

ALASKA LEGISLATURE COMMITTEES 1901-1902

1744 HLC 2/10/82 HB 586 - 2/17/82 HB 159

2-11-82

HOB 697

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 11, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Rogers

Members Absent: Rep. Randolph
Rep. Gardiner

COMMITTEE CALENDAR

HB 697 An Act relating to appointment of nonpermanent employees for certain work assignments; and providing for an effective date.

HB 557 An Act relating to telephone cooperatives.

WITNESS REGISTER

Beverly Rayon
Department of Fish & Game
Juneau, Alaska 99811
Position Statement: Distributed report; discussed HB 697.

Andrew Hoge, counsel
Matanuska Telephone Association
437 E Street
Anchorage, Alaska
276-1726
Position Statement: Spoke in support of HB 557.

Sharon Macklin, lobbyist
Matanuska Telephone Association
no address or phone given
Position Statement: Spoke in support of HB 557.

Allen Blume
Telelink Communications, Inc.
PO Box 1608
Juneau, Alaska 99801
586-9685
Position Statement: Comments on HB 557.

PREVIOUS ACTION

HB 697 No previous action.

Statutory Reference: AS 39.25.

Action taken: Rep. Bylsma moved to report SSHB 697 from committee. There being no objection, motion passed.

HB 557

No previous action.

Statutory Reference: AS 10.25.640(4).

Action Taken: No action taken. Mention was made of rescheduling bill for hearing at a later date.

ACTION NARRATIVE

Tape #13
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Pylsma, and Rogers. Members absent were: Representatives Randolph and Gardner. Rep. Martin brought SSHB 697 before the committee.

Number 011

Rep. Bylsma, prime sponsor of HB 697, explained the intent of the bill.

Number 019

Beverly Rayon, Fish & Game, distributed a report. She spoke of problems hiring short-term, seasonal employees. She went over the high costs of benefits and of recruiting.

Number 108

Rep. Rogers said there were concerns about abuses in the Department of Fish & Game. Rayon said there had been abuses. She said longer-term positions should not come under this, but shorter-term positions should.

Number 134

Jeff Barry, committee aide, said the sponsor substitute addresses the historical context. He explained how concerns are addressed in the sponsor substitute. There was discussion. Rep. Rogers asked whether the APEA were notified; Mary Isaacs, committee aide, thought not. There was further discussion. Rayon said the APEA was represented at a hearing on the similar senate bill and offered no comment at that time.

Rep. Bylsma moved to report SSHB 697 from committee. There being no

objection, the motion passed.

- Number 166 House Bill 166 was brought before the committee. Rep. Rogers explained the bill. He said it would allow telephone cooperatives to get loans.
- Number 179 Andrew Hoge, attorney for Matanuska Electric Association, said the bill updates the definition of telecommunications. He said that REA funding was being cut by \$1-billion. There was discussion about the scope of the bill.
- Number 238 Rep. Martin had questions about cable television in relation to telephone cooperatives like MTA, and possible APUC or FCC conflicts. There was discussion. Rep. Martin pointed out that the legislature is planning to pick up a good portion of the REA funding.
- Number 305 Rep. Bylsma felt the definition would mean cooperatives can control all media--radio, etc. Hoge said this is presently done.
- Number 317 Sharon Macklin, on behalf of Matanuska Telephone Association, said the bill updates the statutes to reflect processes the APUC has already certificated cooperatives to provide. She said it is also for purposes of obtaining loans. She said it does not supersede going through the APUC, and said this is the same definition APUC uses for telephone service. There was discussion. Macklin said the bill does not give monopolistic authority to cooperatives, as everyone goes through the APUC. She said it also gives corporate authority for use in applying for loans. There was discussion.
- Number 456 Barry referenced AS 10.25.010, and asked Macklin whether changing the definition will bring coops into competition with private telecommunications providers. He said it may change the full effect of the entire statute as worded.
- Number 507 Hoge explained deregulation of terminal equipment and how it interconnects with the telephone system. He said they need the capability, as common carrier, to carry various transmissions. There was discussion of the purpose of the bill, and of eminent

domain.

Number 705

Allen Elume, Telelink Communications, Inc., had no difficulties with the definition proposed for his own needs. He asked if the service provider agency which is the end point provider would be classified as a telephone provider. Hoge said it would only affect cooperatives. There was discussion.

Side B, Number 011

Rep. Martin said he would notify the participants of the next meeting on HB 557. He requested Jeff Barry to contact the Attorney General for further information. He predicted the first week of March as the earliest possible date of next hearing. As there was no further business to come before the committee, the meeting was adjourned at 1:50 p.m.

!mDOCID!xhlc 0211821307

!mHLC!x

February 11, 1982

1:07 p.m.

!mMP1!xRep. Martin, Chairman

!mMP2!xRep. Bylsma, Vice-Chairman

!mMP2!xRep. Rogers

!mMA1!xRep. Randolph

!mMA2!xRep. Gardiner

!mCAL!x

HB 697

An Act relating to appointment of nonpermanent employees for certain work assignments; and providing for an effective date.

HB 557

An Act relating to telephone cooperatives.

!mREG!x

!mWI!xBeverly Rayon

Department of Fish & Game

Juneau, Alaska 99811

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Matanuska Telephone Association

437 E Street

Anchorage, Alaska

276-1726

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Matanuska Telephone Association

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!mWI!xAllen Blume

Telelink Communications, Inc.

PO Box 1608

Juneau, Alaska 99801

586-9685

!mPS!xComments on HB 557.

!mPA!x

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whether changing the definition will bring coops into competition with private telecommunications providers. He said it may change the full effect of the entire statute as worded.

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!mEND!x

Corrections

0²11821307

p. 3 # 166 ✓ HB 557
(page 166)

1:07

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 5/11

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓	✓	1:05	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:00	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. 697(55) HB 557 _____

Senate Bill No. _____

Special Orders:

2/11/82

- i:07
- 000 HB 697 (sponsor sub) by Bylsma
- 011 Bylsma - reason for bill
- 019 Beverly Rayon, Fish & Game - distributed report.
Spoke of problems hiring short-term (seasonal) employees.
High cost of benefits & of recruiting
- 108 Rogers There were concerns abt abuses in Dept of F & G
Rayon - there were abuses; longer-term posns shd not be
come under this, but shorter-term posns shd
discussion.
- 134 Barry - sponsor sub addresses hist. context. Explained
how concerns addressed in SS.
Discussion; Rogers asked if APEA were notified; M. Isaacs
thought not. Discussion. Rayon said APEA was
represented at leg on similar Senate bill. & offered no
comment then.
Bylsma moved to pass SS HB 697
passed by unan consent
- 166 HB 557 Rogers explained bill - allow coops to get
loans.
- 179 Andrew Hoge, a Hy, MTA - updates defn of telecomm.
REA funds being cut \$1B. broader
Discussion; Martin concerned about scope of defn.
Explain by Hoge.

- 238 Martin - got into alt cable TV in relation to telephone
coops (MTA) & possible APUC or FCC ~~actions~~ ^{conflicts}.
Discussion. Martin pointed out legis planning to
pick up a good portion of REA funds.
- 305 Byloma - this means coops can control all media - radio etc.
Hoge said this is presently done - using radio, etc -
- 317 Sharon Shacklin, MTA - bill allows processes APUC has
already certificated coops to provide Avca; updates
statutes. Also for loans. Does not supersede going
through APUC; same definition as APUC uses.
Discussion Martin elaborated on plans for telecomm.
policy for state.
Shacklin said bill doesn't give monopolistic authority to
coops, everyone goes th/APUC; also gives corporati authority
for use in applying for loans
- 406 Hoge - presented ^{newspaper} clipping re REA funds.
Discussion.
- 456 Barry - AS ~~10.25.010~~ ^{referenced} 10.25.010; question of whether
changing definition will bring coops into competition
of private telecomm. providers. May change ~~the~~ full
effect of entire statute as worded.
- 507 Hoge - explained de-regulation of terminal eqpt & how
it interconnects w/telephone system. Need capability
as common carrier to carry various xmons.
Less revenue if these don't go through local coops.

560 Martin - changing meaning of word to rationalize why
REA funds being decreased; quasi-monopoly enables
coops to become greater risk to lending institutions
Consumers will pay price.

Hog - Discussion.

617 Barry - w/defn in bill, gets may come up as to eminent
domain.

Discussion.

705 Allen Blume - Telelink Comm Inc - no ~~pro~~ difficulties
w/ defn as prop'd for his needs. asked if he provides
agency which is end point provider, wd be classified
as telephone provider

side 7
000

Hog - no, wd only affect coops.

Blume asked implicatns for non-coop teleph svcs; does it
change defn

Hog - no.

Martin said wd notify participants of next mtg

Requested Barry to contact ALT for further info.

Predicted 1st wk of March earliest for next mtg.

Arij 11:55

2-12-82

SB 84

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 12, 1982
1:15 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Gardiner
Rep. Rogers

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

SB 84 An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program.

WITNESS REGISTER

Wilson Condon
Attorney General
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Went over draft bill and proposed amendments.

Representative Tony Vaska
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4914
Position Statement: Expressed concerns.

O.K. "Easy" Gilbreth
Manager, Exploration & Production
AOGA
Anchorage, Alaska
272-1481
Position Statement: AOGA members endorse draft bill.

Jay Nelson
4111 East 65th
Anchorage, Alaska
276-6653
Position Statement: Supports permit reform, but opposes draft bill.

Dave Allison
Alaska Environmental Lobby
3140 Norwell Avenue

Juneau, Alaska 99801
586-2345
Position Statement: Commented on bill.

Mollie Dent
Alaska League of Women Voters
419 6th Street, #321
Juneau, Alaska 99801
586-2751
Position Statement: Commented on bill.

Joyce Munson
Resource Development Council
Baranof Hotel
586-1383
Position Statement: Supported passage of SB 84.

Larry Edwards
Southeast Alaska Conservation Council
Box 2158
Sitka, Alaska
586-2345
Position Statement: Requested committee to listen to Clark
testimony on behalf of Alaska Logger's
Association.

PREVIOUS ACTION

SB 84

Senate Action: First reading 1/15/81.
Reported from Resources Committee 4/14/81.
Moved from Finance to Rules by unanimous
consent 4/20/81. Reported from Rules
5/5/81; taken up immediately. Resources
Committee Substitute adopted by unanimous
consent in second reading 5/5/81; advanced
to third reading by unanimous consent.
Passed in third reading with effective date
vote same as passage on 5/5/81.

House Action: First reading 5/6/81. Moved
from Judiciary to Finance by unanimous
consent 6/21/81. Reported from Finance
6/21/81. Reported from Rules 6/22/81.
Second reading 6/22/81; bill was recommitted
to Rules by unanimous consent. Reported
from Rules 6/23/81. Read again second time
6/23/81; postponed until 6/24/81 by
unanimous consent. Read again second time
6/24/81; 2nd Rules Committee Substitute
adopted; amended on floor. Failed to
advance to third reading 6/24/81.
Recommitted to Labor & Commerce by unanimous
consent 1/11/82.

Statutory Reference: AS 44.62.

Action Taken: Rep. Bylsma moved that HCS CSSB 84 be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. Rep. Bylsma withdrew the motion. No further action taken during this meeting.

ACTION NARRATIVE

Tape #14 and 15
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:15 p.m. Members present were: Representatives Martin, Bylsma, and Gardiner. Rep. Rogers arrived a few minutes after the call to order. Rep. Randolph was absent.

Number 007

Rep. Martin brought HCS CSSB 84 (2d Rls) before the committee. Rep. Bylsma moved that HCS CSSB 84 (2d Rls) be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. After Rep. Rogers arrived, Rep. Bylsma withdrew the motion.

Number 068

Rep. Martin asked that, for clarity, the committee refer to the Labor & Commerce draft committee substitute.

Number 079

Wilson Condon, Attorney General, testified on behalf of the administration on the draft bill. He went over the administration's efforts to work with other groups on the bill. He said they had not been too successful with AOGA, and that AOGA members had not dealt in good faith. He went over problems they had encountered. Condon said the draft bill is the "AOGA bill". He said the governor has policy objections to the bill, and that he expects the governor to veto the bill as written.

Number 140

Condon handed out copies of eleven amendments proposed by the administration, and went over each proposed amendment in detail.

Number 620

There was discussion about the relationship between the bill and regulations. Rep. Rogers asked Condon what the administration would do in the absence of a bill at the end of session. Condon didn't know. He said

the administrative agencies had decided to work something out, not adopting regulations, but dealing directly with AOGA, as there were no problems with other industries. He said this method had not worked; hence, AOGA went to the legislature. There was further discussion.

Side B, Number 027

Rep. Vaska expressed concern about shortening processing times, as rural areas need longer to digest and respond to the types of documents required. Condon said the administration felt it needed 85 days, rather than 65. He said the oil industry is pushing for as few days as possible, and that the administration doesn't think they can process all permits within 65 days. He said consideration of other interests is another reason to lengthen process time. Condon said he expects the legislature to consider other groups.

Number 066

Rep. Vaska said there has to be balance in giving local governments discretion, and asked how this would be addressed. Condon referred to proposed amendment #3, which deals with how local coastal resource districts can take disagreements to court. He said that the Commissioner would have to find that consistency or inconsistency was supported by a preponderance of evidence in the record. There was discussion.

Number 103

Rep. Gardiner asked the administration's position on the 2d Rls bill. Condon said they supported it. There was discussion of various phrases in the bill.

Number 175

O.K. Gilbreth, Manager of Exploration and Production, AOGA, said there has been no significant change in problems obtaining permits since he gave testimony last year, but that permit approval times reduced slightly in 1981. He passed out a chart showing permit approval times, and noted that it takes up to a year for most approvals to be processed. He said that AOGA members endorse the L&C draft bill.

Number 230

Gilbreth said the problems that the bill would alleviate are: 1) too much time required for permit approval; 2) duplication in handling of permits; 3) interlocking web of agency jurisdiction that can entangle

project; 4) employees' attitudes must reflect state policy; 5) many small problems add up to big problems; a lead agency could reduce or eliminate this; 6) state agencies are trying to design projects and set standards; 7) added costs, lost time, and lost effort mean nothing to some regulators; 8) regulators demand zero risk, which cannot be done; 9) operators are forced to accept stipulations that are unfounded, invalid, and not in the best interests of the state. He went on to say that, philosophically, the industry needs predictability in timing in the process. The bill will determine how agencies operate. Gilbreth recommended accepting the draft committee substitute. There was discussion.

Number 329

Rep. Gardiner asked if last year's bill (the Rules committee substitute) would be better than the existing situation. Gilbreth said that several member companies felt they could live with the bill, but that, after study, most want no bill at all rather than that bill. There was discussion of the impact of the draft bill.

Number 390

Jay Nelson of Anchorage, representing himself, said he supports permit reform, but opposes the draft bill. He felt the draft was worse than the original bill. He said the point of permits is to protect the public's good, and he felt the draft bill does the reverse. He elaborated on why he felt this way. Nelson felt that uniform permit regulations was a better approach than the bill. There was discussion.

Number 500

Dave Allison, Alaska Environmental Lobby; former legislator in Indiana; lawyer; and member of the Alaska Miners Association, said that he represents a coalition of environmental groups--Sierra Club, Friends of the Earth, Southeast Alaska Conservation Council, and others.

Number 526

Allison said the environmental community takes the definite position that they favor sound and responsible development. He said the draft bill guarantees constitutional and statutory litigation. He felt the result of the bill would be delay. He criticized the oil industry's position. He said the bill disregards the interests of citizens of

local communities. He commented on the lack of notice of hearing. Allison said he would like to see administrative regulations with legislative review. He recommended trying the administrative process. There ensued a discussion of administrative policy and the power of the legislature.

Number 700

Allison said that, if the bill is not improved, it should not be passed out of committee. He said there is not enough time for processing permits. He felt that each type of permit should have time requirements. Allison said he agreed with most of Condon's comments, but felt that, if all the proposed amendments were adopted, the bill would be worse than last year's bill.

Tap 2, Number 0'8

Allison said the position of the Alaska Environmental Lobby is that the bill is unacceptable to their constituency. At Rep. Gardiner's request, Allison said he would provide the committee with a list of suggestions.

Number 100

Rep. Gardiner felt the Department of Natural Resources' budget should be looked over, as several positions involved with permit issuance are slated to be cut.

Number 140

Mollie Dent, Alaska League of Women Voters, listed the League's concern about the permit process. (She submitted her testimony to the committee; this is available for inspection.)

Number 205

Joyce Munson said she represented the Resource Development Council, which is a public interest group which attracts a wide range of people. She said she supports passage of SB 84. Permits are to protect the public, but are also to protect the public requesting the permit; that they have a right not to wait forever. She said that, without time limits, the waiting time depends on the efficiency of the department. She said the legislature is often at fault when developing legislation that does not give final authority to any agency. There was discussion about timeframes.

Number 428

Mollie Dent, League of Women Voters, said that the League requested a teleconference

hearing to take additional testimony before the committee acts on the bill.

Number 465

Larry Edwards, Southeast Alaska Conservation Council, Sitka, requested the committee listen to Clark testimony on behalf of Alaska Loggers Association. A man from the audience said that Clark doesn't speak for the Alaska Loggers Association.

Number 496

As there was no further testimony or business to come before the committee, the meeting was adjourned at 3:25 p.m.

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
LARRY VAURA	1401 MARTIN RD	UNION OIL	?	586-2391
THOMAS HORSBARGER		AOGA	No	
* O.K. EASY GILBRETH	Anchorage	AOGA	Yes	272-1481
Marc Bond	1007 W. 3rd Ave, Anchorage	Chevron USA Inc.	?	279-3581
Bob STRAUB	2400 HASTINGS LANE	Sohio	?	263-5535
Jim Barnett	SRA 240J 99507	Sohio	?	263-5432
* DAVID ALLISON	3140 Nowell Ave	Alaska Environmental ^{Index}	Yes	586-2345
LARRY EDWARDS	BY 2158 SITKA	SEACC	YES	586-2345
* Jay Nelson	4111 E 65th Anch.	self	Yes	276-6653
Mollie J. Dent	4196TH ST #321 JONSON	Alaska League of Women Voters; Sierra Club Legal Defense Fund	Yes	586-2751
Beverly Ward	134 N FRANKLIN	Arco	No	586 3680

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Phil Holdsworth	326 - 4th St #1009	Self	Yes *	586-1383
Joyce Manson	Baranof Hotel	Resource Development	Yes *	586-2660
Wags Shelley	2740 Douglas Hwy	Marip ^{Council}	NO	364-2408
Allen Olsen	Dept. En Com	Self	No	465-2601
Terry Dal	177 S Glacier Ave	Self	No	
Karen Gudiel	2231 David	/	NO	
Jamie Klein	134 Franklin - Juneau	Assoc. Gen. Contractors	NO	6-1740
Tom Vaska	Pouch V	Legislature	Yes *	
Diana Runde	Box 1357 Sitka	Sitka Trail PAC	NO	747-8996
Ken Hamm	2721 John St. Juneau	Rep. Vaska	NO	465-4130
Raymond R. Menaker	Box 118 Haines, AK	SELF	NO	766-2360
Clifford J. ...	Pouch V Juneau	State	NO	5-4544

2/12/82

1:15

Call to order

007

Intro of members, HCSC SB 54 (2d rls); referred to packet from governor - appointments - to be on next week's calendar

017

Byzoma moved HCSC SB 54 be replaced by 2d HCS CS SB 54^{L & C} (~~2d rls~~); objection by Gardiner; asked that committee wait for Rogers, writing (0357 052) (Rogers arrived)

064

Byzoma w/drew motion
will refer to

068

Martin - ~~afford~~ to draft rather than CS at this time

079

Wilson Condon, AG, on behalf of admin re draft bill; went over administration's efforts to work w/ other groups ~~to~~ on bill. ^{not too successful w/ new groups} AOGA - haven't dealt in good faith. ~~best~~ Have overview of problems. Draft is "AOGA bill". Can live with it w/ change. ~~Policy~~ Gov has policy objections to bill. Expects gov to veto bill as written

140

(REF. DRAFT BILL)

Administration changes wanted: (11 prop'd amendments) (copy ^{drawn out} given out)

- #1 p 2, lines 8-12
- #2 p 2 " 26-28
- #3 p 4 " 6-29
- #4 p 5 " 1-2
- #5 p 5 3-5
- #6 5 16-17 - (not satisfied w/ this amount; want to redraft it)
- #7 5 22-23
- #8 5 24
- #9 6 11-13
- #10 6 15-17
- #11 7 12

600

feet 2 amendments wd be cont'd - ^{dealing} ~~dealing~~ findings re C2M consistency ~~status~~ & local C2M plan

661

Rogers - ^{asked act} relationship between bill & regns - what wd admin do in absence of bill at end of session

London didn't know; debate among admin agencies - decided to try & work out something; not adopt regns & deal directly w/ADGA (no probs w/other industries). Didn't work - ADGA went to legislature.

715
(side 2
000)

Discussion - Rogers / Condon

to

005

Martin - ps amnts 6 & 7 - feels amnts are redundant

019

Condon - bill doesn't apply to occupational licensing; give reasons for wanting amnts

027

Vaska - local governing entities abilities to deal w/ a control development - how much time willing to give areas for response? Wants more than 30, 45 or 65 days. Rural areas take longer to digest & respond to these types of documents.

043

Condon - re class II permits - policy call by legislature.

Admin thinks they need 85 rather than 65 days. One ind. pushing for as few days as possible; admin doesn't think they can do it in 65 days; consideration of other interests is another reason to go this way. Their consideration is can it be done; expect legis. to consider other ops

066

Vaska - has to be balance in giving local govt discretion; what def'n included in giving weight to local govts.

074 London - ^{ref} ~~amdt 3~~ ^{deals w/how} ~~of~~ local coastal resource district can take disgmt to court. Comm wd have to find that consistency or inconsist wd have to be supported by preponderance of evidence in record.

093 Martin - admin have sign rules & codes coming up; considerable determination that local entities have priority in considering permits

103 Gardiner - what is admin's position on 2d res bill?

London - support it

G - p. 2, line 21 "unusually complex issues" - ~~who interprets?~~ interpreted or defined?

C - Interpreted

A - can't this be defined so no controversy arises?

C - ~~not~~ open to definition

134 G - findings of head of agency ... can be appealed by applicant
Can it be/shd it be appealed by someone else?

Discussion Gardiner, London whether this shd be appealable by ggs other than applicant/agency.

Discussion gstr abt 'resource agency' defn.

164 Vaska - ~~long in defn for resource agency.~~

175 OK S. D. Smith, ^{Exploration & Production Reg.} AOGA - ~~pretty~~ no signif

Chng in probe obtaining permits (since testimony last yr); however permit approval times reduced slightly ^{in 1981} Passed out wfo (graph) on permit approval time. - minimum times; noted that appl' times go up to a yr

212 Members endorse draft bill

225 Agencies have ^{lately} been rejecting applications.

230 Major problems that bill wd alleviate:

- 1) too much time required for permit appl
- 2) duplicate in handling of permits
- 3) interlocking web of agency jurisdiction that can entangle project
- 4) employees attitudes must reflect state policy
- 5) ^{many} small probs add up to big probs; lead agency cd ^{reduce or} eliminate ^{this}
- 6) st agencies trying to design projects & set standards
- 7) Added costs lost time lost effort mean nothing to
- 8) some regulators
- 8) regulators demand 0 risk - can't be done
- 9) operators forced to accept steps unfounded, invalid, & not in best interests of st

~~Expect bill to st~~ philosophical ^{comment} problems:

Industry needs predictability in timing in process

Bill will determine how agencies operate. ~~Agencies can~~

Members concerned w/ bill but unanimously agreed to back bill as compromise; recommend accepting draft.

298 Martin asked for eye of test.

301 Rogers - ~~will~~ cd time reqmts change w/ head of agency?

Hilbreth - yes, cd.

Discussion

313 Gardiner - any reason for change in # permits in 1977
Galbraith - corresponds w/ change of commissioners or directors

329 Gard - wd last yrs bill be better than existing sit'n ^{after study}
Galb - sev members cos felt they cd live w/ bill, but most
want no bill rather than that bill

Discussion

347 Gard - one thing being considered is reduction in op'l budget -
removing 100 persons in DNR - wd that make difference?

Galb - wd depend on dir of div & his emphasis

367 Martin - admin doesn't know yet where cuts will be
Discussion

378 Rogers - wk w/ other industries in wkg up draft?

Galb - No substantial contact w/ other industries

390 J. Nelson, for self - Anc - supports permit reform, but opposes
draft; worse than original bill. Point of permits to protect
public's good; this does reverse. Spec, § 2 class I & II
permits, 30 & 65 days is too rigid an approach for
processing permits, not enough time

§ 2.3 - time period extension - agrees w/ this - jointly
processing permits is good, but last part of sentence
eliminates this. Uniform permit regns better approach
than this bill. Give example. Wants more admin.
approach.

452 Discussion abt notice of (this) mtg

469 Discussion of regulations

481 Gardiner - ^{asked} opinion of 2d rls CS

488 Nelson - latest draft worse; SB84 wrong approach.

500 Dave Allison, At Envt Lobby, former legislator in Indiana, lawyer, member At Miners Assoc, wkd in fisheries and deupt. Represents coalition of env. gpps - Sierra Club Friends of Earth 4 SE At Com. Council, & others.

526 1) Envt community takes definite posn that they favor sound & responsible deupt. If comm wants to stop issuance of permits, ~~must offer~~ river pass bill. Bill guarantees const' & statutory litigation. Intent is to expedite permit process, but ^{to} honest ind. person approaching permit process it's almost impossible. Result of bill will be delay. ~~Every industry~~ ^{Criticized} but oil industry's position. If bill passed, disregards interests of citizens of local communities. Must determine who's going to run things. & Commented on lack of notice of mtg. We like to see admin. regns w/ legislative review. ~~Says~~ Recommends trying administrative process.

570 Discussion of admin policy & pur of legis (Marking & Allison).

700

Allison - if bill not improved, shd not pass out of committee.
If not done, wd agree that bill shd be killed.

Tape 2
000

Not enough time for processing permits. In each case,
~~at least~~ each type of permit, shd determine time needed.

Agreed w/ most of London's comments but if all ammnts
adopted, bill wd be worse than last yrs bill.

~~Martin - why shd admin~~

Discussion - Martin, Allison, re notification of mtg

047 Rogers - getn as to committee process; discussion

055 Allison, re Hilbreth stmt - other side is protection of public
interest. Can't have protection w/o some restriction on people's
ability to act.

068 Posn of AK Envtl Lobby that bill is unacceptable to their
constituency.

072 Gardiner - asked posn on SB 84 (2d rlx)

084 Allison - said they'd provide comm. w/ list of suggestions;
suggests using codification of regulations wk'd out by admin.
Will send list of concerns.

100 Gardiner requested ^{admin} regulations alluded to.

Gardiner said he has analysis of effect of budget cuts in DNR -
sev'l posns to be cut are people issuing permits (water permits
& others). Suggested looking at those budget items.
(referring to memo for Comm. to H. Finance Comm). Wants to look
at issue of permits (subcomm. recomndas) before comm.
finalizes budget.

140

Molly Dent, At League of Women Voters & ~~Sierra Club~~ Legal
~~Defense Fund~~ - presenting League testimony today.

League submitted test to Senate Resources, & HCR @ last
yr in Ane.

Re permit reform process - concerns

- 1) adequate public notice
- 2) adequate opportunity for input by local land use authority

League has adopted process on land use & land disposal.

Urge more flexible time network

Oppose automatic permit iss

see h
test. →

Showed comm. gov's permit reform regns that Hardines (?)
requested; also offered list of kinds of permits affected by
legislation. Also offered said she'd submit written
comments.

205

Joyce Munson - for Resource Devopt Council (pub interest grp) -
rep miners, fishermen, housewives, corpo - wide range of people.
Testified on SB 54 last yr as it came fm Senate; testified
against gov's uniform permit procedures. Spoke of a teleconf
she attended last yr on gov's regns. Her committee found it
had nothing to do w/ reform; wd create more st. jobs & cost
more money. Actual procedure cd be stopped by a person
who objected to any permit.

552

FR passage of SB 84. Not talking abt just in ex. permits.
Permits are to protect public; also to ~~the~~ protect public asking
for permit - have a right not to wait forever. Without
time limit, depends on efficiency of dept.
deputations often at fault when developing legislation that
does not give final authority to any agency. Someone has
to be responsible.

312

Rogers asked if audit looked at gov's amends
She hadn't - ^{liated} ~~concerns~~ to Corvix testimony. Doesn't like
idea of opening licenses (specific time w/ exceptions)
Discussion, Rogers/Murrow, re timeframes

Rogers - any prob on amends # 9?

Murrow - no provisions

400

Barry informant

428

Molly (?) - ^{in behalf of} ~~regulator~~ ^{degree,} before comm. takes action,

Re notes - had requested notes in time & never got any.

Walter said entire state had notification of rules rollout.

not possible before April, will be deliberately delaying action

465

R. Edwards, ^{SR} SE At Cons Council -

Argument comm. listen to Clare testimony, At Rogers above.

Was for audience said don't discuss Aprak for the

Rogers above.

476

adj. 3:25.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 2/12/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:18	
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. & HCSCSSB 84 (2d R15) _____

Senate Bill No. _____

Special Orders:

Rep. Vaska attending

Original sponsors: Bennett, Parr and
Fahrenkamp

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state
7 agencies, and to administration of the Alaska Coastal
8 Management program."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-
12 sarily delayed by the length of time required to obtain permits from state
13 agencies, by the complexity of the permitting process, and by the number of
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,
16 the proliferation of agency reviews, the number of agencies involved in the
17 permit process, and unjustified agency requirements upon the processing of
18 permit applications have cost Alaskans millions of dollars in lost employ-
19 ment and higher prices;

20 (3) the public interest has not been advanced by protracted delay
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews in-
23 volved in the permit process, and by requiring state agencies to process
24 permit applications in an expeditious manner, the social, economic, and
25 environmental health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents
27 that have been promulgated by the executive branch relating to interagency
28 review that conflict and overlap, retarding the permit issuing process.

29 * Sec. 2. AS 44.62 is amended by adding new sections to read:

1 ARTICLE 8A. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource
3 agency shall by regulation classify each of the permits issued by that
4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a
6 final decision within 30 days after the date of receipt of a completed
7 permit application; and

8 (2) class II permits, for which, because of a necessary
9 public notice or interagency review period, a final decision cannot be
10 issued within 30 days. A final decision on a class II permit must be
11 issued within 65 days after the date of receipt of a completed permit
12 application, *unless a public hearing is held on the application, in which case a final decision*
13 *must be issued within 75 days after the date of receipt.*

14 (b) Final regulations classifying its permits, and uniform proce-
15 dural regulations providing for the processing of these permits, shall
16 be adopted by each state resource agency by October 1, 1982, following
17 appropriate notice and hearing. Permits applied for after October 1,
18 1982 must be issued in accordance with the time periods specified in
19 (a) of this section, and the provisions of the implementing regulations.

20 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-
21 ING. (a) Upon a finding by the head of a resource agency that a
22 permit being considered involves unusually complex issues so that the
23 agency cannot render a final decision within the time period specified
24 in AS 44.62.632(a), the head of the agency may prescribe a time period
25 within which the final decision will be made. The finding of the head
26 of the agency may be appealed by the applicant to the superior court
27 under the Appellate Rules of Procedure. *unless the applicant otherwise agrees*
28 extended more than 120 days beyond the time period specified in AS 44.-
29 62.632(a), *unless the applicant otherwise agrees.*

(b) The time period specified in AS 44.62.632(a) may be extended

1 if necessary to facilitate joint processing of a permit application by
2 state and federal agencies, but only if adherence to the time periods
3 established in AS 44.62.632(a) would cause an irreconcilable conflict
4 with a federal statute or regulation.

5 (c) Subject to (a) and (b) of this section and AS 44.62.634,
6 failure of a resource agency to make a final decision within 30 days
7 after the receipt of a completed permit application for a class I
8 permit, or within 65 days after the receipt of a completed permit
9 application for a class II permit, is approval of the application. In
10 an appeal of a permit issued by operation of this subsection, the
11 record shall be considered in the light most favorable to the applicant,
12 and the permit shall be accorded a presumption of regularity.

13 (d) A state agency may not condition the issuance of a permit
14 upon the issuance of a permit from another governmental agency.

15 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-
16 cy receives a completed permit application that does not contain suffi-
17 cient information concerning the project's compliance with the agency's
18 statutes and regulations, the agency shall notify the applicant within
19 15 days after receipt of a completed permit application for a class I
20 permit, and within 30 days after receipt for a class II permit.

21 (b) The notification must specify those particular facts or
22 issues concerning the proposal upon which the agency requires additional
23 information in order to determine whether the project will conform to
24 the agency's statutes and regulations.

25 (c) If a timely request under (a) and (b) of this section is
26 made, the time period specified in AS 44.62.632 is suspended from the
27 date of request to the date of full compliance with the request.
28 Subsequent requests for additional information may be made, but must
29 relate only to new issues raised by the response to the initial noti-

1 fication. Subsequent requests do not extend the time periods specified
2 in AS 44.62.632.

3 (d) Nothing in this section grants a resource agency the authority
4 to request information beyond the authority given to it by other sta-
5 tutes.

6 Sec. 44.62.635. LEAD AGENCY. (e) There is established a lead
7 agency that is solely responsible for issuing coastal management consis-
8 tency determinations under AS 46.40 and for preparing and submitting
9 state comments on federal permit applications. The lead agency is that
10 resource agency that has principal responsibility for authorizing the
11 overall activity, including instances where an activity requires permits
12 from more than one resource agency. For classes of activities for
13 which no agency with principal responsibility exists the governor shall
14 designate a resource agency to be a lead agency for each class by
15 administrative order no later than October 1, 1982. In performing its
16 functions under this section, the lead agency shall consult with other
17 resource agencies and with coastal resource districts under AS 46.40.

18 (b) Substantive consideration shall be given to the documented
19 factual statements or data submitted by resource agencies and to the
20 office of coastal management within their primary areas of expertise,
21 and to the documented factual statements or data submitted by coastal
22 resource districts made under an approved district coastal management
23 program. The lead agency shall consider opinions, conclusions or
24 recommendations submitted by the commenting agency, but may, in its
25 discretion, reach contrary opinions, conclusions or recommendations
26 according to the evidence received. The lead agency shall then balance
27 competing factors in reaching its final decision. No resource agency
28 other than the lead agency has primary expertise in the balancing of
29 competing factors.

Except as otherwise required by federal law,

(c) ⁿ No state agency other than the lead agency may comment to a federal permitting agency.

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~
*delete this subsection; replace with attached * (entitled Amendment 5)*

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section. *However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the 30-day lead agency must issue a final decision.*

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

1 (d) The head of the agency may summarily dismiss an appeal before
2 the time established in this section, and the dismissal is the final
3 agency action on the matter.

4 (e) In an appeal from the denial or conditioning of a permit the
5 head of the agency may, if he determines that the public interest would
6 be served, grant the permit or remove conditions of the permit until
7 the appeal is determined.

8 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial
9 review by the superior court of a final decision issued under AS 44.-
10 62.632 - 44.62.637 may be had by filing a notice of appeal in the
11 superior court in accordance with the applicable Rules of Appellate
12 Procedure. [The right to appeal is not affected by the failure to seek
13 further review under AS 44.62.637.] The review is governed by the
14 provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

15 (b) An appeal taken under this section ^{should have} ~~has~~ preference on the
16 calendar of civil actions before the court and ^{should} ~~shall~~ be decided without
17 unnecessary delay.

18 * Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

19 (c) As used in AS 44.62.632 - 44.62.638,

20 (1) "date of receipt" means the date on which a state agency
21 actually receives a completed application filed in accordance with
22 agency regulations and at a place identified as appropriate for filing
23 in the agency's regulations;

24 (2) "permit" means a permit, license, certification, consis-
25 tency determination, or other authorization or approval issued by a
26 resource agency as a written document that is required to be obtained
27 or is solicited from a state agency before the construction or opera-
28 tion of a project; "permit"

29 (A) does not include the approval of a unit agreement,

1 a unit development plan, or a unit exploration plan, or conveyances
2 of interest in state land or water;

3 (E) does include all authorizations and approvals,
4 whether proprietary or regulatory, necessary to undertake a project
5 under a previously conveyed property interest;

6 (3) "project" means a new activity or expansion or addition
7 to an existing activity for which permits are required before construc-
8 tion or operation; "project" does not include pursuing a trade or
9 profession, providing public health service, or operating a financial
10 institution;

11 (4) "resource agency" includes the Department of Natural
12 Resources, the Department of Environmental Conservation, and the Depart-
13 ment of Fish and Game with respect to permits issued for the protection
14 of fish habitat or the regulation of state sanctuaries, refuges, and
15 critical habitat areas.

2-16-82

HB 477

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 16, 1982
1:04 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Gardiner
Rep. Randolph

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 477 An Act relating to the conduct of activities
by labor unions in the state.

WITNESS REGISTER

Jeff Barry, Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669

Position Statement: Presented results of research.

PREVIOUS ACTION

HB 477 No previous action.

Statutory Reference: AS 23.40

Action Taken: Rep. Gardiner moved to table
HB 477. There being no objection, motion
passed.

ACTION NARRATIVE

Tape #16
Recording
Number 000

The meeting was called to order by Chairman
Martin at 1:04 p.m. Members present were
Representatives Martin, Gardiner, Bylsma,
and Randolph. Rep. Rogers was absent.
Before the committee was HB 477, relating to
the conduct of activities by labor unions in
the state.

Number 013

Jeff Barry presented results of research on
the bill. He said the bill does not do what

is intended. He gave examples of conflicts with federal law. He said similar bills have been struck down as illegal. Barry said that the Commissioner of Labor said the case of Hinckley v. Orbeck was decided on the same issue.

Number 033

Rep. Martin said the bill is intended to solve a problem that Local 302 has in desiring a local chapter. He said they feel that the Seattle office is not giving them fair treatment regarding job placement. There was discussion.

Number 049

Rep. Bylsma referenced a similar Kentucky law which was upheld in court as constitutional. Barry commented that the law Bylsma referred to could not have dealt with interstate commerce. There was a discussion of legality.

Number 070

Rep. Gardiner asked if anyone had expressed interest in the bill. Rep. Martin said Local 302 had with regard to autonomy. There followed a discussion about which bills should be brought before the committee, and a discussion of HB 477.

Number 091

Rep. Gardiner moved to table the bill. There being no objection, the motion passed.

Number 096

As there was no further business to come before the committee, the meeting was adjourned at 1:11 p.m.

2/16/82

Tape #16

1:04
003

Call to order - Rogers absent

HB 477

013

Barry - results of research; ^{bill} doesn't do what's intended.
Gave examples of conflict w/ federal law. Similar
bills have been struck down as illegal. Comm. Labor
sup Hinkley v. Orbeck was decided on same issue.

033

Martin - int'd to solve prob that local 302 has; want local
chapter; feel scatter of not giving fair treatment re job
placement.

Discussion.

049

Byloma - ref'd similar Kentucky law which was upheld
in Ct as constitt.

Barry - can't deal w/ interstate commerce

Discussion of legality.

070

Gardiner asked if anyone had expressed interest

Martin - 302 w/ regard to autonomy

Discussion on which bills shd be brought before committee.

Discussion abt bill.

091

Gard moved to table bill; there being no objection,
^{bill}
motion tabled.

096

Mtg adjourned 1:11

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 2/16/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:00	
Rep. B. Rogers				
Rep. T. Gardiner	✓			
Rep. T. Martin, Chair	✓		1:00 12:55	

Subject Matter:

House Bill No. 477 _____

Senate Bill No. _____

Special Orders:

2-17-82

HB 159

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES
IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS
BEEN FILMED.

RECOMMENDED CHANGES TO THE
ALASKAN
WORKERS' COMPENSATION ACT

PREPARED FOR
THE ALASKA CONFERENCE OF EMPLOYERS, INC.

§ Jack Thompson
Air Van Lines
2216 Post Road
Anchorage, Alaska 99501.

REPRODUCED BY THE
WORKERS' COMPENSATION COMMITTEE OF ALASKA, INC.

WITH THE PERMISSION OF THE
ALASKA CONFERENCE OF EMPLOYERS, INC.

Box 1647
Anchorage, Alaska 99501

PREPARED BY:

Edward L. Hite, Vice President
Daryl A. Cody Company
201 Danner Avenue
Suite 155
Anchorage, Alaska 99502

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 2/17/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:00	1:28
Rep. D. Randolph	✓		1:12	1:28
Rep. B. Rogers	✓		1:03	1:28
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓	12:55	12:55	

Subject Matter:

House Bill No. 159 _____

Senate Bill No. _____

Special Orders:

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 17, 1982
1:05 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph
Rep. Rogers

Members absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation;
and providing for an effective date.

WITNFSC REGISTER

Richard Cattanach
Vice President, Finance
Unit Company
8101 Old Seward Highway
Anchorage, Alaska 99502
349-4568

Position Statement: Suggestions for better approach to Workers
Compensation.

Jim Robison
W/C District Council of Laborers
Alaska State AFL-CIO
Box 899
Anchorage, Alaska
276-1640

Position Statement: Spoke of results of meeting of local union
offices.

Bill Reeves
Associated General Contractors
Anchorage, Alaska
276-5354

Position Statement: Submitted a proposed committee substitute.

Jacquelyn McClintock, Director
Division of Workers Compensation
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2790

Position Statement: Responded to questions.

John Lewis, consultant

Box 330550
Miami, Florida
305-443-8111

Position Statement: Commented on problems with workers
compensation.

Zec Jackson, consultant
PO Box 3130
Anchorage, Alaska 99510
264-2460

Position Statement: Commented on problems with workers
compensation.

Don Koch
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577

Position Statement: Available to answer questions.

PREVIOUS ACTION

HB 159

See minutes of meetings on January 25-28.

Statutory Reference: AS 18.80.220; AS 23.30

Action Taken: No formal action taken this
date.

ACTION NARRATIVE

Tape #17 and 18
Recording
Number 000

The meeting was called to order by Chairman
Martin at 1:05 p.m. Members present were:
Representatives Martin, Bylsma, Rogers, and
Randolph. Rep. Gardiner was absent. Before
the committee was HB 159. Chairman Martin
recapped action to date, and introduced
Workers Compensation Board members.

Number 051

Richard Cattanach, Vice President of
Finance, Unit Company, Anchorage, said that
as a result of hearing, it was realized that
a better approach to workers compensation
was for management and labor to work out a
compromise.

Number 075

Jim Robison, W/C District Council of Labor,
and Alaska State AFL-CIO, said he contacted
76 local union offices. They decided to
discuss the bunkhouse rule, doctor shopping,

and spendable income. He told the results of the meeting.

Number 102

Bill Reeves, Associated General Contractors, went over HB 159 with suggestions for changes. (He submitted a typewritten proposed committee substitute, entitled, "Labor/Management Work Draft", dated 2/13/82, which is available for inspection from the committee.) Reeves noted that Section 7 of the Labor & Commerce committee substitute should have been included in the labor/management workdraft.

Number 330

Rep. Martin asked what security an injured employee has that the employer has forwarded a notice of injury. Jackie McClintock, Director of the Division of Workers Compensation, responded that there are penalties to employers who do not provide notice. Jeff Barry, committee aide, added that there is a problem in that area. There was discussion of proof for the employee that the claim is forwarded.

Number 462

Reeves resumed his testimony, going over the labor/management workdraft section by section.

Side B, Number 243

Reeves noted that in Sec. 33, it should be added that people who have opted out of the social security program would have spendable income computed as though they had not opted out. He recommended checking some definitions and other changes that were not included in the labor/management workdraft.

Number 309

Rep. Martin said that, during testimony taken in the interim, concern was expressed about employers being unwilling to rehire injured workers. Cattanach responded that they are concerned about that, but don't know the magnitude of the problem, or if Section 1 of the Labor & Commerce proposed committee substitute is the solution. He said he hated to see legislation that created a larger problem. There was discussion.

Number 412

Barry referred to page 2 of the labor/management workdraft, regarding incentives and disincentives to employees, and referenced Florida law. Barry said his understanding is that, in collective

bargaining, unions do not refer people with physical impairments. Employers who are or would attempt to employ rehabilitated or injured employees could be stymied by other employers who refuse. He gave an example of this situation. He said there is no recourse, and that it shifts the liability to employers who attempt to work with injured employees. There was discussion.

Number 550

Reeves said the real problem is that there is no incentive to the employer to hire injured workers who are not former employees. Barry said the other half of the problem is employers who won't hire because the applicant has at one time filed a workers compensation claim. He expanded on instances of this and problems created by this attitude. Cattnach said the goal is the same, the question is the means of attaining the goal. He asked the committee to give them a year to look at the problem to determine the best solution. There was discussion.

Number 650

John Lewis, workers compensation consultant from Florida, said that Florida and other states with through the same experience. He said there were two problems: 1) rehiring an injured employee, for which there is direct incentive in Alaska; and 2) regarding not hiring people who have formerly filed a workers compensation claim, he said to look at civil court remedies, human rights commission, educational process, and rationality in the workers compensation system. Lewis said it is hard to prove that an employer is denying an applicant or former employee work on the basis of discrimination because that applicant had previously filed a workers compensation claim. He recommended waiting the year requested before taking action, if possible.

Tape 2, Number 053

Zee Jackson, consultant from Anchorage, said you can't legislate "good faith". She said federal laws exist prohibiting employers from discriminating against handicapped workers, but one of the problems is proving discrimination. She said the process is one of education and evolution. She doesn't feel that a law such as that in section 1 of the Labor & Commerce workdraft will assist in achieving "return to work". She felt it

was an ongoing problem that requires continuous work and the efforts of everyone involved. She favors the parties working together and setting goals.

Number 118

Martin asked if the labor/management bill addresses all the problems. Jackson responded that it is a good mechanism, and that the effort should be applauded. There was discussion.

Number 170

Cattanach said they would not look favorably at taking parts of the labor/management bill out. Rep. Martin requested information from Don Koch, Division of Insurance, about benefits and ratings as set forth in the labor/management workdraft. Koch responded. There was discussion of cost savings.

Number 220

As there was no further business to come before the committee, the meeting was adjourned at 2:53.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ze JACKSON	P.O. Box 3130, Anch. 99510	Self	?	264-2460
DR. [unclear]	Juneau	ASDCL.	No.	586-3107
R. CATTANACH	ANCHORAGE	WCCA	Yes	349-7528
Will ^{the} Reeves	ANCH	ACC	YES	276-5359
JIM ROBISON	Box 999 ANCH	W/C District Council of Lab. Alaska State AFL-CIO	Yes	276-1640
Constance Bastian	3301 Eagle Anch	W/C Division, St/AIC	No	264-2424
[unclear]	POB 60005 FAI	W.C. - AWCB	NO	452-1800
Ann S Pitengui	6602 Pokeway Anch 99502	Member / Worker Camp	NO	243-7238
John Lewis	Box 730550, Miami, FL	—	Y	305-443-1111
Peter P. Hall	1210 W 47 APT 4	WORKMANS COMP	NO	276-5829
Paul R. Troch	5921 sunset	Self	NO	586-2521
Egine [unclear]	4800 [unclear] Rd.	Sec. Inv. Fund	no	2766
Lucille Olson	Box 1914 Fly	Dist. Labor / AWCB	NO	488-6803
K. S. Knudsen	3301 Eagle Anch	W/C Div: AWCB	NO	264-2424
H. E. COOK	Box 1914 FBX	Dist Labor / AWCB	NO	488-6803
DON KOCH	POUCH D JUNEAU	DIV OF INSURANCE	NO	465 2571
MICHAEL THOMAS	Box 1211 Juneau	Am. Ins. Ass'n	No	5863340
Clean Alina		A. H. C.	NO	6-1740
Bill SCHNEIDER	Box 4-2500 Anch, AK 99509	A. G. C.	NO.	276-5354
Tom Cashen	3200 Foster Juneau	IBEW Local 1547	NO	586-3000

2/17/82

1:05

000

START

HB 159

Call to order by Martin; recapped action to date

035

Intro of WC Board members

051

Richard Cattanach - as result of his, realized better approach, was for mgmt & labor to wk out compromise.

~~selected~~ selected people to look at HB 159.

075

Jim Robinson - contacted 76 local union ofcs.

decided to discuss bunkhouse rule, dr shopping, & spendable income. Told about results of mtg.

102

Bill Reeves went over HB 159 w/ suggestions for changes & (submitted written proposed bill substitute) intent.

entitled "Labor/Mgmt Work Draft, 2/13/82, for CS for HB 159 (L&C))

Noted that sec. 7 of committee's CS shd have been included in their draft.

330

405

Martin asked what security inj's employee has that employer has forwarded notice of inj.

McClintock responded that there are penalties to employer Barry - regmt ~~that~~ that must be forwarded; prob in that area.

432

Reeves resumed testimony; noted that employer is req'd to file notice

440

Discussion of proof for employee that claim is forwarded.

462

Reeves resumed testimony (their sec. 14, ^{corresponding to} L&C CS sec 10)

557

Qstns by Barry ^{+ Martin} re spendable ^{weekly} wage; discussion

(sec. 19 of their draft, p. 7)

609 Reeves resumed testimony (sec 20, 21, 22 corresponding to L&C 13, 14 & 15)

000
Side B (at sec 29)

173 sec 33 corresponding to L&C sec 20

243 sec 33 need to add that persons who have opted out of SS program and have spendable income computed as though they had not opted out.

285 Recommended checking some definitions & other things that were not included in their draft CS.

309 Martin commented on presentation.

332 Martin - during testimony taken in intercom, concern was expressed abt employers being unwilling to rehire rehabilitated injured wkr.

347 Cattanaach - concerned abt that but don't know magnitude of prob or if this (ref sec 1 of Waccs) is solution. Hate to see legislation that creates larger problem.

375 Discussion.

412 Barry - ref'd p. 2 of their draft re "incentives & disincentives to employers". Ref'd Florida law. Barry's understanding that in collective bargaining, unions no longer refer people w/ physical impairments. Employers who are/were attempt to employ... ^(injured/rehabilitated employees) ... can be stymied by other employers who refuse. Gave example, & said there is no recourse; shifts liability to employers who attempt to wk w/ injured employees - they pay add'l expense.

Martin spoke of employers he had heard of who did this, & of doc's testimony in that regard.

514 Cattanach - ~~to~~ think there may be a variety of approaches to problem; don't like CoC Sec 1. Need more study. ~~type~~

535 Discussion - Martin, Cattanach, Robinson, Reeves.

550 Reeves - Real problem is no incentive to ~~to~~ hire injured who aren't former employees.

567 Barry - other half of prob is employers who won't hire because ^{potential} ~~employee~~ applicant has ^{at the time} filed a WC claim. Expanded on instances of this & problems created by this attitude.

626 Cattanach _____, goal is the same, just is means. Asking committee to give them a year to look at problem to determine best solution.

640 Discussion.

650 John Lewis - Florida & other states went th/same experience.

2 prob - 1) rehiring ^{injured} employee - direct incentive (in Ak) to rehire; 2) re not hiring people who have formerly filed w/c claim - look at civil court remedies, human rights comm, educational process, & rationality in w/c system. Hard to prove that employer is denying applicant/former employee work on basis of discrimination because of filing w/c claim. Recommended waiting they requested if possible.

000
Tape 2

053 See Jackson - Can't legislate "good faith." Federal laws exist prohibiting employers not hiring handicapped who; one of problems was proving discrimination. & Process is one of education & evolution. ~~Can't "strong arm"~~

085 Doesn't feel a law (ref. Sec 1) will assist in achieving return to work. Ongoing problem, requires continuous work, requires efforts of everybody. Favors parties wkg together, setting goals.

118 Martin asked if their bill addresses all points Jackson - good mechanism; outlining, delineating program positive. Effort to be applauded.

~~133 Martin asked if L. Martin~~

Discussion Robinson, Martin, Barry. Barry noted new fiscal note will be needed if their bill is considered.

Felt all gpts shd be given opportunity to comment on changes; too unrealistic to look at couple wks min. for bill. There was assurance from McClinton (ref/n) & Lewis that info will be made available ASAP.

Discussion,

170 Cattanach said they wd not look favorably at taking parts of bill out; prefer total look. Martin requested info from Koch re benefits & ratings (ref new (their) draft). Koch responded. - session re cost savings.

220 Mtg adj 2:53

LABOR/MANAGEMENT WORK DRAFT

FEBRUARY 13, 1982

Original Sponsor: Rules/Legislative Council

IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.30.025 is amended by adding a new subsection to read:

*Sec 2
No change*

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

* Sec. 2. AS 23.30.040(e) is repealed and reenacted to read:

NEW

(e) The board may authorize payment from the second injury fund of:

- (1) up to \$200 per month for maintenance to an employee being rehabilitated under § 41 of this chapter who suffers an extreme financial hardship;
- (2) rehabilitation expenses exclusive of costs for provider services and testing.

* Sec. 3. LEGISLATIVE INTENT. It is the intent of the legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to his gross earnings at the time of the injury. The legislature recognizes five rehabilitation goals in a workers' compensation program:

- NEW*
- (1) Early identification of injured workers who will eventually need rehabilitation;
 - (2) Use of competent rehabilitation providers;
 - (3) Opportunities for return to direct employment;
 - (4) Maintaining an atmosphere conducive to rehabilitation;
 - (5) Providing incentives and removing disincentives to rehabilitation.

The Department of Labor shall adopt regulations in accordance with AS 23.30.005 to accomplish these goals.

NEW

* Sec. 4. The board shall select and employ a rehabilitation administrator and may authorize the rehabilitation administrator to select and employ rehabilitation monitors.

NEW

* Sec. 5. The rehabilitation administrator is a partially exempt service under AS 39.25.120. The monthly salary of the rehabilitation administrator is equal to Step A, Range 22 of the salary schedule in AS 39.27.011(a) for Anchorage.

* Sec. 6 AS 23.30 is amended by adding a new section to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The rehabilitation administrator shall implement the provisions of this section. The rehabilitation administrator shall continuously study the issue of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all qualified rehabilitation facilities, agencies, and providers, both public and private.

(b) When an employee suffers an injury covered by this chapter which precludes his return to suitable gainful employment, he shall be entitled to prompt rehabilitation services. The employer or carrier, at its own expense, shall provide for necessary and appropriate rehabilitation services. If rehabilitation services are not voluntarily offered, the rehabilitation

administrator, if he deems the services necessary and appropriate, may retain a rehabilitation provider at the expense of the employer or carrier.

(c) Rehabilitation services shall not exceed 37 weeks, provided, however, the rehabilitation services may be extended an additional 37 weeks if the rehabilitation administrator determines that special circumstances exist. Nothing in this subsection precludes an employer or carrier from providing rehabilitation services beyond such period on a voluntary basis. Where rehabilitation requires residence at or near a facility or institution, away from the employee's customary residence, reasonable cost of board, lodging and travel shall be paid by the employer.

(d) Temporary disability benefits paid pursuant to §§ 185 or 200 of this chapter shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall be paid throughout the rehabilitation process.

(e) The rehabilitation provider shall file a plan for approval with the rehabilitation administrator in accordance with board regulations. Within ten (10) days of the rehabilitation administrator's decision any party may seek review of the decision by requesting a hearing in accordance with § 110 of this chapter. A decision by the rehabilitation administrator is presumed valid absent a showing of clear error.

(f) Refusal by an injured employee to participate in an evaluation or a plan approved by the rehabilitation administrator shall result in a forfeiture of disability compensation for the period such refusal persists. However, if an employee commences participation in an evaluation or plan of rehabilitation within two months from the date of such refusal, and successfully completes such rehabilitation plan or evaluation by becoming employed for a period of thirty consecutive business days following the completion of the rehabilitation program, he shall receive a lump sum payment of 25% of the compensation forfeited by him. Such lump sum payment is available only once to an employee refusing rehabilitation. The rehabilitation administrator may find that an employee refuses to participate in an evaluation or vocational plan if, the employee fails to cooperate with the rehabilitation provider, or if the employee, or anyone acting on the employee's behalf, interferes with the rehabilitation process.

* Sec. 7. AS 23.30.045 (a) is amended to read:

(a) An employer is liable for and shall secure the payment to his employees of the compensation payable under §§ 41, 50, 95, 145, and 180 - 215 of this chapter. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the compensation to employees of the subcontractor unless the subcontractor secures the payment.

* Sec. 8. AS 23.30.045 (c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

* Sec. 9. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. [The failure of an employer to file evidence of compliance as required by AS 23.30.085 shall create a rebuttable presumption that the employer has failed to insure or provide security as required by AS 23.30.075.] If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of \$1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for three years following the violation of the stop order.

* Sec. 10. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR

EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

* Sec. 11. AS 23.30.095 is amended by adding a new section to read:

(j) the board shall adopt and use a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings.

* Sec. 12. AS 23.30 is amended by adding a new section to read:

AS 23.30.097. RELEASE OF INFORMATION. Upon request the employee shall provide written authority to the employer, carrier, rehabilitation provider and rehabilitation administrator to obtain medical and rehabilitation information relative to his injury.

* Sec. 13. AS 23.30.¹⁰⁰~~105~~(d)(2) is amended to read:

2. If the board excuses the failure on the ground that for some satisfactory reason notice could not be given; however, when the delay in giving notice is so excused, notwithstanding the provisions of AS 23.30.120, the burden of proof as to the validity of the claim shall shift to the employee;

* Sec. 14. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary with [IN] respect to [OF] the claim, and upon application of an interested party shall provide an opportunity for [ORDER] a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing record closes [IS HAD], by order, reject the claim or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION. THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

* Sec. 15. AS 23.30.120(3) is amended to read:

(3) The injury was not proximately caused by the employee being under the influence of an intoxicating liquor or drugs [OCCASIONED SOLELY BY THE INTOXICATION OF THE INJURED EMPLOYEE];

* Sec. 16. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded any witnesses testimony, including medical testimony and reports, is conclusive even though the evidence is conflicting or susceptible to contrary conclusions. The findings of the board shall be subject to the same standard of review as a jury's finding in a civil action.

* Sec. 17. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

* Sec. 18. AS 23.30.155 is amended by adding new subsection to read:

(n) If the board determines that it is in the interest of an injured employee, and the parties agree, the liability of the employer for all or part of compensation payable under AS 23.30.190 ^{(a)(1)-(4)} may be discharged by the payment of a lump sum.

* Sec. 19. AS 23.30.175(a) is amended to read:

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed the percentage of the Alaska average weekly wage in effect on the date of injury as determined by the table contained in this subsection and initially may not be less than \$110 [65] a week. However, if the board determines that the employee's spendable [AVERAGE] weekly wages are less than \$110 [65] a week as computed under § 220 of this chapter, it shall issue an order decreasing the weekly rate of compensation to a rate equal to the employee's spendable [AVERAGE] weekly wages, and payments made earlier in excess of the decreased rate shall be deducted from the unpaid compensation in the manner the board determines. In any case, the employer shall pay timely compensation.

On	The Rate Shall Be
July 1, 1975	80% of the Alaska Average Weekly Wage
January 1, 1976	100% of the Alaska Average Weekly Wage
January 1, 1977	133.3% of the Alaska Average Weekly Wage
January 1, 1979	166.6% of the Alaska Average Weekly Wage
January 1, 1981	200% of the Alaska Average Weekly Wage

* Sec. 20. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

* Sec. 21. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's weekly compensation rate calculated in accordance with § 180, 185, 190, 200 or 215 of this chapter times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the spendable weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those gross earnings earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than \$110 a week except as provided in (a) of this section.

* Sec. 22. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

* Sec. 23. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two of them, in the absence of conclusive proof to the contrary, constitutes permanent total disability. In all other cases permanent total disability is determined in accordance with the facts.

* Sec. 24. AS 23.30.185 is amended to read:

Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In case of disability total in character but temporary in quality 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the disability.

* Sec. 25. AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with §§ 185 or 200 of this chapter, respectively, and shall be paid to the employee as follows:

- (1) arm lost, 280 weeks compensation, not to exceed \$59,000 [\$43,680];
- (2) leg lost, 248 weeks compensation, not to exceed \$54,400 [\$40,320];
- (3) hand lost, 212 weeks compensation, not to exceed 45,400 [\$33,600];
- (4) foot lost, 173 weeks compensation, not to exceed 39,700 [\$28,700];
- (5) eye lost, 140 weeks compensation, not to exceed \$30,200 [\$22,400];
- (6) thumb lost, 51 weeks compensation, not to exceed \$14,000 [\$10,400];
- (7) first finger lost, 28 weeks compensation, not to exceed \$8,700 [\$6,440];
- (8) great toe lost, 26 weeks compensation, not to exceed \$7,200 [\$5,320];
- (9) second finger lost, 18 weeks compensation, not to exceed \$5,700 [\$4,200]; third finger lost, 18 weeks compensation, not to exceed \$4,700 [\$3,500];
- (10) toe other than great toe lost, 8 weeks compensation, not to exceed \$3,000 [\$2,240];
- (11) fourth finger lost, 7 weeks compensation, not to exceed ^{2,800}~~\$2,000~~ \$2,100 [\$2,100];

- (12) loss of hearing of one ear, 52 weeks compensation, not exceeding \$9,800 [\$7,280]; loss of hearing of both ears, 200 weeks compensation, not to exceed \$37,800 [\$28,000] No benefit is payable for loss of hearing above 3,000 cycles per second;
- (13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;
- (14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;
- (15) compensation for loss of binocular vision or for 30 per cent or more of the vision of an eye is the same as for loss of the eye;
- (16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;
- (17) compensation for permanent total loss of use of a member is the same as for loss of the member;
- (18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;
- (19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to \$10,000 for
- (A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or
- (B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;
- (20) in all other cases in this class of disability the compensation is 80 [66-2/3] per cent of the difference between his spendable [AVERAGE] weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to modification [RECONSIDERATION OF THE DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon application of a party in interest; Whenever the board determines that it is in the interest of justice, the liability of the employer for compensation, or any part if it as determined by the board, may be discharged by the payment of a lump ~~sum~~
u;
- (21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this section, not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this section applies.
- (b) Total compensation paid under (a)(20) of this section may not exceed \$75,000 [60,000].

* Sec. 26. AS 23.30.200 is amended to read:

Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 [66-2/3] per cent of the difference between the injured employee's spendable [AVERAGE] weekly wages before the injury and his wage earning capacity after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years.

* Sec. 27. AS 23.30.210 is amended to read:

Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. (a) In a case of partial disability under § 190(20) or 200 of this chapter the wage-earning capacity of an injured employee is determined by his actual spendable weekly wage [EARNINGS] if the actual spendable weekly wage [EARNINGS] fairly and reasonably represents his wage-earning capacity. If the employee has no actual spendable weekly wage [EARNINGS] or his actual spendable weekly wage [EARNINGS] does not fairly and reasonably represent his wage-earning capacity, the board may, in the interest of justice, fix the wage-earning capacity which is reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

* Sec. 28. AS 23.30.215(a) is amended to read:

(a) If the injury causes death, the compensation is known as a death benefit and is payable in the following amounts to and for the benefit of the following persons:

(1) reasonable and necessary funeral expenses not exceeding \$2,500 [\$1,000];

(2) if there is a widow or widower or a child or children of the deceased, the following percentages of the spendable [AVERAGE] weekly wages of the deceased:

(A) 80 [66-2/3] per cent for the widow or widower with no children;

(B) 40 [33-1/3] per cent for the widow or widower with one child and 40 [33-1/3] per cent for the child;

(C) 25 [20] per cent for the widow or widower with two or more children and 55 [46-2/3] per cent divided equally among the children'

(D) [deleted]

(E) 80 [66-2/3] per cent for an only child when there is no widow or widower;

(F) [deleted]

(G) 80 [66-23/] per cent, divided equally, if there are two ~~more~~ ^{or} more children and no widow or widower;

(3) if the widow or widower remarries, she or he is entitled to be paid in one sum an amount equal to the compensation to which the widow or widower would otherwise be entitled in the two years commencing on the date of remarriage as full and final settlement of all sums due the widow or widower;

(4) if there is no widow or widower or child or children, then for the support of father, mother, grandchildren, brothers, and sisters, if dependent upon the deceased at the time of injury, 40 [35] per cent of the spendable [AVERAGE] weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed \$20,000 in the aggregate.

* Sec. 29. AS 23.30.215(b) is amended to read:

(b) In computing death benefits, the spendable [AVERAGE] weekly wage of the deceased shall be computed under § 220 of this chapter and shall be paid in accordance with § 155 of this chapter and subject to the weekly maximum limitation in the aggregate as provided in § 175 of this chapter, but the total weekly compensation may not be less than \$75 [45] for a widow or widower nor less than \$25 [15] weekly to a child or \$50 [30] for children.

* Sec. 30. AS 23.30.220 is repealed and reenacted to read:

Sec. 23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE. Except as otherwise provided in this chapter, the spendable weekly wage of the injured employee at the time of the injury is the basis for computing compensation, and shall be the employee's gross weekly earnings minus payroll tax deductions. The gross weekly earnings shall be calculated as follows:

(1) if at the time of the injury the employee has been in the gainful employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing by thirteen the gross earnings said employee earned in the employ of the employer in that reporting quarter.

(2) if at the time of the injury the employee has not been in the employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing 100 into the gross earnings of the employee in the two calendar years immediately preceding the injury.

(3) if the board determines that the gross weekly earnings at the time of the injury cannot be fairly calculated under (1) or (2) of this section, or cannot otherwise be ascertained without undue hardship to the employee, the gross weekly earnings for calculating compensation shall be the usual gross earnings for similar service rendered by paid employees under similar circumstances as determined by the board;

(4) if an employee is a minor or an apprentice, or a trainee, as determined by the board, when injured, and under normal conditions his wages would increase during the period of disability, this fact may be considered by the board in computing his gross weekly earnings;

(5) if the employee is injured while performing his duties as a volunteer ambulance attendant, policeman or fireman, the gross weekly earnings calculating compensation shall be the minimum gross weekly earnings paid a full-time ambulance attendant, policeman or fireman employed, at a reasonable figure previously set by the subdivision to make this determination and in no case may the gross weekly earnings for calculating compensation be less than the minimum wage computed on the basis of 40 hours work per week.

* Sec. 31. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. No compensation shall be payable to an employee under §§ 180 or 185 of this chapter for any week in which the employee receives unemployment benefits (AS 23.20).

* Sec. 32. AS 23.30.235 is repealed and reenacted to read:

Sec. 23.30.235 CASES IN WHICH NO COMPENSATION IS PAYABLE. No compensation under this chapter shall be allowed for an injury:

(1) proximately caused by the employee's willful intent to injure himself or to willfully injure another;

(2) proximately caused by the employee being under the influence of an intoxicating liquor or drugs unless such drugs are being taken in quantities prescribed by employee's physician.

* Sec. 33. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

* Sec. 34. The board shall publish Sections 32 and 33 of this Act in a booklet defining the employee's rights and obligations under the Alaska Workers Compensation Act. The booklet shall be mailed to an injured worker upon notice of an injury.

* Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "arising out of and in the course of employment" includes employer required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer sanctioned activities at employer provided facilities; but excludes activities of a personal nature away from employer provided facilities.

(30) "under the influence of an intoxicating liquor or drugs" means not only all well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging intoxicating liquors or drugs, and which, to an appreciable degree, deprives one of that clearness of intellect and control of himself which he would otherwise possess.

(31) "drugs" means a controlled substance or cannabis as further defined in AS. 11. 1.900.

(32) "gross earnings" means recurring payments by employer to the employee for employment before any authorized or lawfully required deduction or withholding of funds by the employer, excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or payment to the employee which is not taxable to the employee during the pay period. The value of room and board to the employee may be considered in determining gross earnings for those employees with gross weekly earnings which are less than the Alaska average weekly wage at the time of injury.

(33) "payroll taxes" means the following:

(a) An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of dependants for actual dependency, blindness and old age to which the employee is entitled on the date on which he was injured; and,

(b) An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which he was injured; and,

(c) And any other legislative mandated deductions including but not ~~not~~ limited to ESC and FUTA;

(d) The Commissioner shall annually prepare formulas which shall be used to calculate an employee's spendable weekly wage on the basis of his gross weekly earnings, number of dependants, marital status and payroll tax deductions.

(34) "reporting quarter" means one of the 3 month periods (January through March, April through June, July through September, October through December) used to report employee wages to the Internal Revenue Service.

(35) "Suitable Gainful Employment" means employment which is reasonably attainable in light of the individuals age, education, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practical and as nearly as possible to his gross earnings as determined at the time of injury.

* Sec. 36. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), AS 23.30.191 and AS 23.30.265(20) are repealed.

* Sec. 37. AS 39.25.120 is amended by adding a new paragraph to read:

(20) the rehabilitation administrator of the Workers' Compensation Board.

* Sec. 38. This act takes effect July 1, 1982.



Scott Wetzel Services Incorporated

An Affiliate of The Home Group, Inc

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone: (907) 276-2111

February 9, 1982

The Honorable Terry Martin
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Re: David Butler/Municipality of Anchorage

Dear Mr. Martin:


The attached decision from the Workers' Compensation Board is a classic example of the serious problems inherent in our current Workers' Compensation laws.

This employee, who had a minor hearing loss, basically corrected by a hearing aid, was kept on full salary through non-cashable sick leave for the period 4/1/80 through 12/8/80 while he was awaiting action on his request for retirement from the Municipality, which was subsequently granted. After he was retired and after he had received full payment in the amount of \$27,658.67 from his employer for the period 4/1/80 through 12/8/80, he filed for worker's compensation for the same period of time and the Board has now ruled that the employer must also pay him compensation benefits of an additional \$21,668.04 for the exact same period of time loss. The employee has therefore recovered in excess of 200% of his normal salary for a period of 9 months. Full payment by an employer, regardless of what fund it is paid from, or what they call it, should certainly satisfy the requirements of the Workers' Compensation Board.

Your comments will be appreciated.

Very truly yours,

SCOTT WETZEL SERVICES, INC.


Renee Murray
Claims Manager

RM/vb

cc: Ed Hite - Daryl Cody & Assoc.
Harry Sjoberg - MOA



DAVID W. BOLTER,
Employee,
Applicant,

vs.

MUNICIPALITY OF ANCHORAGE
(Self-Insured),
Employer,
Defendant.

DECISION AND ORDER
Case No. 80-04-0548.

On December 10, 1981 the defendant requested modification of the Board's November 19, 1981 Decision and Order. No opposition was submitted by the employee and the Board deemed the record closed on January 15, 1982.

Defendant alleges the Board erred in a determination of fact. The defendant asserts that employee is not entitled to compensation between April 1, 1980 and December 8, 1980 because he was being paid his full salary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

There was no mistake in a factual determination. Evidence was presented at the November 12, 1981 hearing that employee received sick leave payments in the amount of his full salary between April 1, 1980 and December 8, 1980. Evidence was also presented, and the defendant does not dispute, that employee was disabled.

There is no provision in the Alaska Workers' Compensation Act permitting for offsets of amounts received by an injured worker from any private source as a result of the same injury. A special exception is made for Social Security payments. See AS 23.30.225

In the instant case the employee was paid his full salary from his non-cashable sick leave reserve. We have no knowledge of the terms of the Municipality's sick leave program nor do we have jurisdiction over it. If sick leave payments were made to the employee in error the defendant must seek another forum for his recovery.

ORDER

Defendant's petition for Modification is denied and dismissed.

Dated at Anchorage, Alaska, this 4th day of February 1982.

ALASKA WORKERS' COMPENSATION BOARD

/s/ William F. Reeves
William F. Reeves, Designated
Chairman

/s/ Jim Robison
Jim Robison, Member

/s/ Ann Pittenger
Ann Pittenger, Member

WFR/cw

APPEAL PROCEDURES

A compensation order may be appealed through proceedings in Superior Court brought by a party in interest against the Board and all other parties to the proceedings before the Board, as provided in the Rules of Appellate Procedure of the State of Alaska.

A compensation order becomes effective when filed in the office of the Board, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of David Bulter, employee/applicant; vs. Municipality of Anchorage/Police Department employer; Case No. 80-04-0548; dated and filed in the office of the Alaska Workers' Compensation Board in Anchorage, Alaska, this 4th day of February 1982.

Gynthia Williams
Clerk

