settlement problems. Instead, the Division of Insurance routinely turns over three complaints a week to the Workers' Comp Division and apparently makes no effort to ascertain how that agency responds. (As well as being a violation of the comp statute, this position seems inconsistent with the Division of Insurance's role as protector of the public interest.)

2. Special Review of Division and Board Actions

Extensive case tracking through file reviews and interviews indicates the quality of claimant services deteriorated as the caseload grew in the wake of the pipeline. The state's paperwork problems dealing with comp may have been compounded by the fact that the carrier that writes more than half the comp premiums in Alaska grew even more rapidly than the comp industry as a whole during the same period; that company's personnel experienced the same kind of paperwork problems the state has been struggling with, compounding claimant problems. If this situation wrought a pattern of injustice upon a group of claimants, the normal process of judicial review may be an insufficient remedy. First of all, the aggrieved claimants will not receive redress in a timely manner. Second, because of the time and expense of pressing court appeals, it is probable that only a few claimants will make it through the judicial system, irregardless of the merits of their cases — too few to establish a pattern to which the comp system can respond. For these reasons, this writer believes the Workers' Comp Division should be mandated to undertake a special review of comp cases to insure that the Board's practices in fact uphold the intent of the law. If this review finds that problems exist, the Board has statutory authority to reconsider cases at its own initiative. Because the Department has been resistant to the idea of investigating its own conduct, the Legislature might require this review.

3. Short Report to Keep Legislature Posted on Effects of Remedial Actions

In view of the routine but illegal delays in (a) first payments, (b) issuing Board decisions and (c) non-reporting of payment suspensions — practices that have existed for some time with the knowledge of the Workers' Comp Division — it might be appropriate to attach to remedial legislation a requirement that the Division report to the Legislature and others the compliance rate for items the Legislature deems significant.¹

¹ For Florida statute mandating a report on problem areas, see Appendices.

4. Explanatory Booklet

Other states have found that a booklet explaining in lay terms what the injured worker can and cannot expect from workers' comp appears to reduce misunderstandings that lead to contested cases. Since disputed cases prove time-consuming and costly to the individual and to the overburdened Workers' Comp Division,— and to the state, which loses the positive contribution to the work force the individual might have made — the expense of the booklet might be one of the best investments the Legislature could make. (Florida's booklet, which cost \$89,000 to print, is included in the appendices.)

Since the appropriate agencies do not seem willing to undertake this task on their own initiative, legislation mandating and financing such a publication is recommended.

B. Some Suggestions for Long-Term Consideration

Implementation of some or all of the preceding measures should help abate the immediate crisis in claimant services, but broad public policy questions concerning the workers' comp system remain; these considerations require Legislative attention. Because workers' comp has been a subject of intense public controversy in several other states, it might be useful to consider the accomplishments and failures of other states in reviewing Alaska's workers' comp system.

1. Structure, Staffing and Operating Procedures of the Workers' Comp Board

Although the Legislature's addition of a new hearing officer and Board last year appears to be relieving the case overload somewhat, a new problem may be developing. Although a hearing officer can sit in hearings one day per week and write decisions for four days as a full-time employee, some board members apparently find it inconvenient to hear cases once a week since they are retained by the state on a per diem basis and already devote one week a month to the Board.

Possible long-term solution would be to make all Board members full-time employees. It is recommended that any solution to this problem be considered in conjunction with the possibility of staffing the Board with referees and/or investigators to make the hearing process more efficient. Oregon has full-time Board members who supervise referees and hear cases only if one party objects to the referee's judgement. Observation of other states' comp systems would be useful in evaluating this proposal.

2. Revision of Statute

To serve as an efficient framework for the activities of the Division and Board, the workers' comp statute (AS 23.30) needs a complete overhaul. The statute has been amended, as the Commissioner of Labor points out, in a piecemeal fashion on numerous occasions since its adoption in 1959. In redrafting the law the Legislature might address the following points:

= Some statutes begin with a preamble or statement of legislative intent. The Alaska comp statute opens abruptly by stating, "The Alaska Workmen's Compensation Board shall consist of five members. . . ." Although the mechanics of the Board are described, the law never states the reasons for creating the Board. Similarly, Article 2 deals with the duties of the employer but does not spell out the rationale for the institution of comp benefits.

= Perhaps the cumbersome structure of the present law is one reason state agencies have failed to enforce several passages. To figure out the time limit in which the Board must schedule hearings under AS 23.30.110(b) and (c), one has to slither through a verbal pathway whose blockages appear to require a plumbers' friend, or similar tool, to clear. (Translation: The law does not make it clear how quickly a hearing must be held.) Part of this confusion may be caused by the failure to spell out the difference between "hearing" and "investigation." Apparently AS 23.30.110(c) intends the two to be different, but the

phrasing of AS 23.30.155(h) appears to indicate that in some instances hearings and investigations are interchangeable. It would be useful to clear up this ambiguity.

3. Interagency Interaction

In some states the close relationship between on-the-job safety and workers' comp is recognized by the state's organizational set-up. In Oregon, for example, accident prevention (including occupational safety inspections) is a division of the workers' comp department. In Alaska a close working relationship between the Division of Occupational Safety and Health (DOSH) and Workers' Comp is not apparent: DOSH is based in Anchorage; Workers' Comp is headquartered in Juneau; although their tasks are complementary, personnel have little formal interaction. Interplay might be useful with regard to safety programs. Although there is an overlap in the mission of insurance company safety inspections and those of DOSH, the Workers' Comp Division deals primarily with claimant issues after the fact, giving little attention to the inspection programs that might have prevented the accident. It appears that the relative lack of interaction does not maximize the effectiveness of the two agencies. Similarly, as discussed above, legislation establishing closer interaction between the Division of Insurance and the Workers' Comp Division should also be considered.

4. Need for Fiscal Information

In view of the growth and importance of workers' comp, the dominance of one carrier and the breakdown in the service system that handles comp controversies, to effect policy changes constructively the Legislature might take

measures to determine how much of the premium dollar is spent on:

- = income maintenance payments;
- = medical payments (including rehabilitation);
- = litigation;
- = insurance company overhead;
- = insurance company profits

The question of investment income figures prominently in any such analysis.

As noted in Chapter 4, investment income is usually treated apart from the rate base and is thus a form of hidden profit. A corollary policy question is whether the state should play a role in determining where and how insurance company investments are placed.

5. Proposals to Reduce Premium Rates for Small Employers

Minnesota has tried two programs that might reduce comp premium rates for small employers. One program is a state reinsurance program which takes responsibility for all benefit payments over \$300,000, thus reducing the risk to the carrier that the carrier may have to pay a virtually unlimited amount on even a small policy. The other idea, which Minnesota borrowed from Florida, is a mechanism that allows small businesses to band together to purchase comp insurance. This gives the group the potential for purchasing a large joint policy at the lower rates a large company enjoys because it spreads its risk, because it can get the benefit of rating techniques that are not possible for small employers, such as retrospective ratings. The Legislature might wish to examine whether statutory changes would be necessary to effect these changes in comp insurance, and whether these and similar proposals might reduce costs to the employer without reducing benefits.¹

¹ See remarks of Minn. State Sen. Steve Keefe, included in appendices.

6. Proposals for a State Fund

A 1977 Legislative Affairs Agency study estimated a competitive state fund could be set up to write workers' comp insurance with a \$2 million investment.¹ Even if the infant state carrier failed, the report argued, the state fund could be closed down in five years, leaving the state with new information on aspects of the insurance industry about which the state has too little knowledge, such as claims management and reserving practices.¹ A second 1977 Legislative Affairs Agency report recommended the formation of a competitive state fund.² On the plus side, the study said, a state fund: lowers premium costs to employers because state funds operate with significantly less overhead; increases availability of insurance because state funds normally accept any risk; increases retention of capital in-state since premium payments do not flow to an outside parent company; establishes a yardstick by which to assure the reasonableness of commercial rates; creates some new jobs. On the other side of the ledger, state funds seem socialistic; they are sometimes (but not always) poorly managed; private industry is doing the job. Continued business hostility toward rising premium rates and information gathered for this report pointing to a breakdown in the delivery of services are factors that tend to strengthen arguments for consideration of a state fund.

7. Task Force

In states where the comp system has been perceived as a subject of major political controversy (Minnesota, Oregon and Florida, for example) task forces have been organized to promulgate reform of the system. In Alaska the situation is somewhat different in two respects: First, workers' comp is not

¹ Legislative Affairs Agency, Workers' Compensation: The Feasibility of Establishing a State Fund (Feb. 1977).

² Legislative Affairs Agency, Workers' Compensation Rates in Alaska: A Study by Woodward and Fondiller Actuarial Consultants (Feb. 1977).

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widely perceived as a top-priority political issue in Alaska. Consequently, the impetus for a task force is lacking. Second, in Alaska task force members would have to travel great distances, making meetings both expensive and difficult to arrange. For these reasons this writer believes inquiry into workers' comp problems may be more effectively handled through the existing legislative committee system than through creation of another camel. If legislative research is undertaken, care should be taken to insure that all groups concerned with workers' comp are involved in the process.

Appendices

List of Items in Appendices

1. Statements of Legislative Intent (from Washington and Oregon statutes)
2. Remarks of Minnesota State Sen. Steeve Keefe at Legis 50 Conference
3. Alaska Workers' Compensation Insurance Rate Hearing (Nov. 8, 1979 — abridged transcript)
4. Some documents supporting Case Narratives in Chapter 2.
5. Commissioner of Labor's Workers' Comp Budget submission to Budget Review Committee, Nov. 16, 1977
6. Affidavit of Roy L. Kuhl
7. Oregon Workers' Compensation Department Organization
8. Workers' Compensation Brochure Printed by Florida Division of Workers' Compensation
9. Newspaper articles on Alaska workers' compensation

THESE ITEMS ARE ON FILE AT HOUSE LABOR & MANAGEMENT COMMITTEE

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

TO: REP. BRIAN ROGERS
HOUSE LABOR & MANAGEMENT COMMITTEE

FROM: RICHARD A. FINEBERG

RE: WORKERS' COMPENSATION CONSULTING

DATE: NOV. 1, 1979

When I raised the subject of the relationship between serving the legislature as a temporary consultant on workers' compensation and reporting on the same subject for newspapers, you expressed the idea that my past activities in this regard (the research and writing of two detailed series on workers' comp for the Anchorage Daily News and the Alaska Advocate) simply added to my academic and research credentials and demonstrated my familiarity with the subject.

After I brought this matter to your attention, I discussed it with other working journalists. They were in general agreement with our assessment. In talking to the Daily News, I mentioned several new developments that have taken place in the comp field since the pieces I wrote for them last April. Because of the complexity of the subject, the Daily News asked me if it would be possible to give them an update on workers' comp before I sign on as a consultant. Since this subject is one that inevitably gets short shrift from reporters unfamiliar with it -- if it gets treated at all -- I have done that piece for the Daily News. I anticipate that they'll be carrying it early next week.

When I begin consulting work on workers' comp, my state time will be devoted solely to legislative research; the only relationship to my past reporting activities is that the legislature will have the benefit of both the general background and the specific information I acquired on the subject in the course of covering it freelance for the Daily News and The Alaska Advocate.

SUMMARY
OF
WORKERS' COMPENSATION PROBLEMS IN ALASKA

BY
RICHARD A. FINEBERG

January 21, 1980

The Fineberg report was submitted to the Legislative Affairs Agency in January 1980. The report is designed for use by legislators and has three objectives: to delineate the complaints currently voiced about the State's workers' compensation system by claimants and employers; to assess the response to these complaints by state agencies overseeing the compensation system; and to propose courses of action legislators might take.

Fineberg provides background information in the first section of the report. We have excerpted material which may be of general interest:

- . In 1977, workers' compensation premium and benefit payments in Alaska represented \$107 million.
- . As of 1977, compensation insurance made up 24% of the state's insurance business.
- . The administrative structure overseeing the workers' compensation program for the state has remained essentially the same since statehood, even though there has been a tremendous increase in the dollar value of the program and in the volume of claims.
- . The Alaska Pacific Insurance Company (Alpac) writes 56% of the compensation coverage in Alaska.
- . Thirty-four states and territories (including Alaska) provide workers' compensation coverage through private insurance carriers and self-insurance.
- . Eight states handle workers' compensation through self-insurance and a state fund.

This summary was prepared by the House Research Agency in response to a request by Representative Brian Rogers and Senator Terry Stimson. We were not asked to critically evaluate this report and have not done so. The analysis and conclusions presented here are those of Fineberg, not of the House Research Agency. However, in a few places, we have noted what appear to be inconsistencies in the text and problems with use of data or statistics. The numbers in parentheses indicate where the reader can find more information in the report.

- . Twelve states and territories offer coverage through all three mechanisms - self-insurance, private carriers and state funds.

Claimant Testimony

The second section of the Fineberg report contains short case histories of five injured workers who claim they were treated unfairly by insurance carriers or state agencies responsible for the compensation program. Their allegations are summarized below:

- . Insurance companies suspend temporary disability benefits in order to "starve" claimants into accepting a compromise and release settlement.
- . The companies are required by law to notify the Workers' Compensation Division when they suspend benefits to a claimant so that action may be taken to resolve the case as soon as possible or so that the Division may order interim payments until the case is settled, but they do not always do so. The State is making no effort to enforce compliance.
- . When notified by a claimant or a carrier that benefit payments have stopped, the Division of Workers' Compensation does not respond in a timely manner.
- . In many instances insurance carriers persistently challenge workers' claims, even though it is often their stated position that they side with the worker when a claim is in question. (The report quotes an insurance company executive who said, "I personally would rather pay a claim that was doubtful . . . than to take the chance I had denied benefits to a man unjustly.").
- . A worker whose claim is controverted by an insurance company must incur the expense of providing expert testimony and retaining attorneys in his defense.
- . The Workers' Compensation Board does not independently investigate the facts in any disputed cases even though it is permitted to do so by law.
- . Claimants are treated unfairly by carriers' out-of-state physicians, some of whom consistently testify that workers' claims are invalid.

- . The Workers' Compensation Board does not routinely request an independent medical examination when there is conflicting physician testimony.
- . Companies are sending injured workers to physicians outside of Alaska in order to increase their hardship and quicken settlement.
- . Carriers, State agencies, and elected officials are not responsive to citizen complaints.

Agency Response to Claimant Problems

In this section, Fineberg attempts to gauge how adequately the two State agencies with workers' compensation responsibilities - the Department of Labor's Workers' Compensation Division and the Department of Commerce and Economic Development's Division of Insurance - are addressing injured workers' complaints. In summary, Fineberg found that neither agency could reliably estimate to what degree claimant complaints are justified; personnel in both divisions are overloaded; there is little interaction between the agencies.

Addressing the Workers' Compensation Division specifically, he noted the following findings:

- . The Workers' Compensation Division workload increased approximately 200% between FY 1975 and FY 1979¹
- . The Division estimates it currently handles 15,000 - 20,000 individual claims annually. "Disputed cases probably total 15 to 20 percent of that figure."
- . The Division has not received enough funding to keep up with the increase in work.
- . Although the Department of Labor claims that "legislative inattention and budget-cutting" have caused the Division's

¹ According to Fineberg, the Division is not certain why there has been such an increase. Fineberg cites some of the explanations he encountered: "Population growth, coupled with the benefit increase of 1975 (which looks increasingly juicy during the post-pipeline period of high unemployment), may be contributing factors; part of the increase may be caused by decline in the quality of claimant services" (p. 26).

manpower shortage, the "Department's failure to request adequate funding in a timely manner and the Governor's budget cuts are both more significant factors than legislative action" (p. 27).

- . The Division has recently made improvements in its record-keeping system and anticipates it will be able to assess penalties against carriers who do not comply with time constraints set by statute.²
- . The Division has recently begun fining insurance carriers a \$100 civil penalty if they do not report within 16 days that they have suspended a claimant's compensation. "At this time, an individual may holler and get his temporary benefits reinstated, but the Division has no way of knowing whether this is an isolated incident, or whether the carrier is similarly squeezing other claimants (into accepting a settlement) who lack the knowledge or capability of fighting back." (p. 31)
- . Although State law requires the Division to issue a decision within 20 days of a hearing, the current time lapse is 97 days.
- . The Division is proposing to establish a second computer system to speed the decision process. The new system would index Board decisions by subject and provide hearing officers quick access to precedent decisions. The Division is anticipating that "the knowledge that the Board would rely on precedent might discourage attorneys from bringing some cases to the Board, further reducing the workload". (p. 31)
- . An internal review of the Workers' Compensation Division by the Department of Labor proposed that hearing officers devote their time fully to case adjudication, but did not thoroughly examine other methods of speeding the decision process.

² An internal inquiry in 1978 indicated that only 28% of the carriers had made their first payment to claimants within the required 14 days.

- Because conflicting information is often presented at claims hearings, other states' workers' compensation departments frequently retain their own professional investigating staff.
- Other states also utilize what is called a "referee" system; their workers' compensation boards only hear cases in which a prior decision by a hearing officer has been protested.
- In other states Board members are full-time employees.
- . The State's Workers' Compensation Act needs to be rewritten.
- . A handbook explaining workers' compensation law would significantly reduce litigation.
- . Neither the Workers' Compensation Division nor the Department of Labor has made any attempt to ascertain whether worker complaints reflect the dissatisfaction of a few individuals or unfair operating procedures of the carriers, the Workers' Compensation Division, or the Workers' Compensation Board.³

Fineberg's review of the Division of Insurance yielded the following findings:

- . The Division of Insurance asserts that it can only handle complaints concerning insurance carriers who may be engaging in unfair trade practices. Questions claimants may have concerning their benefits are outside the Division's jurisdiction according to the Chief of Market Surveillance.
- . Even claimants who can document an unfair trade practice have no guarantee that the Division of Insurance will take action against the carrier.

³Certain San Francisco specialists used extensively by Alaska carriers to evaluate individuals with back problems are cited in a legal textbook which says they consistently provide testimony damaging to plaintiffs seeking insurance payments. "If the Division cannot respond to serious questions on major cases such as the use and influence of specialists such as Dr. Pennell, one wonders how well the Division investigates day-to-day controversies about other carrier practices..." (p. 37)

A claimant cannot bring trade practice charges against a carrier if his case has not yet been settled.

The Division of Insurance has no guidelines to determine what constitutes an unfair claim settlement practice.

- . Even though the Division of Insurance asserts that it cannot handle claimant complaints, State statute gives them the authority to do so.
- . The Division of Insurance publishes information booklets on some other types of insurance, eg., home-owners and auto, but has not done so for workers' compensation.

In the next section of the report, Fineberg addresses complaints from employers about the high cost of coverage. He appears to conclude that on the basis of information currently available to the State, there is no way of knowing whether the premiums charged employers are excessive. Fineberg believes that in order to answer this question, it would be necessary to know what percentage of Alaska's premium pays for (1) injured workers' income maintenance; (2) injured workers' medical expenses; (3) litigation and claim dispute costs; (4) carriers' administrative costs; (5) carriers' profits.

Fineberg also suggests that insurance companies' investment income should not be overlooked by policymakers.

. . . in 1974, Alaska comp carriers earned \$2,257,000 in investments held to guarantee future comp payments. The underwriting operation for that year showed a net loss of \$669,000 for all carriers writing comp in Alaska, but the investment income enabled the carriers to pay expenses with \$1,528,000 left over ($2,257,000 - 669,000 = 1,588,000$). According to the report, the insurance companies' return on capital - a standard measure of profitability - was a healthy 12.4 percent. However, because comp investment income was excluded from rate-making calculations, comp underwriting in Alaska for 1974 showed on the books as a net loss; since Alaska rates allow a 2.5% profit, the 1974 "loss" data enabled the carriers to push comp premium rates higher when rates were subsequently readjusted to reflect actual experience (p.45).

The report notes that some states require carriers to write premiums at a theoretical loss to "balance the profit they will earn on investment income before they eventually pay out on claims."

Fineberg cites studies which have concluded that carriers operating in Alaska are not significantly over-reserving. However, he points out that these studies neglected to address all carrier investments; and did not determine whether or not carriers are overestimating funds they currently set aside on statistical probability that an unforeseen loss will occur in the future. Investments in this category are known as "incurred but not reserved" (IBNR) and account for much of carriers' investment income, according to Fineberg.

Recommendations

In the concluding section of the report, Fineberg outlines what he believes are the policy options for legislators. Some of these he thinks merit immediate action while others are more long-term considerations. He believes that all requests for personnel and equipment to handle the increased caseload in workers' compensation should receive legislative support.

Fineberg makes the following recommendations for immediate action:

1. Public hearings should be held to determine the following:
 - . The extent to which certain statutory provisions have been enforced by the Workers' Compensation Division and the Division of Insurance. Fineberg maintains that ". . . the Alaska workers' comp statute contains provisions that would, if enforced, guarantee the claimant move timely and equitable resolution of comp problems such as those described . . ." (p.49);
 - . The extent to which these provisions are enforceable. (Fineberg quotes staff from the Division of Insurance as saying that if a practice is widespread, even though it is in violation of the compensation code, this might indicate that the law, rather than the practice, needs to be changed.)

2. The Fineberg report suggests that there has been enough criticism of decisions reached by the Workers' Compensation Board to warrant a special review of cases that the Board has considered. The review would determine whether the Board's decisions have upheld the intent of the state's workers' compensation law. Fineberg notes that because the Department of Labor has been reluctant to conduct this kind of an investigation, the Legislature might require the review.
3. Legislature should require the Workers' Compensation Division to regularly submit information, indicating, for example, how often carriers delivered first payments within 14 days, and how much time generally elapses between hearings before the Workers' Compensation Board and issuance of a decision.
4. Legislature should mandate and fund a booklet explaining workers' compensation laws in lay terms.

Fineberg also makes the following recommendations for long-term consideration:

1. The state should study ways of making case adjudication more efficient.
2. Alaska's Workers' Compensation Code should be overhauled:
 - . It should include statements of legislative intent
 - . It should include a section defining terms used in the code.
3. Possibilities for closer interaction among the Division of Insurance, the Workers' Compensation Division, and the Division of Occupational Safety and Health should be explored.
4. Legislators should require additional financial information from insurance carriers in the state so that they know how premium dollars are spent. Similarly, policymakers should address the question of whether "the State should play a role in determining where and how insurance company investments are placed."

5. Consideration should be given to the following proposals for reducing small employers' premium rates:
 - . A state reinsurance program which takes responsibility for all benefit payments over \$300,000, thus reducing carrier risk.
 - . A mechanism permitting small businesses to group together to purchase compensation coverage.
6. Legislators should seriously consider a state fund for workers' compensation.
7. An existing legislative committee should undertake review of the State's workers' compensation system.

Appendices

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WORKERS' COMPENSATION PROBLEMS IN ALASKA

ADDENDA

1. The text of the Florida statute requiring the workers' comp department to report to the Legislature on late payments and late decisions should be added to the appendices. The Florida law reads:

440.25 Procedure in respect to claims and hearing requests.--

• • •
(3)(d) Each deputy commissioner or the Industrial Relations Commission is required to submit a special report to the Division of Workers' Compensation in each contested workers' compensation case in which the case is not determined within 30 days of final hearing or within 180 days of filing an application for review. Said form shall be provided by the division and shall contain the name of the deputy commissioner, if the case is before a deputy commissioner; the attorneys involved; and a brief explanation by the deputy commissioner or the Industrial Relations Commission as to the reason for such a delay in issuing a final order. The Division of Workers' Compensation shall compile these special reports into an annual public report to the Governor, the Secretary of Labor and Employment Security, the Legislature, the Florida Bar, and the appellate district judicial nominating commissions.

2. Should report title page say "Prepared for the Alaska Legislative Affairs Agency and the House Labor and Management Committee" (Cover letter addresses report to the Committee.)?
3. Summary & Conclusions (unnumbered p. 2, line 10): Add underlined clarifying phrase: "their tasks on behalf of claimants in a manner")
4. Page 52 (line 12): change irregardless to regardless.

Summary Data from Schedule P - Part 1C													
1 Premiums Earned	XX	XX	25,482	14,941	15,085	8,718	14,423	XX	XX	100.0	100.0	100.0	100.0
2 Loss & Loss Exp Inc'd	XX	XX	21,718	14,401	12,828	7,418	12,438	XX	XX	85.3	85.3	85.3	85.3
LOSS & LOSS EXPENSE THROUGH 1 YEAR													
3 Paid	XX	XX	988	428	323	263	81	XX	XX	3.5	2.9	2.1	3.0
4 Reserve (2) - (3)	XX	XX	20,818	13,973	12,505	7,157	12,357	XX	XX	81.8	82.4	83.2	82.4
LOSS & LOSS EXPENSE THROUGH 2 YEARS													
5 Paid	XX	XX	1,784	1,479	835	484	XX	XX	XX	7.0	6.7	5.3	5.2
6 Reserve (2) - (5)	XX	XX	19,032	12,492	11,670	6,674	XX	XX	XX	78.3	76.3	77.9	77.2
LOSS & LOSS EXPENSE THROUGH 3 YEARS													
7 Paid	XX	XX	3,430	2,115	1,343	XX	XX	XX	XX	14.3	12.5	8.9	XX
8 Reserve (2) - (7)	XX	XX	16,602	12,376	11,485	XX	XX	XX	XX	71.1	72.5	76.1	XX
LOSS & LOSS EXPENSE THROUGH 4 YEARS													
9 Paid	XX	XX	6,338	3,115	XX	XX	XX	XX	XX	24.9	18.4	XX	XX
10 Reserve (2) - (9)	XX	XX	10,264	11,261	XX	XX	XX	XX	XX	60.5	64.1	XX	XX
LOSS & LOSS EXPENSE THROUGH 5 YEARS													
11 Paid	XX	XX	8,491	XX	XX	XX	XX	XX	XX	33.4	XX	XX	XX
12 Reserve (2) - (11)	XX	XX	19,227	XX	XX	XX	XX	XX	XX	82.0	XX	XX	XX

SCHEDULE P - PART 3D - WORKMEN'S COMPENSATION

Calendar Year Premiums Earned, Accident Year Loss and Loss Expense Incurred

	Dollars (000 omitted)							Percentages						
	1 1973	2 1974	3 1975	4 1976	5 1977	6 1978	7 1979	8 1973	9 1974	10 1975	11 1976	12 1977	13 1978	14 1979
Summary Data from Schedule P - Part 1D														
1 Premiums Earned	180,260	187,579	216,374	240,223	329,523	437,299	484,569	100.0	100.0	100.0	100.0	100.0	100.0	100.0
2 Loss & Loss Exp Inc'd	170,698	171,132	191,792	233,162	290,541	348,738	400,314	94.7	91.2	88.4	93.9	88.2	79.7	82.6
LOSS & LOSS EXPENSE THROUGH 1 YEAR														
3 Paid	44,323	46,774	48,070	60,754	70,332	79,887	88,011	24.6	24.9	22.2	24.5	21.3	18.3	18.2
4 Reserve (2) - (3)	126,375	124,358	143,722	172,408	220,209	268,851	312,303	70.1	66.3	66.4	69.5	66.9	61.5	64.4
LOSS & LOSS EXPENSE THROUGH 2 YEARS														
5 Paid	85,984	89,711	89,937	112,423	126,050	146,329	XX	47.7	47.8	41.6	45.3	38.3	33.5	XX
6 Reserve (2) - (5)	84,714	81,421	101,855	120,737	164,491	202,409	XX	47.0	43.4	47.1	48.6	49.9	46.3	XX
LOSS & LOSS EXPENSE THROUGH 3 YEARS														
7 Paid	107,185	112,187	116,793	136,164	163,784	XX	XX	59.5	59.8	54.0	54.9	49.7	XX	XX
8 Reserve (2) - (7)	63,513	58,945	74,999	96,996	126,757	XX	XX	35.2	31.4	34.7	39.1	38.5	XX	XX
LOSS & LOSS EXPENSE THROUGH 4 YEARS														
9 Paid	122,316	127,143	131,040	158,450	XX	XX	XX	67.9	67.8	60.6	63.8	XX	XX	XX
10 Reserve (2) - (9)	48,282	43,989	60,732	74,712	XX	XX	XX	26.8	23.5	28.1	30.1	XX	XX	XX
LOSS & LOSS EXPENSE THROUGH 5 YEARS														
11 Paid	132,136	138,421	142,245	XX	XX	XX	XX	73.3	72.2	65.7	XX	XX	XX	XX
12 Reserve (2) - (11)	38,562	35,711	49,547	XX	XX	XX	XX	21.4	19.0	22.9	XX	XX	XX	XX

SCHEDULE P - PART 3E - FARMOWNERS MULTIPLE PERIL, HOMEOWNERS MULTIPLE PERIL, COMMERCIAL MULTIPLE PERIL, OCEAN MARINE, AIRCRAFT (ALL PERILS) AND BOILER AND MACHINERY

Calendar Year Premiums Earned, Accident Year Loss and Loss Expense Incurred

	Dollars (000 omitted)							Percentages						
	1 1973	2 1974	3 1975	4 1976	5 1977	6 1978	7 1979	8 1973	9 1974	10 1975	11 1976	12 1977	13 1978	14 1979
Summary Data from Schedule P - Part 1E														
1 Premiums Earned	401,035	438,098	467,608	560,747	671,996	729,072	763,108	100.0	100.0	100.0	100.0	100.0	100.0	100.0
2 Loss & Loss Exp Inc'd	249,632	295,575	338,880	340,021	390,871	419,088	497,188	62.2	67.5	72.5	60.6	58.2	57.5	65.2
LOSS & LOSS EXPENSE THROUGH 1 YEAR														
3 Paid	119,216	143,901	161,940	155,951	171,694	197,473	230,731	29.7	32.8	34.6	27.8	25.5	27.1	32.9
4 Reserve (2) - (3)	130,416	151,674	176,940	184,070	219,177	221,615	266,457	32.5	34.6	37.8	32.8	32.6	30.4	32.3
LOSS & LOSS EXPENSE THROUGH 2 YEARS														
5 Paid	186,549	231,416	261,828	234,717	311,858	320,418	XX	46.5	52.8	56.0	45.4	46.4	43.9	XX
6 Reserve (2) - (5)	43,883	44,159	77,052	85,304	79,013	98,670	XX	15.7	14.6	16.5	15.2	11.8	13.5	XX
LOSS & LOSS EXPENSE THROUGH 3 YEARS														
7 Paid	206,214	252,965	289,837	249,152	342,551	XX	XX	51.4	57.7	62.0	51.6	49.4	XX	XX
8 Reserve (2) - (7)	43,418	42,610	49,043	50,869	58,570	XX	XX	10.8	9.7	10.5	9.1	8.7	XX	XX
LOSS & LOSS EXPENSE THROUGH 4 YEARS														
9 Paid	221,272	265,371	309,426	301,691	XX	XX	XX	55.2	60.6	64.2	53.8	XX	XX	XX
10 Reserve (2) - (9)	78,760	70,704	79,494	78,330	XX	XX	XX	7.1	6.9	6.3	6.0	XX	XX	XX
LOSS & LOSS EXPENSE THROUGH 5 YEARS														
11 Paid	229,368	275,286	319,911	XX	XX	XX	XX	57.2	62.8	68.4	XX	XX	XX	XX
12 Reserve (2) - (11)	20,264	20,289	18,969	XX	XX	XX	XX	5.1	4.6	4.1	XX	XX	XX	XX

(a) Completion of this data is optional.

Note: Item 2 is taken from this year's Schedule P - Part I and is consequently updated each year. Items 3, 5, 7, 9 and 11 are taken from the Schedule P - Part I for corresponding Part for years prior to 1975 of the year indicated by the heading immediately above each item, and consequently do not change after once being entered.

$$\frac{163,784}{290,541} = 56.3\%$$

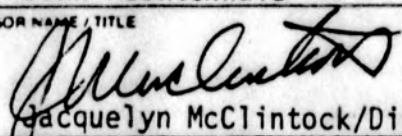
$$\frac{88,011}{400,314} = 22.0\%$$

$$\frac{70,332}{290,541} = 24.2\%$$

$$\frac{49,547}{191,792} = 25.8\%$$

Large Project Funding Packet

SPECTRUM

PROJECT NAME		PROJECT NO.	
Worker's Compensation		DL0133	
PROJECT MANAGER NAME		DATE	REVISION
John Recktenwald		9/15/80	
SPONSOR NAME / TITLE		APPROVED DATE	
 Jacquelyn McClintock/Director			

LARGE PROJECT — PLAN

PROJECT NAME WORKERS COMPENSATION		PROJECT NO. DL0133	
PREPARED BY JOHN RECKTENWALD	DATE 9/80	APPROVED BY	DATE

STATUS	1. DEFINITION ☒ 1.1 PROJECT PROPOSAL / PLAN ☒ 1.2 USER REQUIREMENTS ☒ 1.3 SYSTEM DEFINITION ☐ 1.4 ADVISIBILITY STUDY	2. DESIGN / DEVELOP ☐ 2.1 PRELIMINARY DESIGN ☐ 2.2 DETAIL DESIGN ☐ 2.3 PROGRAM DESIGN ☐ 2.4 PROGRAMMING/TESTING	3. IMPLEMENTATION ☐ 3.1 IMPLEMENTATION PLANNING ☐ 3.2 SYSTEM TEST ☐ 3.3 OPERATIONS TURNOVER ☐ 3.4 START-UP / USER TRAINING ☐ 3.5 SYSTEMS ACCEPTANCE
	X = COMPLETE		

SCHEDULE	CURRENT / PROPOSED SCHEDULE	COST / SCHEDULE HISTORY			
	LAST APPROVED COMPLETION DATE 8/28/81	FUNDING POINT	DOLLARS TO NEXT FUNDING POINT	TOTAL PROJECT COST	END DATE
	PROPOSED NEW COMPLETION DATE 11/18/81	1 START	14,910	296,190	11/18/81
	VARIANCE TO LAST APPROVED DATE	2 (1.4)	9,120		
		3 (2.1)			
	4 (2.3)				
	5 (3.1)				

DEVELOPMENT COST	D O L L A R S			H O U R S			
	ACTUAL TO DATE	ESTIMATED TO GO	TOTAL	ACTUAL TO DATE	ESTIMATED TO GO	TOTAL	
	PERSONNEL.....	29,000	156,990	185,990	967	5233	6200
	MACHINE TIME.....		20,000				
	EQUIPMENT.....		90,200				
	MATERIAL.....						
	OUTSIDE SERVICES.....						
	TOTAL.....			296,190			6200
	LAST APPROVED.....						6525
	VARIANCE.....						325
PROPOSED NEW BUDGET.....			296,190			6200	
SRB APPROVED BUDGET.....							

OPERATING COST		YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
	OLD SYSTEM COST					
	NEW SYSTEM COST	122,600	98,400			
	SAVINGS (COST)					

APPROVAL SIGNATURES	SIGNATURE	DATE	SIGNATURE	DATE
	SIGNATURE	DATE	SIGNATURE	DATE
	SIGNATURE	DATE	SPONSOR	DATE

9/18/80

LARGE PROJECT — NARRATIVE

PROJECT NAME Worker's Compensation System		PROJECT NO. DL0133	
PREPARED BY JOHN RECKTENWALD	DATE 9/5/80	APPROVED BY	DATE

OBJECTIVE:

- 1) Reduce the incidence of disputed claims requiring Board hearings by 20%.
- 2) Reduce from 60 to 30 days the average number of days parties must wait to be scheduled for a hearing and reduce from 96 to 20 days or less the number of days for a decision after a hearing.
- 3) Increase the percentage of compliance by insurance carriers with the requirement of first voluntary payment of compensation occur within 14 days; from 26 to 45 percent.
- 4) Increase the percentage of compliance by employers with the requirement they report worker injuries within 10 days from 40 to 50 percent.

HOW IT WOULD WORK:

Case data will be entered to the computer system as it is available and will be accessible by terminals in the field offices. There will be automatic prompting of staff and notification of delinquent parties to a claim. Second injury and litigated claims will be tracked with input by the persons using the tracking system.

Prior Board decisions will be easily accessible by terminal to hearing officers.

Word processing will be integrated into the system. The prior decisions will be available to the word processing system and word processing will be used to output many of the prompting letters.

WHAT THE SYSTEM WILL NOT ACCOMPLISH:

Data for fraud detection with other agencies will be made available but the actual interfaces are not included.

HOW IT DIFFERS FROM THE CURRENT METHOD:

Automates previously manual procedures.

There is currently no way to review case status in the field offices.

POTENTIAL PROBLEMS (DURING DEVELOPMENT AND DURING OPERATION):

Current manual procedures may not be the most effective or efficient. The current filing system is exceeding its capabilities. There may not be adequate clerical staff for data handling. There will be additional staff required to maintain the old system while implementing the new one.

LARGE PROJECT — BENEFITS

PROJECT NAME Worker's Compensation System		PROJECT NO. DL0133	
PREPARED BY J.L. McClintock	DATE 2/11/80	APPROVED BY	DATE 2-11-80
TANGIBLE BENEFITS (MEASURABLE):			
1. Will reduce incidence of disputed claims requiring Board hearing by providing the means for resolution of disputes at lowest level. 2. Will reduce number of days parties must wait between request for hearing and date case is scheduled for hearing. 3. Will reduce number of days parties must wait between Board hearing and Board issuance of Decision and Order. 4. Will provide controls for division enforcement of employer/carrier responsibility for timely first payment and notice of benefit suspension and enable automatic assessment of penalties for non-performance. 5. Will provide controls for division enforcement of employer responsibility to insure for Worker's Compensation insurance. 6. Will provide for immediate statistical data.			
INTANGIBLE BENEFITS (UNMEASURABLE):			
1. Will provide for distribution of workload to proper levels. 2. Will improve quality and consistency of Board decisions. 3. Will provide cross-match information to other Divisions and Departments, i.e., Safety Program needs, rate making, duplication of benefit payments, employer data.			

LARGE PROJECT — STATUS

PROJECT NAME Worker's Compensation System		PROJECT NO. DL0133	
PREPARED BY JOHN RECKTENWALD	DATE 9/80	APPROVED BY	DATE
WORK COMPLETED NARRATIVE: SPECTRUM tasks in Phase 1 are complete including Project Proposal, Project Plan, User Requirements, Systems Definition and Advisability Study except as noted below. The preliminary design sub phase of Systems Design is currently in process.			
PLANNED WORK NOT COMPLETED AND ITS IMPACT: A portion of the advisability study is being used to evaluate word processing terminals and is being done as information is available. It is not delaying the project at this time.			
PROBLEMS ENCOUNTERED AND CONSEQUENCES: The uncertainty of what DP system would be available and when has had a noticeable impact on this project. It is resolved at this time but has caused an elapsed time delay of 1 to 2 months. We are still safely within the time frame of the total project.			
ANTICIPATED PROBLEMS AND WHAT WE SHOULD DO: 1) The integration of word processing on a large mainframe is fairly new technology. The timing and availability of an appropriate system is not defined yet. 2) The Administrative Officer for Worker's Compensation will be a key figure in the development of this system before the end of the year.			

PROJECT NAME		PROJECT NO.	
PREPARED BY	DATE	APPROVED BY	DATE
SUB PHASE 3 COMMENTS	WEEK ENDING	SEPT 1980	OCT 1980
		13 20 27	4 11 18 25
1.2 USER REQUIREMENTS			
1.3 SYSTEMS DESIGN			
1.4 ADVISABILITY STUDY			
2.1 PRELIMINARY DESIGN			
2.2 DETAIL DESIGN			
2.3 PROGRAM DESIGN			
2.4 PROGRAMMING/TESTING			
3.1 IMPLEMENTATION PLAN			
3.2 SYSTEM TEST			
3.3 OPERATIONS TURNOVER			
3.4 TRAINING/START-UP			
3.5 ACCEPTANCE /WRAP-UP			

1981

[illegible]

PROJECT NAME		PROJECT NO.	
PREPARED BY	DATE	APPROVED BY	DATE
	1981	APRIL/81	MAY/81
	14	21	28
	4	11	18
	25	2	9
	16	23	30
	6		
1.2 USER REQUIREMENTS			
1.3 SYSTEMS DESIGN			
1.4 ADVISABILITY STUDY			
2.1 PRELIMINARY DESIGN			
2.2 DETAIL DESIGN			
2.3 PROGRAM DESIGN			
2.4 PROGRAMMING/TESTING			
3.1 IMPLEMENTATION PLAN			
3.2 SYSTEM TEST			
3.3 OPERATIONS TURNOVER			
3.4 TRAINING/START-UP			
3.5 ACCEPTANCE /WRAP-UP			

1124

2228

[illegible]

[illegible]

2774

2410

MECHANISM

WORKER'S COMPENSATION PROJECT PLAN

The Worker's Compensation Project has been re-estimated as a whole in SPECTRUM 1.4.20 to provide a cost for the project. The project actually will be broken down into 5 projects as outlined in the System Implementation Strategy in SPECTRUM 1.3.18 as the 5 levels of implementation. The project will proceed through an abbreviated preliminary design (2.1) to insure an integrated system will exist when all 5 levels are complete. The balance of the preliminary design will be done in the corresponding sub-projects. The sub-projects are as follows:

- | | | |
|----|-----------------|---------------------------------------|
| 1) | Large Project - | On-line Summary File and Carrier Data |
| 2) | Small Project - | Judicial Tracking and SIF |
| 3) | Small Project - | Management Reporting (Batch) |
| 4) | Small Project - | Legal Digest |
| 5) | Small Project - | Fishermen's Fund |

The User Requirements (1.2), System Definition (1.3) and Advisability Study (1.4), produced in the current large project, will be used for all 5 projects. Portions of the preliminary design can be used and supplemented with appropriate material for each sub-project as their preliminary design.

M. LEVELS OF IMPLEMENTATION

The user requirements have been divided into application areas which can be used as implementation modules. These implementation modules are:

1. Legal Digest - This is an independent function from most of the system and can be implemented separately.
2. Summary Claim File - When this is available online in the field offices and home office it will provide the largest benefit of the system. It also involves the largest effort and a conversion.
3. Management Reporting
 - a. Insurance Carrier Data Automation
 - b. Monitoring/Prompting and Additional Reporting
4. SDS
 - a. SDS Tape Extract
 - b. Obtain and Install SDS Edit system
5. IAIABC Reporting - This is a minimal effort
6. Fishermen's Fund - Incorporate the Fishermen's Fund system into the Workers' Compensation system
7. Second Injury Fund - Automate Second Injury tracking
8. Interfaces to other Department of Labor users
9. Interfaces to other Departments
10. Interfaces to outside users
11. Hearings - Involves judicial tracking and automated docketing
12. Electronic Mail - This should be a package available from a vendor and can be implemented when terminals are installed in Anchorage and Fairbanks.
13. Word Processing - This should be available with the acquisition of hardware. It should provide usable output with operator training and no software development.

The following constraints apply: Items 12 and 13 are expected to be available with no development effort. Most other items except 1 are dependent on item 2. The entire system should be designed as an integrated whole before separating into implementation modules.

A phased implementation strategy of the above elements is highly desirable. Each phase should have an estimate and target date.

The phases or levels of implementation of the above modules as prioritized by the Workers' Compensation Division are:

1. System Design, 2, 3A, 4A, 12, 13
2. 7, 11
3. 3B, 5
4. 1
5. 4B, 6, 8, 9, 10

LARGE PROJECT — SUMMARY OF ESTIMATED HOURS

PROJECT NAME WORKERS COMPENSATION								PROJECT NO DL0133					
ESTIMATE PREPARED BY JOHN RECKTENWALD				DATE		APPROVED BY				DATE 9/80			
REMARKS	USER REQUIREMENTS	SYSTEMS DEFINITION	ADVISABILITY STUDY	PRELIMINARY DESIGN	DETAIL DESIGN	PROGRAM DESIGN	PROGRAMMING / TESTING	IMPLEMENTATION PLANNING	SYSTEM TEST	OPERATIONS TURNOVER	TRAINING / START-UP	ACCEPTANCE / WRAP-UP	
ADJUSTMENT FACTORS	1.2	1.3	1.4	2.1	2.2	2.3	2.4	3.1	3.2	3.3	3.4	3.5	
1. PROJECT SIZE							.1						
2. PROJECT LENGTH				.1	.1	.1	.1	.1	.1	.1	.1	.1	
3. SIZE OF PROJECT TEAM				-.1	.1								
4. AVERAGE EXPERIENCE LEVEL OF TEAM MEMBERS													
5. EXPERIENCE AS A TEAM													
6. % OF TIME ON OTHER WORK													
7. PROJECT MANAGER EXPERIENCE													
8. PROJECT MANAGER CONTINUITY/ PARKING OF A PROJECT													
9. NUMBER OF USER ORGANIZATIONS TO COORDINATE													
10. LEVEL OF USER UNDERSTANDING													
11. USER SUPPORT & AVAILABILITY				-.1	-.1			-.1	-.1		-.1	-.1	
12. SYSTEM COMPLEXITY				.1									
13. PROGRAM COMPLEXITY						.1	.1		.1				
14. COMPLEXITY OF FILES													
15. NEWNESS OF TECHNIQUES						.2	.2		.2				
16. NEWNESS OF SOFTWARE						.1			.1				
17. MACHINE TURNAROUND													
18. QUALITY OF CONVERSION DATA									.1				
19.													
20.													
ADDITIVE CONSTANT	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	
TOTAL WEIGHT				1.0	1.0	1.4	1.6	1.0	1.5	1.1	1.0	1.0	TOTAL
TASK ESTIMATES (PAR)				304	496	343	1224	416	295	118	150	173	3519
ADJUSTED ESTIMATE				304	496	480	1958	416	443	130	150	173	4550
MAXIMUM ESTIMATE (+ 15 %)													5233



Alaska Pacific Assurance Company

4041 "B" STREET
ANCHORAGE, ALASKA 99503

November 6, 1979

Mr. Billy Jones
P.O. Box 3-641
Anchorage, AK 99501

RE: Injury of 5/10/76

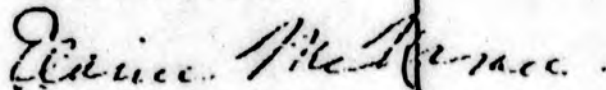
Dear Billy:

When you were in our office last week to pick up your benefits check, you advised that you had spoken to your attorney in Seattle and he advised that we were obtaining your medical reports illegally. Would you please furnish us with the name of your attorney and whether or not you have retained him. An attorney request form is attached for his signature and yours.

You also advised that we would not be receiving copies of your reports from Dr. Chaplin or the pain clinic. Please be advised we will not accept responsibility for payment of this stay at the pain clinic. By copy of this letter we are also informing the Alaska Workmen's Compensation Board of your unwillingness to supply medical reports.

Upon receipt of this letter, would you kindly advise us the name of the attorney you have now retained. An attached self-addressed envelope is enclosed for your convenience in forwarding us this information.

Very truly yours,



Elaine McNamara, Adjuster
INA Claims Department

EM/pg

cc: File

c/o 2702 Denali, Anchorage, AK 99503

Enclosure: Attorney request form
Self-addressed envelope

ALASKA DEPARTMENT OF LABOR
Alaska Workmen's Compensation Board
Box 1147 - Juneau, Alaska

NOTICE TO THE BOARD THAT CLAIM WILL BE CONTROVERTED

(To be submitted in duplicate to Board, who will forward copy to employer)

NOTE.—This form must be completed and filed with the Alaska Workmen's Compensation Board on or before the 14th day after the employer has knowledge of the alleged injury or death, in all cases where the right of the injured to compensation is controverted.

1. Name of employer Fluor Alaska, Inc.
2. Office address: 1867 Airport Road City or Town Fairbanks, State Alaska 99701
3. Name of injured employee Billy E. Jones
4. Present address: P.O. Box 3-641 ECB City or Town Anchorage, State Alaska 99501
Alternate Address: c/o 2702 Denali, Anchorage, AK 99503
5. Date of alleged injury or first illness from disease May 10, 19 76, M.
6. Nature of alleged injury or occupational disease Low back (right side)
7. When was notice of injury received from employer? 5/27, 1976
8. This case will be controverted for the following reasons (State specific reasons to be relied upon):
As of 4/9/79 cervical problems appeared which we believe to be unrelated to this injury
and are therefore controverting all treatment for cervical problems by Dr. Trevor Ireland,
Julian Vickers, D.C., E.E. Waldroup, D.C. and David Chaplin, F.R.C.F.
9. Do you believe that disposition of a claim in this case can be made without the necessity for formal hearing? Yes Yes
(Yes or No)

Name of Insurance Carrier Alaska Pacific Assurance Co./INA
4041 B Street, Anchorage, AK 99503

Signed by Maurcen Ketzner

Official title Claims Supervisor

Dated November 6

19 79

① Rule 10. Transcript of Testimony (a) Transcript of testimony taken at hearings in compensation proceedings will continuously not be reported or Transcribed, unless requested.

② Sec. 23.30.172
Subsection (e)

CLAIMANT			ASSURED	CLAIM NUMBER					
LAST	FIRST	MIDDLE		01	02	03	04	05	06
JONES	Billy	E.	Fluor Alaska, Inc.	02	16	05	76	102152	00

FOR Temporary Total Disability Benefits from 06-06-77 to and including 09-03-77-- 12 weeks, 6 days (13 weeks, 5 days total paid)

PAY Four thousand three hundred twenty six dollars and 54/100

\$4,326.54

Billy E. Jones
980 Ponce De Leon Ave
Atlanta, GA

NATIONAL BANK OF ALASKA
ANCHORAGE BRANCH
ANCHORAGE, ALASKA

00524978 1252 00051 01 21 79 1 7

Alaska Pacific Assurance Company
Anchorage, Alaska

③ Sec. 23.30.155
Subsection (e)

INA CORPORATION INSURANCE COMPANIES

Insurance Company of North America Pacific Employers Insurance Company
Allied Insurance Company Life Insurance Co. of North America
Pacific Employers Insurance Company BNA Insurance Company of Illinois
UNITED CALIFORNIA BANK, 405 Montgomery Street, San Francisco, California

KL1 513862

A G205C102152-A A C1090051 A 7/5/79

U \$

PAY \$673.02** DOLLARS \$ 673.02**

TO THE ORDER OF Billy E. Jones

ANCHORAGE/EMN/v1

TD from 6/24 to & incl. 7/7/79 2w. (109w, Od total) Fluor Alaska
5/10/76 Jones, Billy E.

00513862 1210 00551 621020475

④ Sec 230.30.095 Medical EXAMINATIONS

Selection by employee of out-of-state physician - under subsection (a) of this section, An injured employee has no right to select an out-of-state physician without the approval of the Board.

Title

An Act relating to the second injury fund;
and providing for an effective date.

Contact:

Judy DuBois
Phone: 465-2700

Projections for the Second Injury Fund indicate that a serious fund balance problem will exist at the end of FY 80 (see attached). As the results of amendments to the Workmen's Compensation Act over the past five years, the cost of compensation payments to injured workers and reimbursement to employer/carriers has increased by approximately 400 percent. Primarily due to inflation, costs of vocational retraining and rehabilitation have also doubled during this same period.

The general trend has been to increase Workmen's Compensation benefits, thus expenditures with no provision for an increase in revenue. The maximum amount allowable for retraining and rehabilitation (\$5,000) has not increased since enactment of Alaska Workmen's Compensation laws in 1959. Likewise, the present method of obtaining revenue for the Fund has not been updated since July 1, 1970 and does not generate adequate funding to meet current statutory obligations. Present monetary demands on the Fund exceed receipts and the Fund is unable to reimburse employer/carriers in full for payments to injured workers as required in AS 23.30.205. It is forced to make reimbursement on a monthly installment basis. In the future, payments made on accounts owed in past years will combine with present debts to deplete the Fund and the program will be unworkable.

Several meetings have been held by the Second Injury Fund Officer with other members of the Department, Budget and Management representatives, insurance representatives, and Division of Vocational Rehabilitation personnel to consider alternative courses of action which would remedy the impending liquidity problem of the Fund. After analyzing the fiscal impact of cutting or severely limiting services to injured workers, it was decided that an alternative method of generating revenues was the most reasonable and logical course of action to follow.

Our original proposal outlined a plan recommended by the Council of State Governments whereby each employer or carrier shall, under regulations prescribed, make payments to the Fund in an amount equal to that proportion of 175 percent of the total disbursement made from the Fund during the preceding calendar year, less the amount of net assets in the Fund as of December 31 of the preceding calendar year. However, after discussing this procedure with the Administrator of Second Injury Fund from the State of Michigan (Michigan and Georgia are presently the only states operating on the 175 percent system) it was decided that the data systems necessary for the implementation and monitoring of this proposal were not available.

After further researching the matter, it has been decided that the most reasonable and logical means of generating revenues adequate for the Fund to meet its obligation is to provide for payments to the Fund by employer/carriers on all compensation paid for disability and Section .191 benefits. Under present law the fund derives revenue only in cases of permanent partial disability (8% of award) and death (\$10,000 in cases where the employee is not survived by a person eligible for benefits). Our proposal would reduce employer/carrier payments to the Fund to six percent of all disability compensation, and Section .191 benefits paid.

(Continued)

POSITION PAPER/Department of Labor

In cases of death, the provisions remain the same. (See #3 attached for payments made to the Fund in cases of death for the past five calendar years).

Division records show that the employer/carriers paid \$24,100,023 in compensation to injured workers during FY 79. Under the proposed system the Fund would have generated revenues of approximately 1.4 million dollars (see attached). Unless construction of the gas pipeline commences over the next two years, we foresee no large increases in compensation being paid. With the continued decrease in the number of Workmen's Compensation claims and the decreasing average annual wage which affect the amount of compensation paid, projections for FY 80 and FY 81 would reflect a lesser figure.

It is anticipated that within one year of implementation of the proposed plan, the Second Injury Fund will again be solvent. We believe that the repeal and re-enactment of these statutes is necessary if the Fund is to continue to meet its obligations and meet the needs of those injured workers eligible for Second Injury Fund benefits, as set out in Section .040 and .205 of the Alaska Workmen's Compensation Act.

The actuaries of the National Council on Compensation Insurance have indicated to the Alaska Division of Insurance that this legislation will cause no impact in workers' compensation insurance premium rates.

SECOND INJURY FUND

COMPARISON OF FUND BALANCES, RECEIPTS AND DISBURSEMENTS

Fiscal Year	July 1 Beginning Balance	Adjustments	Receipts	Disbursements	June 30 Ending Balance
1974	54,376	163,448	184,608	236,842	165,589
1975	165,589	(17,050)	239,481	271,550	116,469
1976	116,469		430,318	329,010	217,777
1977	217,777		445,410	334,133	329,054
1978	329,054		652,998	765,200	196,852
1979	196,852		1,085,600	990,500	291,952
1980	291,952		900,000	1,236,300	(41,348)

* Estimated revenue 1980

** Estimated balance for June 30, 1980

NUMBER OF WORKER'S COMPENSATION CLAIMS AND BENEFITS PAID

CALENDAR YEAR 1979

	<u># REPORTING</u>	<u># COMP. CLAIMS</u>	<u>AMT. COMP. PD.</u>	<u>MEDICAL PAID</u>	<u># MED. ONLY CLAIMS</u>	<u>MEDICAL ONLY PAID</u>
<u>1st Quarter</u>						
Self-Insured	14	63	\$ 117,568.99	\$ 64,813.20	40	\$ 16,303.11
Carriers	27	4,684	\$ 5,562,494.01	1,639,938.66	2,614	301,604.47
<u>2nd Quarter</u>						
Self-Insured	12	72	137,368.47	56,156.58	32	10,301.20
Carriers	25	4,661	6,476,570.09	1,512,283.33	2,477	403,624.75
<u>3rd Quarter</u>						
Self-Insured	10	181	289,135.24	149,975.15	266	44,007.15
Carriers	23	2,511	3,044,746.53	935,117.60	1,770	262,110.11
<u>4th Quarter</u>						
Self-Insured	8	32	99,231.92	42,402.82	76	14,501.04
Carriers	22	3,139	3,372,408.67	1,095,218.26	1,972	291,958.00
<u>TOTALS -</u>						
Self-Insured		348	643,804.62	313,347.75	464	85,117.50
Carriers		15,195	23,456,219.30	5,182,558.35	8,833	1,259,297.33
<u>GRAND TOTALS</u>						
		15,543	\$ 24,100,023.92	\$ 5,495,906.10	9,297	\$ 1,344,414.83

(QUARTERLY REPORTS - AS REPORTED TO THE ALASKA WORKMEN'S COMPENSATION DIVISION BY CARRIERS AND SELF-INSURED EMPLOYERS)

SECOND INJURY FUND

PAYMENTS MADE TO SIF IN CASES OF DEATH

Calender Year	Total No. of Death Reported	Amt. Paid to SIF
1979	51	\$70,000
1978	60	\$120,000
1977	68	\$100,000
1976	99	\$170,000
1975	94	\$180,000

SECOND JULY FUND

CURRENT FORMULA

- 8% OF PPD
- EXPECTED TO PRODUCE \$1,600,000 IN REVENUES FROM POLICIES IN FORCE DURING THIS YEAR

\$1,600,000 PPD
1,600,000 TOTAL

PROPOSED FORMULA - 4B 1011

- 6% OF PPD, PTD, TTD, TPD
 - EXPECTED TO PRODUCE \$1,800,000 IN REVENUES FROM POLICIES IN FORCE DURING THIS YEAR.
 - NO CHANGE IN RATE
 - REVENUE SLIGHTLY INCREASED.
 - CASH FLOW CHANGED.
- \$1,200,000 PPD
\$600,000 PTD, TTD, TPD
1,800,000 TOTAL

ALTERNATIVE PROPOSED FORMULA - CBHB 1011

- 8% OF PPD, PTD, TTD, TPD
 - EXPECTED TO PRODUCE \$2,400,000 IN REVENUES FROM POLICIES IN FORCE DURING THIS YEAR.
 - RATE CHANGE 1.1%.
 - REVENUE INCREASED.
 - CASH FLOW REVISED.
- \$1,600,000 PPD
\$800,000 PTD, TTD, TPD
2,400,000 TOTAL

WORKER'S COMPENSATION STUDY COMMISSON

CO-CHAIRMEN: SENATOR TERRY STIMSON
REPRESENTATIVE BRIAN ROGERS

SEPTEMBER 19th and 20th MEETING

- 1) PRESENTATION BY DIANE SIMONSEN - CLAIMS STUDY
- 2) DISCUSSION VOCATIONAL REHABILITATION/RE-EMPLOYMENT
- 3) PUBLIC TESTIMONY/INPUT
- 4) PRESENTATION BY JACKIE MCCLINTOCK - DIRECTOR, DIVISION
OF WORKER'S COMPENSATION
- 5) PRESENTATION BY BOB WILLIAMS
- 6) FORMING OF SUB-COMMITTEES
- 7) DISCUSSION OF NEXT MEETING DATE
- 8) OPEN DISCUSSION AND FURTHER RECOMMENDATIONS BY MEMBERS
OF COMMISSION

The proposed Capital Improvement program for Worker Protection involves one data processing project for Workers' Compensation.

The project team assigned to complete the systems definition for the Workers' Compensation Capital Improvement Project has progressed to the point that the proposal of October 24, 1979, may now be amended to properly estimate the project. An additional \$85,000 will be required, bringing the total capital budget to \$296,200. The original agency plan was for a one year capital appropriation to cover development of the data processing software and acquire a piece of microfilm equipment. The Department intended to lease/purchase the necessary data processing terminals and associated equipment in the FY 82 budget once these requirements were defined. In view of the House's action whereby the appropriation would cover two fiscal years, and in view of our progress in defining these equipment needs to date, it would seem appropriate to add these requirements to the capital project budget now and leave the appropriation intact for two fiscal years as provided by the House. This would reduce the recurring future operating costs to those of line costs, systems and hardware maintenance and possibly computer operation costs at the central computer.

The project addresses Governor's Policy Themes 3 and 4 by providing Workers Compensation program an effective tool for capturing and managing complex interdependent sets of data and releasing staff resources to resolve client problems promptly. It also addresses program quality in a legal sense by providing access to precedent information, reducing the ad hoc nature of Workers' Compensation Board decisions.

The policy objectives addressed by this request are:

Policy Budget Objective No.

2. Reduce from a 96 day average to 20 or less the number of days parties must wait for decisions of the Board after hearing.
3. Increase percentage of compliance by insurance carriers with statute requiring first payment of compensation within 14 days from 26 percent to 38 percent.

The impact of this request on these objectives is estimated to be as follows:

Objective No.

2. Through prompt and secure information handling, the Compensation Officer/Hearing Officers will reduce incidence of resisted claims, reducing the Workers' Compensation caseload by 20%. Through access to

32 ANALYTIC STATEMENT
(Six-Year Capital Program)

CATEGORY Public Protection
AGENCY Department of Labor
PROGRAM Worker Protection

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precedents, the quality and consistency of decisions will be increased and the time required for research will be reduced.

3. By automatic prompting of staff and notification of all delinquent parties to a claim, first payment timeliness will be improved. Reduced staff time in manual filing and retrieval will be applied to first payment monitoring and enforcement. The estimated impact is achievement of the long range objective in FY'82 and increasing the rate to over 50% compliance in FY'83. Concurrently, penalties may be promptly assessed at the Board level with a deterrent affect on the carriers.

Other Impacts are Anticipated

Access to claim files in the field offices will enable Compensation Officers to resolve disputes in the early stages, thereby reducing the number of Board hearings. This will consequently reduce litigation and its costs for all parties. While this cost is not the main cost component to the parties it is an area that will benefit them.

This proposed system will accomplish the following:

A. Claimant Injury File

1. Front-end entry of injury/illness reports.
2. Prompt timely first pays.
3. Prompt listings of missing information and/or reports.
4. Assist Workers' Compensation Officers in maintaining current case files.
5. Allows Workers' Compensation Officers to promptly docket controverted cases for Board hearings.
6. Provide accurate and timely management reports.
7. Monitor final pay of Employer/Carrier with affirmation of claimant.
8. Provide front-end coding for SDS report.
9. Identify Employer/Insurance carrier.

B. Legal Digest File

1. Provide Board with index of precedent decisions of similar cases. (Indexed case files will be available at law libraries in Anchorage, Fairbanks and Juneau.)
2. Provide claimants, Employer, and/or carriers with same information.
3. Insure consistency of decisions from both panels of Board.
4. Provide new Board members with a learning tool to enable them to reach quick and logical decisions.
5. Maintain an updated central file of all Board and Court decisions on Workers' Compensation cases.

**CONTINUATION
FROM:**

CATEGORY Public Protection

AGENCY Department of Labor

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Project Title Workers' Comp. Information Handling System			Location(s) Juneau		Election Districts Served Statewide		Start Date SCSHB60E.D.		Completion Date 1-1-82		
AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year 82	Ultimate Annual Year 83	GOVERNOR'S REQUEST Approved ☐ Deferred ☐ Disapproved ☐				
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts			
1003	G/F Match			General Fund	122.6	98.4	1003	G/F Match			
1004	General Fund	296.2					1004	General Fund			
1005	I/A Receipts						1005	I/A Receipts			
	G.O. Bonds			Total Annual Operational Cost	122.6	98.4		G.O. Bonds			
				Position (FTE)	1.0	.5					
				Previous Year-Priority	Agency Priority		Governor's Priority				
	Total	296.2						Total			

PROJECT DESCRIPTION

I. Project Need Statement

One of the objectives of the Workers' Compensation Division is to assure timely first payment of benefits to claimants who have suffered time-loss due to injury or illness on the job. The present computer system is inadequate to provide timely management information or retrieval of claims data. In order to monitor claims activity for timely reporting and resolution, the Division receives copies of all injury reports, physician's reports and first and final payment reports from insurance carriers or self-insured employers. The present method for monitoring the approximately 20,000 cases per year includes 4 manual processes: receipt, sorting, assignment of case numbers, and coding. These amount to more than 180,000 clerical transactions per year. Of these transactions 9 out of 10 must be completed before the Division can respond to or resolve problems. The Division, due to limited funding and workload increases has been unable to complete these mandatory processes in a timely manner. This untimeliness has prevented the consistent enforcement of the statutory claim payment provisions, resolution of disputes, where possible, before a Board hearing is required, and the assurance that all documentation is present for the Board to review. Further, the information availability is so untimely the staff spends inordinate time manually searching on any request for information from the parties to a claim. Searching for files is further complicated because time-loss cases are often out of circulation for statistical data entry. In addition, when action is being taken on a claim, the case file is in the custody of a Compensation Officer, again removing the case records from circulation or review by the Second Injury Fund Officer or response to an inquiry.

**35a PROJECT DESCRIPTION -
PROPOSED CAPITAL
PROJECT**

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B-10-3

A second objective of the Workers' Compensation Division is to reduce the time the parties must wait for decisions of the Board after hearings. There is currently no retrieval system for researching Board or Supreme Court decisions; consequently decisions issued by the three regional panels are sometimes inconsistent with precedence and even each other. Access to a digest of prior decisions will provide a much needed research tool that will enable the Board to issue orders promptly and consistent with prior decisions. This will reduce hearings which are a result of court remands or Board modifications. The digest will provide immediate access to claimants and Employer/Carriers on precedent rulings of the Board and/or Court on similar issues which may enable the parties to resolve a dispute without a Board hearing. Also, the digest will be invaluable for training Board Members and Division staff.

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FROM: 35a

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Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land							
Construction							
Equipment							
Administration and Other							
Total Annual Expenditure (Capital Cost)							

Project Justification

II. Project Description

The primary requirements for an upgraded data processing and information handling system are (1) front-end data entry of key claimant information, (2) timely updates to the system, (3) on-line inquiry capability through remote terminals in Juneau, Anchorage and Fairbanks, and (4) on-line retrieval of the legal digest of prior decisions from the Board. To achieve these results, the Department has designed a multi-phase project to include: (1) systems definition, (2) general design with redefined requirements of the project in phase I, (3) detail design and (4) programming through implementation.

Approach

The workers' compensation project has completed the systems definition phase. The chosen course of action is to use the Department of Labor 370/148 and to use a phased implementation of a computerized information handling system. The phases identified are:

- 1) On line claim summary file and employer/carrier data
- 2) On line judicial tracking and Second Injury Fund
- 3) Management reporting
- 4) Legal digest and integrated Word Processing
- 5) Fishermen's Fund

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☒ Equipment (E)
- ☐ Land (L)
- ☒ Professional Services (P)
- ☒ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☒ Other

Site Features

NO YES

- ☐ ☐ Site Currently Owned?
- ☐ ☐ All Utilities Available?
- ☐ ☐ Access Already Available?

PROJECT TITLE W/C Information Handling System

CATEGORY Public Protection

AGENCY Labor

PROGRAM Worker Protection

35b PROJECT JUSTIFICATION
PROPOSED CAPITAL PROJECT

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III & IV Documentation of Capital & Operating Costs

		Equipment	
<u>Juneau</u>		Acquisition	Operation
1	3276 Terminal	8,000	41.50
4	3278 Terminals	12,800	62.00
1	3287 Printer	6,500	50.00
1	3278 Compatible Word Processor with 60 CPS printer	15,000	125.00
1	Modem		35.00
1	Phone line		44.00
<u>Anchorage</u>			
1	3278 Compatible Word Processor with 60 CPS printer	15,000	125.00
1	3278 Terminal	3,200	15.50
1	3287 Printer	6,500	50.00
<u>Fairbanks</u>			
1	3278 Compatible Word Processor with 60 CPS printer	15,000	125.00
Disk Storage - 49K (3 years data) (admin. rates)			<u>196.00</u>
<u>TOTALS</u>			
	Terminals	37,000	494
	Word Processors	45,000	375
		<u>82,000</u>	<u>869</u>
	Plus 10% Contingency	8,200	x 12 mos.
		<u>90,200</u>	<u>10,428</u>

W/C Information Handling System

CATEGORY Public Protection

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**CONTINUATION
FROM: 35b**

Operation Costs

Equipment	10,428
System Programmer Support	44,000
Data Processing Charge Back	50,000
Printer Supplies	7,000
	<u>111,428</u>
10% Contingency	11,143
	<u>\$122,571</u>

V. Identification of Alternatives

The systems definition phase of the Workers' Compensation Project included identification and evaluation of alternatives. The following decisions were made:

- A. An alternative is to leave the system as it is. The increasing court interest and inefficiency in information handling make continuance of a manual system undesirable in both a "quality of decision" and "timeliness" sense.
- B. The Department of Labor, ESD, has acquired an IBM 370/148. This system has been selected as the most cost effective.
- C. Word Processing interfaced or integrated into the information handling system will be used.
- D. Front end microfilming of files will not be used.
- E. Use of a minicomputer has been eliminated.
- F. ATMS/STAIRS will not be used for the legal digest.

W/C Information Handling System

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**CONTINUATION
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W Comp

TO: REP. BRIAN ROGERS

FROM: RICHARD A. FINEBERG
BOX 81835 - COLLEGE STA. *RM*
FAIRBANKS, AK 99708

RE: WORKERS' COMP BIBLIOGRAPHY AND QUESTIONS

DATE: AUGUST 3, 1980

A useful background volume is published by the U.S. Chamber of Commerce annually:

Analysis of Workers' Compensation Laws (1979 edition)
Prepared and published annually by the Chamber of Commerce
of the United States

Contents include state-by-state breakdown, in handy chart form, of:

- == type of law and insurance requirements;
- == coverage of laws;
- == coverage of minors;
- == coverage of occupational diseases;
- == benefits;
- == waiting period;
- == rehabilitation . . . etc.

I don't believe this volume was identified in the bibliography list; it would be most useful. I'm sure the Division has a couple of copies.

During the afternoon I did not hear anyone raise this question: Are there any other states in which one private carrier has 50-60 per cent of the comp market? Does this situation have a potentially adverse affect on delivery of service and competition? Do state antitrust statutes have any bearing here? I believe this line of questioning should be added to the task force list.

Brian,

Virginia Collins ^{and} would like to
speak Sat AM if at all possible
she represents private industry
~~a~~ sort of counter part to McClintock
she is with "Collins, Weed & Assoc."

February 2, 1980

WAS

WILTON ADJUSTMENT SERVICE TOM WILTON
EXPERIENCED/PROFESSIONAL INSURANCE ADJUSTING

Brian Rogers
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Rogers:

Thank you for your January 22, 1980 letter and the copy of the preliminary draft on Workers' Compensation Problems in Alaska, by Richard A. Fineberg.

I have reviewed Mr. Fineberg's draft and have had opportunity to discuss it with some claims managers representing various insurance carriers operating here in Alaska. I have made copies available for them as they were very interested in the comments and general proposals. In brief I will comment on the proposals and the paper prepared by Mr. Fineberg but there is a great deal more details which unfortunately one outside of the insurance industry and in particular the claims aspects of workmen's compensation wouldn't know from his brief investigation and review of these problems.

Generally Mr. Fineberg raises some very good points and it's apparent that he prepared his paper based upon his earlier writings in the Alaska Advocate on his workmen's compensation problems relating to the pipeline activities. It appears he did a hurry up job of preparing this report based upon his experiences as he was attempting to get this report in to the legislature to review it and give consideration to solving some of the problems in this current session. Time and budgetary problems obviously kept him from getting into further details in this report. An example would be he has not contacted the insurance carriers in this investigation other than what contacts he had made in the preparation of his article for the Alaska Advocate and there it was only a contact with one particular insurance carrier whom he was leveling the heaviest criticisms.

I would first of all recommend that if there is any serious consideration to be given to making changes and improving procedures and alleviating alot of the problems we experience in handling workmen's compensation claims in Alaska then a much more detailed and objective study be made by those of us in the industry as well as persons outside of it such as Mr. Fineberg in order that we may clearly identify the problem, make reasonable explanations of how they come about and how they are resolved by the various insurance carriers. About five years ago the State Legislature financed a citizen's committee to make recommendations on improving the efficiency of state government in Alaska

and their proposal was an indepth investigation and resulted in recommendations which eventually assisted in streamlining and saving millions of dollars in Alaska government. Worker's compensation deserves the same study and analysis by those of us who are in it and have the suggestions for improving the structure and by taking input from other areas such as the medical field and the safety field in order to come with a better product.

I'd like to make it perfectly clear that as an insurance adjuster I don't wish to propound the views which some may think only represent the best interest of the insurance carrier and the greatest profitability for that carrier. I have a long extensive background in worker's compensation having been trained extensively in it and realize the social intent of worker's compensation and the moral responsibility of society. I recognize that inequities often arise in any system and we must make any efforts to minimize those inequities and hardships which they pose on people. Worker's compensation by law and tradition is a no fault, socially responsible method of giving assistance to the person injured on the job. Insurance carriers and their adjusters realize this and for the most part carry out thier duties in a very responsible and competent manner. The workmen's compensation act designates the law in Alaska as it pertains to the handling of workmen's compensation claims. The Legislature makes the law which goes into that act and has a responsibility to understand them, change them and improve them to better clarity and for better benefit structure when required. The Legislature needs the information presented to them in a precise objective analysis and not an impassioned plea by a number of claimants who may feel they have been wronged by one particular insurance carrier.

Mr. Fineberg raises numerous issues in his report and it would take me as long to review those issues as it did for him to write them and their simply isn't time. I would agree with the conclusion that additional funding is desperately necessary for the Alaska Workmen's Compensation Board to improve their procedures to speed up the ability to make decisions and rulings. I do not agree with his conclusion to computerize precedent decisions in order that they may simply refer to those decisions without any new thinking.

Obviously the Workmen's Compensation Board has become backlogged in their annual 20,000 claims in controlling the paperwork. I'm not so sure that a computerized system is the answer to that because again there are so many things that go into each individual claim such as the report of claim, report of first payment, the medical report, and any communication or letters from carriers or claimants as well as any disputes which may arise in the course of the claim and to put this all on the computer may not be as simple as it sounds.

There's definitely need to revise the statute and consider ways to improve the problems of first pay, allow the Workmen's Compensation Board methods of settling minor disputes short of the formal hearings which they now conduct and allow for greater monitoring of the carrier's in the normal course of handling a claim.

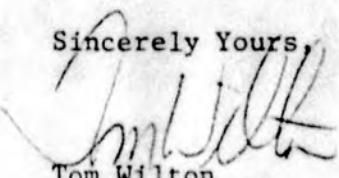
In conclusion I could review in detail many more problems with the current workmen's compensation structure that Mr. Fineberg has raised since I am much

closer to the industry than he. These could come out in the course of a normal indepth investigation by a task force designed to review the entire process and make recommendation to the Legislature to correct the many inequities for both the claimants and the carriers and set up guidelines for future changes in the act. Such an indepth study and investigation could cost the Legislature \$100,000.00 but I believe it's firmly necessary to analyze the situation once and for all and bring about reforms so that our system of handling workmen's compensation can become more sophiscated and responsive.

I'd be happy to testify before the committee regarding the problems of worker's compensation in Alaska. I do have a good overview of many of the carriers operating in Alaska such as Providence Washington Insurance Company, Industrial Indemnity Company of Alaska, The Home Insurance Company, Fireman's Fund, Employer's Insurance of Wassau and others. As an ex-claims manager of Alaska Pacific Assurance Company I've also have some familiarity with their operations even though I've been out of their employ for over three years.

Thank you for your interest and attention to these worker's compensation problems and I'd like to see the Legislature give serious attention to bring about a much needed change in numerous areas of workmen's compensation in Alaska.

Sincerely Yours,



Tom Wilton