

ALASKA LEGISLATURE COMMITTEE FILES 20120200/2

1807 SLC HB 94 - HB 252 ✓✓

HB 94

January 19, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill amending the Workers' Compensation Act to add two statewide members to the Workers' Compensation Board and provide adequate funding for the second injury fund. The bill also amends the conditions under which the state assumes liability for injuries to a person placed by vocational rehabilitation services.

Sincerely,

S/SSH

Jay S. Hammond
Governor

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Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY HB 115:

SEC 1: Exempts pressure vessels of 5 cubic feet or less and vessels with an inside diameter of 6 inches or less from the inspection requirement. Unfired pressure vessels, hot water boilers, and domestic water heaters which do not exceed the BTU capacities of Boiler and pressure vessel Codes are also exempted.

SEC 2: And 3: Deputy inspectors and special inspectors must pass a national exam. Companies authorized by the Dept. of Commerce and Economic Dev. to insure against certain types of losses may employ special inspectors.

SEC 4: Requires inspectors to use Department of Labor Reporting Forms, and specifies the kind of dangerous condition which a special inspector must report to the Department.

SEC 5: Examination for both special inspectors and deputy inspectors will be the National Board of Boiler and Pressure Vessel Inspectors examination.

SEC 6: Defines grounds for the revocation or suspension of a special or deputy inspector. Removes "untrustworthiness" as a ground for suspension, yet retains "incompetence". Conviction of certain crimes (bribery and perjury) is a ground for suspension or revocation. Intentional falsification is also penalized.

SEC 7: Time requirements for certificates of inspection are clarified and internal and external examinations for specific types of boilers are defined.

SEC 8: Requires that each inspection be made by a deputy or special inspector.

SEC 9: The Department of Labor is to be the recipient of fees.

SEC 10: Requires the Company authorized by the Department of Commerce and Economic Dev. to insure boilers and pressure vessels to notify the Department of Labor when it discontinues insurance.

SEC 11: Owner or user of the boiler or pressure vessel to pay the inspection fee to the Department of Labor.

SEC 12: (and 13) Defines boilers covered by second and third class boiler operators licenses to clarify the maximum capacity for the steam boiler and the maximum heat output for the high temperature or high pressure water boiler.

146115
February 2, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill on boiler and pressure vessel safety standards (AS 18.60). The bill would adapt the Alaska Statutes to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and make some alterations in the procedure of qualification for boiler and pressure vessel safety inspectors. A section-by-section description is attached for your convenience.

Sincerely,

JSH

Jay S. Hammond
Governor

Attachment

SECTION-BY-SECTION DESCRIPTION

Section 1 exempts from inspection requirements pressure vessels of five cubic feet or less in places of public assembly and those having an inside diameter of six inches or less. Unfired pressure vessels and hot water supply boilers or domestic water heaters will also be exempted from the inspection requirements where their BTU capacities and water temperature do not exceed the limits specified by the Boiler and Pressure Vessel Code.

Sections 2 and 3 require that both deputy inspectors, who are employed by the Department of Labor, and special inspectors, who are employed by owner-users or insurance companies and certified by the state, pass a national examination. The bill also specifies that companies authorized by the Department of Commerce and Economic Development to insure against certain types of losses may employ special inspectors.

Section 4 requires inspectors to use reporting forms adopted by the Department of Labor rather than by the American Society of Mechanical Engineers for certification inspection. It also specifies the kind of dangerous condition which a special inspector must report to the department.

Section 5 specifies that the examination for both special and deputy inspectors will be the standard National Board of Boiler and Pressure Vessels Inspectors examination.

Section 6 spells out grounds for revocation or suspension of a state commission for either a special or deputy inspector. "Untrustworthiness" is removed as a ground for suspension or revocation. "Incompetence" remains. Conviction of specified crimes -- bribery and perjury -- in connection with official duties is inserted as a ground for revocation or suspension, and falsification is expanded and clarified to permit the penalty only for intentional falsification of any material matter in connection with an inspection report or an administrative or judicial proceeding. Substituting "intentional" for "wilful" in AS 18.60.200(a)(3) is intended to conform this terminology to that in the new criminal code.

Section 7 specifies the types of internal and external examination required for specific types of boilers, depending upon construction. The period of time within which certificates of inspection are required is also clarified.

Section 8 requires that each inspection be made by a deputy or special inspector.

Section 9 changes the recipient of fees from the deputy inspector to the Department of Labor. The section also repeals time limits on the validity of the inspection certificates; those limits are unnecessary because of the amendments to AS 18.60.320.

Section 10 requires any company authorized by the Department of Commerce and Economic Development to insure boilers or unfired pressure vessels to notify the Department of Labor each time it discontinues the insurance for a boiler or pressure vessel in Alaska. Reinspection is then required only if the insurance was terminated because of a condition dangerous to life or property.

Section 11 requires the owner or user of the boiler or unfired pressure vessel inspected by a deputy inspector to pay the inspection fee to the department rather than to the deputy inspector.

Sections 12 and 13 change the definitions of boilers covered by second and third class boiler operators' licenses to clarify the maximum capacity for the steam boiler and the maximum heat output for the high temperature or high pressure water boiler.

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HEALTH AND SAFETY

§ 18.60.200

Article 3. Boilers.

Section	Section
180. Regulations	300. Revocation or suspension of commission
190. Effect of regulations	310. Replacement of lost or destroyed certificate or commission
200. New boilers and unfired pressure vessels	320. Inspection of boilers and unfired pressure vessels
210. Exemptions	330. Rules of inspection
220. Duties of the Department of Labor	340. Inspection certificates
230. Appointment of deputy inspectors	350. Suspension of inspection certificate
240. Appointment and qualifications of special inspectors	360. Inspection fees
250. Compensation for special inspectors prohibited	370. Appeals
260. Duty of special inspectors	380. [Repealed]
270. Report of inspection	390. Inspection certificate required
280. Right of inspection	395. Licensing of boiler operators
290. Examination for deputy and special inspectors	

Sec. 18.60.180. Regulations. The Department of Labor shall formulate definitions, rules and regulations for the safe and proper construction, installation, repair, use and operation of boilers and for the safe and proper construction, installation and repair of unfired pressure vessels. The definitions, rules and regulations shall be based upon and shall follow the generally accepted nationwide engineering standards, formulae, and practices established for boiler and unfired pressure vessel construction and safety. The Department of Labor may adopt the existing published codification of these definitions, rules and regulations, known as the Boiler Construction Code of the American Society of Mechanical Engineers, and may adopt the amendments and interpretations made and published by that society. The Department of Labor shall adopt amendments and interpretations to the code immediately upon their promulgation by the American Society of Mechanical Engineers so that the definitions, rules and regulations at all times follow generally accepted nationwide engineering standards. (§ 1(c) ch 132 SLA 1955)

Cited in *College Enterprises, Inc. v. State*, 6 Alas. L.J. No. 2, p. 55 (Feb., 1968).

Sec. 18.60.190. Effect of regulations. (a) The rules and regulations adopted by the Department of Labor have the force and effect of law. However, the rules and regulations applying to the construction of new boilers and unfired pressure vessels do not prevent their installation until the rules and regulations become mandatory as provided in (b) of this section.

(b) Amendments in the rules and regulations are permissive immediately upon adoption and become mandatory 12 months after adoption. (§ 1(d) ch 132 SLA 1955)

Sec. 18.60.200. New boilers and unfired pressure vessels. A power boiler, low pressure boiler, or unfired pressure vessel which does not conform to the rules and regulations promulgated by the

Department of Labor governing new construction and installation shall not be installed and operated unless it is of special design or construction, and is not covered by the rules and regulations, or is not in any way inconsistent with the rules and regulations, in which case the Department of Labor may issue a special installation and operating permit. (§ 2 ch 132 SLA 1955)

Sec. 18.60.210. Exemptions. (a) Sections 180 — 390 of this chapter do not apply to the following:

- (1) boilers and unfired pressure vessels under federal regulation;
- (2) unfired pressure vessels meeting the requirements of the Interstate Commerce Commission for shipment of liquids or gases under pressure;
- (3) Air tanks located on vehicles operating under the rules of another state authority and used for carrying passengers or freight;
- (4) air tanks installed on the right of way of railroads and used directly in the operation of trains;
- (5) unfired pressure vessels having a volume of five cubic feet or less when not located in places of public assembly;
- (6) unfired pressure vessels designed for a pressure not exceeding 15 pounds per square inch gauge when not located in a place of public assembly.

(b) The following boilers and unfired pressure vessels are exempt from the requirements of §§ 320 — 360 of this chapter:

- (1) boilers or unfired pressure vessels located on farms and used solely for agricultural purposes,
- (2) steam boilers used exclusively for heating purposes carrying a pressure of not more than 15 pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;
- (3) hot water heating boilers carrying a pressure of not more than 30 pounds per square inch and which are located in private residences or in apartment houses of less than six families;
- (4) unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six families;
- (5) unfired pressure vessels containing liquefied petroleum gas. (§ 4 ch 132 SLA 1955)

Sec. 18.60.220. Duties of the Department of Labor. The Department of Labor shall

- (1) have all violators of §§ 180 — 390 of this chapter prosecuted;
- (2) issue, suspend, or revoke for cause, inspection certificates provided for in § 390 of this chapter;
- (3) take action necessary for the enforcement of the laws, rules and regulations governing the use of boilers and unfired pressure vessels;

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(4) keep a complete record of the type, dimensions, maximum allowable working pressure, age, condition, location, and date of the last recorded internal inspection of boilers and unfired pressure vessels to which §§ 180—390 of this chapter apply;

(5) do acts necessary to carry out the purposes of §§ 180—390 of this chapter. (§ 5 ch 132 SLA 1955)

Sec. 18.60.230. Appointment of deputy inspectors. The Department of Labor shall employ deputy inspectors who have had not less than five years' practical experience in the construction, maintenance, repair, or operation of high pressure boilers and unfired pressure vessels as a mechanical engineer, steam engineer, boilermaker, or boiler inspector, and who have passed the examination provided for in § 290 of this chapter. (§ 6 ch 132 SLA 1955)

Sec. 18.60.240. Appointment and qualifications of special inspectors. In addition to the deputy boiler inspectors provided for in § 230 of this chapter, the Department of Labor shall, upon the request of a company authorized to insure against loss from explosion of boilers and unfired pressure vessels, or upon the request of a company operating unfired pressure vessels, issue to an inspector of the company a commission as a special inspector. However, to be eligible for a commission as special inspector, a person shall satisfactorily pass the examination provided for in § 290 of this chapter, or instead of the examination may hold a certificate of competency as an inspector of boilers and unfired pressure vessels for a state that has a standard of examination substantially equal to that of this state, or may hold a certificate as an inspector of boilers from the National Board of Boiler and Pressure Vessel Inspectors. A commission as a special inspector for a company operating unfired pressure vessels in this state may be issued if, in addition to meeting the requirements in this section, a person is continuously employed by the company for the purpose of making inspections of unfired pressure vessels used or to be used by the company. (§ 7(a) ch 132 SLA 1955)

Sec. 18.60.250. Compensation for special inspectors prohibited. A special inspector is not entitled to any compensation or expenses from the state. A special inspector's commission is conditioned upon his continuing in the employ of a boiler insurance company or a company operating unfired pressure vessels in this state and upon his maintaining the standards imposed by §§ 180—390 of this chapter. (§ 7(b) ch 132 SLA 1955)

Sec. 18.60.260. Duty of special inspectors. Each special inspector shall inspect all boilers and unfired pressure vessels insured or operated by his company. The owner and user of a boiler or unfired pressure vessel inspected by its special inspector is exempt from the payment of the inspection fees provided in § 360 of this chapter. (§ 7(c) ch 132 SLA 1955)

Sec. 18.60.270. Report of inspection. Each company employing a special inspector shall, within 30 days following each internal boiler or unfired pressure vessel inspection by its inspector, file a report of the inspection with the Department of Labor upon forms adopted by the American Society of Mechanical Engineers. The report of an external inspection is not required except when such inspector discloses that the boiler or unfired pressure vessel is in a dangerous condition. (§ 7(d) ch 132 SLA 1955)

Sec. 18.60.280. Right of inspection. The Department of Labor, or a deputy or special inspector shall be given free access, during reasonable hours, to any premises where a boiler or unfired pressure vessel is being constructed, installed or operated, for the purpose of determining whether the boiler or unfired pressure vessel is constructed, installed and operated in accordance with §§ 180—390 of this chapter. (§ 7(e) ch 132 SLA 1955)

Sec. 18.60.290. Examination for deputy and special inspectors. The Department of Labor shall give the examination for the position of deputy inspector or special inspector. The examination shall be in writing. The examination shall be limited to the subject matter which will aid in determining the fitness and competency of the applicant. If an applicant fails to pass the examination, he may appeal to the department for another examination which shall be given by the department within 90 days. The applicant and his employer shall have access to the record of an applicant's examination. (§ 8(a) ch 132 SLA 1955)

Sec. 18.60.300. Revocation or suspension of commission. (a) The Department of Labor may, after investigation, suspend or revoke a commission for (1) incompetence, (2) untrustworthiness, or (3) wilful falsification of any matter or statement in his application or in an inspection report. A person whose commission has been suspended or revoked, except for untrustworthiness, may apply to the Department of Labor for reinstatement or, in the case of a revocation, the person may apply 90 days after revocation for a new examination and commission.

(b) A person whose commission has been suspended or revoked may appeal the suspension or revocation as provided in § 370 of this chapter and is entitled to be present and represented by counsel at the hearing. (§ 8(b) ch 132 SLA 1955)

Sec. 18.60.310. Replacement of lost or destroyed certificate or commission. If a certificate or commission is lost or destroyed the Department of Labor shall issue a new certificate or commission without another examination. (§ 8(c) ch 132 SLA 1955)

Sec. 18.60.320. Inspection of boilers and unfired pressure vessels. (a) Each boiler and unfired pressure vessel used or proposed

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to be used in the state except boilers or unfired pressure vessels exempt under § 210 of this chapter shall be inspected as to construction, installation, condition and operation, as follows.

(1) Each power boiler shall be inspected annually both internally and externally while not under pressure and, if possible, shall also be inspected annually externally while under pressure.

(2) Each low pressure heating boiler shall be inspected both internally and externally biennially where construction permits.

(3) Each unfired pressure vessel subject to internal corrosion shall be inspected both internally and externally biennially where construction permits, except that the Department of Labor may, in its discretion, provide for longer periods between inspections.

(4) Each unfired pressure vessel not subject to internal corrosion shall be inspected externally at intervals set by the Department of Labor. However, an internal inspection of each unfired pressure vessel is not required where its contents are known to be noncorrosive to the material of which the shell, head, or fittings are constructed, either from the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor, provided that the vessel is constructed in accordance with rules and regulations of the Department of Labor or in accordance with standards substantially equivalent to the rules and regulations in effect at the time of manufacture.

(b) However, in the case of power boilers a grace period of two months longer than the 12 month period may elapse between internal inspections of a boiler while not under pressure or between external inspections of a boiler while under pressure. In the case of low pressure heating boilers not more than 26 months may elapse between inspections, and in the case of unfired pressure vessels not more than two months longer than the period between inspections prescribed by the Department of Labor may elapse between internal inspections. (§ 9(a) ch 132 SLA 1955)

Sec. 18.60.330. Rules of inspection. (a) Subject to the applicable grace period provided in § 320 of this chapter the Department of Labor may modify its rules and regulations applying to the inspection of unfired pressure vessels to reduce or extend the interval between required inspections where the contents of the vessel or its construction material warrant special consideration.

(b) Each inspection shall be made by a deputy inspector, or by a special inspector provided for in §§ 180—390 of this chapter.

(c) If a hydrostatic test is considered necessary to determine the safety of a boiler or unfired pressure vessel, the test shall be made, at the discretion of the inspector, by the owner or user.

(d) Each boiler and unfired pressure vessel to be installed in the state after the 12 month period from the effective date of the rules and regulations of the Department of Labor shall be inspected during

construction as the rules and regulations require by an inspector holding a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or a certificate of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of this state as provided in § 290 of this chapter. (§ 9(b) — (e) ch 132 SLA 1955)

Sec. 18.60.340. Inspection certificates. (a) If, upon inspection, a boiler or an unfired pressure vessel complies with the rules and regulations of the Department of Labor, the owner or user shall pay to the deputy inspector a certificate fee to be established by regulation by the commissioner of labor. The Department of Labor shall issue the owner or user an inspection certificate showing the date of inspection and specifying the maximum pressure under which the boiler or unfired pressure vessel may be operated. The inspection certificate is valid for not more than 14 months from its date in the case of power boilers and 26 months in the case of low pressure heating boilers, and for not more than two months longer than the authorized inspection period in the case of unfired pressure vessels. Certificates shall be posted under glass in the room containing the boiler or unfired pressure vessel inspected. If the boiler or unfired pressure vessel is not located inside the building, the certificate shall be posted in a location convenient to the boiler or unfired pressure vessel, or in the case of a portable boiler or unfired pressure vessel the certificate shall be kept in a metal container fastened to the boiler or vessel or in a tool box accompanying the boiler or unfired pressure vessel.

(b) An inspection certificate issued for an insured boiler or unfired pressure vessel inspected by a special inspector is not valid after the boiler or unfired pressure vessel, for which it was issued, ceases to be insured by a company authorized by the state to carry the insurance. (§ 10(a) (b) ch 132 SLA 1955; am § 1 ch 74 SLA 1966)

Effect of amendment. — The 1966 amendment substituted "pay to the deputy inspector a certificate fee to be established by regulation by the commissioner of labor" for "pay the deputy inspector the sum of \$2 in the case of a boiler, and \$1 in the case of an unfired pressure vessel" at the end of the first sentence of subsection (a).

Sec. 18.60.350. Suspension of inspection certificate. The Department of Labor may suspend an inspection certificate when, in its opinion, the boiler or unfired pressure vessel for which it was issued cannot be operated without menace to the public safety, or when the boiler or unfired pressure vessel does not comply with the rules and regulations. A special inspector has this same power to suspend an inspection certificate for an insured boiler or unfired pressure vessel or an unfired pressure vessel operated by the company employing him. Suspension of an inspection certificate continues in effect until reinstatement. No certificate may be reinstated until the boiler or unfired pressure vessel conforms to the rules and regulations of the Department of Labor. (§ 10(e) ch 132 SLA 1955)

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Sec. 18.60.360. Inspection fees. (a) The commissioner of labor shall, by regulation, establish reasonable fees to be charged for the inspection of boilers and unfired pressure vessels. Separate fees may be established for external inspection, internal inspection, shop inspection and hydrostatic tests, and fees may vary depending upon the rated power, heating surface area or cross sectional area of boilers and unfired pressure vessels.

(b) The owner or user of a boiler or unfired pressure vessel which is inspected by a deputy inspector shall pay the deputy inspector, upon completion of the inspection, the appropriate inspection fee established under (a) of this section.

(c) The Department of Labor shall give an official receipt for an inspection fee collected under this section and shall transfer the amount of the fee to the Department of Revenue for deposit in the state treasury. (§ 12 ch 132 SLA 1955; am § 2 ch 74 SLA 1966; am § 1 ch 29 SLA 1968)

Effect of amendments. — The 1966 amendment rewrote this section. treasury" for "fund established in § 380 of this chapter" at the end of subsection (c).

The 1968 amendment substituted "state

Sec. 18.60.370. Appeals. A person aggrieved by an order or act of a deputy inspector may, within 15 days after notice of the order or act, appeal to the Department of Labor. The Department of Labor shall hold a hearing within 30 days of the appeal but shall give at least 10 days' written notice of the hearing to all interested parties. Within 30 days after the hearing, the Department of Labor shall issue an order approving or disapproving the order or act and shall give a copy of the order to all interested parties. Within 30 days after the order of the Department of Labor a person aggrieved may file a petition in the superior court for review. The court shall summarily hear the petition and may make an appropriate order or decree. (§ 14 ch 132 SLA 1955)

Sec. 18.60.380. Creation of boiler fund.

Repealed by § 3 ch 29 SLA 1968.

Editor's note. — The repealed section derived from § 15 ch. 132, SLA 1955; § 3, ch. 74, SLA 1966.

Sec. 18.60.390. Inspection certificate required. It is unlawful for a person to operate a boiler or unfired pressure vessel under pressure without a valid inspection certificate as provided for in §§ 180—390 of this chapter. The operation of a boiler or unfired pressure vessel without an inspection certificate, or at a pressure exceeding that specified in the inspection certificate, is a misdemeanor and the owner, user, or operator is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both. Each day of unlawful operation is a separate offense. (§ 11 ch 132 SLA 1955)

Cited in *College Enterprises, Inc. v. State*, 6 Alas. L.J. No. 2, p. 35, Feb., 1968.

Sec. 18.60.395. Licensing of boiler operators. (a) The Department of Labor shall promulgate regulations for the licensing of boiler operators. The regulations shall conform to the generally accepted nationwide standards and practices established for boiler operators.

(b) Operators' licenses shall be provided in the following categories:

- (1) fireman — apprentice,
- (2) third class — boiler capacity not to exceed 3,500 pounds an hour,
- (3) second class — boiler capacity not to exceed 100,000 pounds an hour,
- (4) first class — unlimited.

(c) This section does not require a person to be licensed in order to be a boiler operator. (§ 1 ch 68 SLA 1970)

Article 4. Refrigerators and Similar Equipment.

Section	Section
400. Removal of locks upon discarding	430. Inspection of equipment
410. New equipment to have opening device on inside	440. Appeals
420. Administration of §§ 400—460 of this chapter	450. Violations and penalties
	460. Enforcement of article

Sec. 18.60.400. Removal of locks upon discarding. No person may abandon, discard, or throw away an icebox, refrigerator, freezer, or similar equipment which by nature of its use is airtight and equipped with a locking device, unless the door latches or hinges are first removed. Equipment having a capacity of one and one-half cubic feet or less is exempt from the requirements of §§ 400—460 of this chapter. (§ 1 ch 106 SLA 1957)

Sec. 18.60.410. New equipment to have opening device on inside. No person may offer for sale an icebox, refrigerator, freezer, or similar apparatus of more than one and one-half cubic feet capacity equipped with a locking device or latch unless it is equipped with a locking device or latch so constructed that it may be operated by pressure from inside. (§ 2 ch 106 SLA 1957)

Sec. 18.60.420. Administration of §§ 400—460 of this chapter. The Department of Labor shall administer §§ 400—460 of this chapter. It may appoint inspectors and shall inspect all iceboxes, refrigerators, freezers and similar equipment shipped into the state. (§ 4 ch 106 SLA 1957)

Sec. 18.60.430. Inspection of equipment. Every person who sells equipment subject to inspection under §§ 400—460 of this chapter shall permit an authorized inspector to enter the premises where the equipment is stored, or offered for sale, for inspection during reasonable business hours. (§ 5 ch 106 SLA 1957)

Sec. 18.60.440. Appeals. A person aggrieved by an order or act of the Department of Labor or of an inspector under §§ 400—460 of this

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HOUSE BILL NO. 115
 Title "An Act relating to boilers and pressure vessels."
 Requested by Governor Date January 23, 1981

II. FISCAL DETAIL
 Agency Affected Labor
 Program Category Affected Public Protection
 BRU Program, or Subprogram(s) Affected Mechanical Inspection
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE January 23, 1981 PREPARED BY Nico Bus, Finance Officer
 AGENCY Labor
 Original: Legislative Finance PHONE 465-2720
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 124; Summary

Section 1: The commissioner may adopt regulations to carry out the provisions of AS 16.10.270- 16.10.296.

Section 2: Those operations which neither purchase fish nor hire employees may, after investigation of the commissioner, be granted a waiver from the bonding requirement of AS 16.10.290-296.

Section 3: Those persons required to obtain a bond and fail to do so will be guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense.

Section 4: Sections 1 and 3 take effect immediately.

Section 5: Section 2 takes effect December 31, 1981

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would amend the bonding requirements of AS 16.10 which a fish processor or primary fish buyer must meet to qualify for a business license or fisheries business license. The processor, or person engaging or attempting to engage in a "fisheries business" as defined in AS 43.75.140(3) must obtain a fisheries business license under AS 43.75.011. The primary fish buyer must obtain an Alaska business license under AS 43.70.020. The bill would delete the existing provision allowing the processors or buyers to pledge a negotiable security rather than obtain a surety bond, permitting only a surety bond or a cash deposit. The exemption in AS 16.10.290(c) from the requirement of obtaining a bond for a person with property in the state which exceeds \$10,000 in value that is unencumbered would also be repealed. This would relieve the Department of Labor from the responsibility of investigating the value and title of the property used as security.

The bonding requirement under this bill could be waived by the commissioner for those small operations that do not purchase fish or hire employees. This bill also would establish a penalty for those processors and buyers who fail to obtain a bond, and autho-

rizes the commissioner of labor to adopt regulations to carry out the purposes of AS 16.10.270 -- 16.10.296.

Sincerely,

Jay S. Hammond
Governor

CSHB 124



Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CLASS "A" Misdemeanor- Less serious violence against a person, offenses against property, offenses against public administration, Public Health, and decency, than felonies.

Sentences:

Class "A" Misdemeanor- Not more than a year

Class "B" Misdemeanor- Not more than 90 days

Fines:

Class "A" Misdemeanor- Not more than \$5,000

Class "B" Misdemeanor- Not more than \$1,000

COMMITTEE REPORT

SENATE

5/5/81

FURTHER: None

Date: 11 MAY 1981

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 124(Res)
purchase of raw fish

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Holman

3

Bill [unclear]

[Signature]

CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES:

11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an overview of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeanor) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Division of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertantly passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

chapter is grounds for suspension of a fishing license or permit by the Department of Fish and Game. (§ 2 ch 33 SLA 1962)

Article 6. Purchase of Fish.

Section

- 270. Purchase of fish by the pound
- 280. Price disputes between fishermen and fish processors
- 290. Security for collection of wages and payment for raw fish

Section

- 292. Filing evidence of compliance
- 294. Suspension and revocation of license
- 296. Definitions

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique which will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "fish processor or primary fish buyer" for "primary buyer" near the beginning of subsection (a).

Legislative committee report. — For report on ch. 34, SLA 1969 (CSHB 40 am S), see 1969 House Journal, p. 142.

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 30 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970)

Revisor's note (1970). — In ch. 242, SLA 1970, AS 16.10.280 was incorrectly designated AS 16.10.290.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

(b) The fish a cash commiss asserted deposit other se two year for five

(c) A buyer w proof of with the No bond than \$10

(d) Up a license §§ 290 — person a fish buy

(e) The a person section a on behalf which th may be o a person fish proc deposit o complain commissi a record, this subs the comm surety wi

(f) If th so by giv The cancell commissi

(g) If commissi pay the ju

Sec. 16 primary fi file evider

16.10.290

§ 16.10.292

FISH AND GAME

§ 16.10.292

(b) The amount of the bond shall be \$10,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years; if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

(c) A person applying for a license as a fish processor or primary fish buyer who has less than \$10,000 in lienable property in the state, with proof of the property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. No bond is required if the fish processor or primary fish buyer has more than \$10,000 in lienable property as specified in this subsection.

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with §§ 290 — 296 of this chapter, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the right of a person having a claim under §§ 270 — 296 of this chapter against a fish processor or primary fish buyer to bring suit upon the bond, cash deposit or other security in his own right, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

(f) If the surety on the bond desires to cancel the bond, he may do so by giving the commissioner written notice of his intention to cancel. The cancellation is effective 30 days after the notice is delivered to the commissioner.

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch. 102 SLA 1977)

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to §§ 270 -- 296 of this chapter shall initially file evidence of his compliance with the bonding requirements of §§ 290

— 296 of this chapter, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in § 290 of this chapter, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(b) If a bonding company cancels its bond of a fish processor or primary fish buyer, the fish processor's or primary fish buyer's license shall be revoked. He may again obtain a license by complying with the requirements of this chapter.

(c) If a licensed fish processor or primary fish buyer fails to fulfill his obligations as set out in § 290 of this chapter, his license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions his license may be permanently revoked.

(d) Proceedings to suspend or revoke a license are governed by the Administrative Procedure Act (AS 44.62).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of §§ 270 — 296 of this chapter, he shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or his representative, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

Sec. 16.10.296. Definitions. In §§ 270 — 296 of this chapter, unless the context otherwise requires,

- (1) "commissioner" means the commissioner of labor;
- (2) "fish" means any species of aquatic fin fish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state;
- (3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;
- (4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any raw

H B

1 4 8

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

REAL ESTATE COMMISSION
April 9, 1981

620 E. 10TH
ROOM 203
ANCHORAGE, ALASKA 99501
PHONE: (907) 272-5508

Senator Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

In response to your call requesting a position statement from the commission regarding HB148:

The real estate commission requested that HB148 be introduced to enable the commission to carry out the function dictated by last year's sunset report. The commission was separated from the division of occupational licensing by "sunset" but the funding for the newly created commission BRU was not approved before the legislature adjourned.

The commission feels that the lack of funds is seriously affecting the public welfare by preventing the commission from properly and timely investigating complaints and prosecuting violations. HB148 provides funds to hire an investigator which will alleviate this problem and materially benefit Alaskans.

HB148 also provides funds to move the license examiner to the commission's office in Anchorage which will increase the efficiency of the commission in handling the issuance and transfer of licenses and the maintenance of commission records. The commission is installing an up to date processor to increase the efficiency in maintaining license records. Delay in transferring the license examiner results in more duplication of work when the records are transferred.

The bill also provides for the employment of an additional clerk-typist. The commission has a serious problem in routine paperwork processing and responding to the public because the paperwork processing is constantly interrupted by the "walk-in or phone in" public but "no job is finished till the paperwork is done". The additional position will permit clerical functions and public contact functions to both be carried out satisfactorily without interfering with each other.

This budget also purchases the necessary desks, etc. for the new positions.

This budget also provides funds to pay the balance of the executive director's salary for FY81. The executive director has been in office since July, 1980 but has drawn the salary of the executive secretary due to the lack of funds to fund the change in grade. This change is from range 18 to range 22.

Funds must be approved before the division of personnel will begin to classify the new positions. We have been informed that much of this money will not actually be spent because some positions will take 5 to 6 months to be classified and approved by the division of personnel but the 5 to 6 month period begins only when funds are approved. If this budget is approved we will have an investigator by August or September. If not we will be looking at December or January before the position is filled.

A major effect of passing this bill will be that the commission will consolidate its activities and begin administering them with minimum additional confusion and duplication of efforts due to funding related delays. It will also enable the commission to better protect the public much sooner and more efficiently than will otherwise be the case.

The commission and its staff are ready to assist you in any way possible questions. Please do not hesitate to call upon us if you have any questions.

Sincerely,



Lance Youngquist, Chairman
Alaska Real Estate Commission

LY:ks

cc: Division of Budget and Management



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

HB 148; SUMMARY:

Makes a supplemental appropriation of \$44,700 to the Dept. of Commerce and Economic Development for the Real Estate Commission for the Fiscal Year ending June 30, 1981.

4 B

159

April 14, 1982

Honorable Kels A. Anderson, Jr.
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Anderson:

Re: House Bill 159

You wrote to our division on April 12, 1982, requesting information about HB 159.

It is true, we have contacted the National Council of Compensation Insurers. We have sent them a copy of the proposed bill and have asked them to put it into their rate calculating methods to see how it would impact the employers' costs for Worker's Compensation. The net result of this computation is that there will be an approximate 9% increase in Worker's Compensation rates as they would apply to the average weekly wage in Alaska.

The unscheduled disability going from 60,000 to 75,000 is a very material factor due to the fact that the greatest amount of the Worker's Compensation dollar flows into the partial permanent disability.

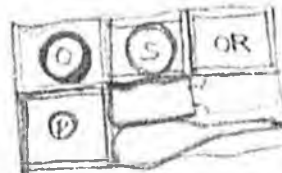
Very truly yours,

Enclosure

Kenneth C. Rouse
Kenneth C. Rouse
Director

KCr/sal/13

cc: Charles R. Webber, Commissioner



2/2



Section 25 P. 12 L 8-29, P. 13 L 1-29, P. 14 L 1-24
Schedule disability up approximately 35%
Unschedule disability of 60,000 to 75,000

Rate Impact + 10%

Section 28 P. 15 L 25 & 26
Burial up from \$1,000 to \$2,500

P. 9 L 25 & 26
Minimum weekly up from \$65 to \$110

P. 17 L 1 & 2
Death minimums up from \$45 to \$75 for widow
from \$15 to \$25 for child
from \$30 to \$50 for children

IN THOUSANDS

Various pages also see Section 30 on page 17 & 18
66 2/3% of injured workers average weekly wage changed to 80%
of injured workers spendable wage

Rate Impact - 1%

Rehabilitation

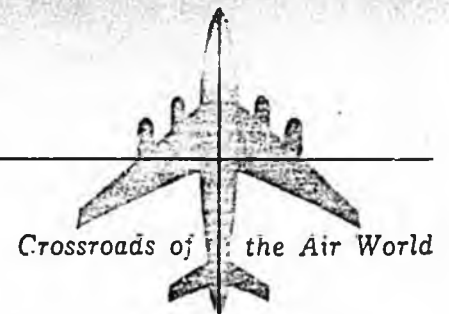
Rate Impact

0%

Total Rate Impact + 9%

Anchorage

CHAMBER of COMMERCE




TO: ALASKA STATE LEGISLATORS
FROM: ANCHORAGE CHAMBER OF COMMERCE - BOARD OF DIRECTORS
SUBJECT: HOUSE BILL 159, AN ACT RELATING TO WORKER'S COMPENSATION
AND PROVIDING FOR AN EFFECTIVE DATE.

Over the past few years, Alaska has managed to earn the distinction of becoming the state with the highest cost in the United States to employers for Worker's Compensation Insurance.

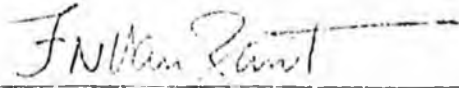
House Bill 159, in its current form, would create additional burdensome costs to the business community by creating another level of bureaucracy to administer rehabilitation programs at the expense of the business community, which can just as well be provided at much lower costs, and with already existing expertise, by private enterprise insurance carriers and rehabilitation professionals.

This Chamber recommends withholding passage of H. B. 159 in its present form. It is recommended that the legislature explore alternatives which can be developed utilizing private enterprise insurance carriers and rehabilitation professionals without the authority to appoint a new Rehabilitation Bureau. Further, no staff increases funded by the General Fund.

APPROVED this 2nd day of April, 1982.



Al Parrish
President




Frank N. Van Zant
Executive Vice President

Bill No. SCS CSHB 159

Date May 10, 1982

Title "An Act relating to Workers' Compensation;
and providing for an effective date."

Contact:  J. L. McClintock
465-2790

The Department of Labor and the Alaska Workers' Compensation Board support the provisions of SCS CSHB 159. This bill is the result of an agreement reached by a committee representing employers and labor in the state and reflects over two years of hearings in which testimony was provided by workers, labor groups, employers, insurers, rehabilitation experts, physicians, attorneys and state agency personnel. The Workers' Compensation Board and Division worked very closely with the committee in recommending amendments that provide for a more equitable and efficient workers' compensation system.

The major portion of the bill implements a new plan for the vocational rehabilitation and re-employment of industrially disabled workers which will significantly reduce costs of the system to employers while assisting the injured worker in returning to suitable gainful employment as quickly as possible.

Other changes are primarily procedural or administrative in nature and are aimed towards reducing litigation, clarifying ambiguities in the language of the Act and bringing that language into harmony with the interpretations set forth in Court and Board decisions.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate CS for CS for House Bill No. 159 (L & C)

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Senate Labor and Commerce Committee

Date 4/24/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86 [*]	FY 87
100 PERSONAL SERVICES		61.5	67.7	74.4	81.9	90.0
200 TRAVEL		15.0	16.5	18.2	20.0	22.0
300 CONTRACTUAL		35.7	23.3	25.7	28.2	31.0
400 COMMODITIES		.9	1.0	1.1	1.2	1.3
500 EQUIPMENT		1.6	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	114.7	108.5	119.4	131.3	144.3

FUNDING (Thousands of Dollars)

GENERAL FUND		114.7	108.5	119.4	131.3	144.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

Establishment of Rehabilitation Administrator position (new position). Cost \$84.1.
(See attached form 13 for itemized costs.)

IV. DATE 4/24/82

PREPARED BY

Nico Bus

AGENCY

Labor

PHONE

465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost \$11.1

100 Personal Services	\$ 5.5
200 Travel	5.0
300 Indirect	.6
	<u>\$11.1</u>

The data processing operations cost will increase by \$5.0 because of enhancements for a tickler system, and the files expansion to retain the addresses of all claimants.

The printing of 20,000 Employee Information booklets. \$6.0

The design and printing of new forms. \$1.5

Computer program modifications to implement the changes introduced by the bill. \$7.0

Included one-time items in FY '83

Equipment	\$ 1.6
Booklets	6.0
Design and printing of new forms	1.5
Computer programs	7.0
	<u>\$16.1</u>

POSITION TITLE Rehabilitation Administrator				PACKAGE/STEP 22A	BARG. UNIT.	LOCATION EBA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	HP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE N/A	LED	

3 TYPE OF EXPENDITURE			AMOUNT
1	2	3	
PERSONAL SERVICES:			
4	SALARY 3714 x 12		44,568
5	BENEFITS .1592		7,095
5	SBS .0613		2,188
7	FIXED BENEFITS 183 x 2		2,196
8	TOTAL PERSONAL SERVICES	01	56,047
9	TRAVEL	02	10,000
10	CONTRACTUAL	03	15,607
11	COMMODITIES	04	850
12	EQUIPMENT	05	1,600
13	OTHER		
14	TOTAL COST		84,104

JUSTIFICATION:
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 the worker's gross earnings at the time of injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

- 9. Travel: \$10,000 (20 trips @ \$500 per trip)
- 10. Contractual: Space \$3,100 (to be transferred to DOA)
Auto Lease and Operating Costs \$5,600
Indirect (11.46% x 44,568 = \$5,107)
Other costs which include communications, equipment rental, etc., \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk, desk chair, side chairs, bookcase, file - \$1,600

RECEIPT CODE	FUNDING SOURCE	AMOUNT
5	FED RCPTS. 1002	
6	GR MATCH. 1003	
7	100 GEN FUND 1004	84,104
9	LEA RCPTS. 1005	
10	PGM RCPTS 1028	
10	OTHER	

11	CONTINUATION		
12	ADDITION	X	FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

WORKERS' COMPENSATION

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

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

A BILL

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

SECTION BY SECTION ANALYSIS

- Section 1. This section sets forth the legislative intent of AS 23.30.041 as found in section 3.
- Section 2. This section forgives contributions by the employer or insurance carrier to the second injury fund in those cases in which the total contribution is less than \$20. Contributions of less than \$20 result in administrative costs by the carrier and the Division of Workers' Compensation which offset any positive contribution to the second injury fund.
- Section 3. This section provides for the administration of rehabilitation and establishes fundamental duties and obligations of the parties. Primary responsibility to provide necessary and appropriate rehabilitation services is the employer's. The Board is charged with adopting regulations which will specify those cases when rehabilitation services are warranted. In the event the employer, or carrier, does not voluntarily offer the rehabilitation services, the Rehabilitation Administrator may retain a rehabilitation provider.

The Rehabilitation Administrator is a new partially exempt position and will be selected and employed by the Board. The intent is to create a strong impartial referee to resolve disputes and provide information prior to entering the rehabilitation process. The administrator's decision may be appealed to the Board by requesting a hearing.

Vocational rehabilitation services are limited to 37 weeks, with an additional 37 weeks allowed if special circumstances exist. The intent is to quickly return an injured worker to gainful employment. Most direct return to work programs and on the job training programs can be accomplished in less than the initial 37 weeks. Temporary total or temporary partial disability compensation shall be paid to an injured worker during the rehabilitation process. Additionally, the amendment provides that the employer shall pay all costs of a rehabilitation plan and establishes standards for the award of an additional \$200.00 per month for maintenance.

- Section 4. This section adds language necessary because of the addition of AS 23.30.041 found in section 3.

- Section 5. This section allows placement of disabled workers who are being rehabilitated for gainful employment into work situations where the employer is willing to pay some wages to the trainee but is not willing to accept the risk of new injury to the handicapped person. The statute presently is limited to situations in which the trainee is not being paid at all. This section also permits the Board to place eligible persons in rehabilitation programs with an employer in the event a request is not made through the Division of Vocational Rehabilitation in the Department of Education. The amendment additionally provides that an employer may elect to assume liability under this section instead of the state.
- Section 6. This section deals with the employer's failure to insure and provides authority for the issuance of a stop order if an employer fails to file evidence of insurance or obtain a certificate of self-insurance. It also provides for a civil penalty of \$1,000 a day for failure to comply with a stop order, and the employer may not obtain a public contract with the state or a political subdivision of it for three years following the violation.
- Section 7. This section provides authority for the Board to establish time limits for the submission of medical reports by physicians treating injured workers.
- Section 8. This section deletes language which gives the right to the injured worker to have his physician present, paid for by the employer, at an examination requested by the employer or ordered by the Board.
- Section 9. This section directs the Board to adopt and use a schedule determining the existence and degree of permanent impairment consistent with the American Medical Association's Guide to the Evaluation of Permanent Impairment.
- Section 10. This section specifically provides for the release of medical and rehabilitation information relative to the worker's injury to the parties upon request.
- Section 11. This section removes the "presumption of compensability" contained in AS 23.30.120 if the worker fails to provide notice of the injury to the employer within 30 days of its occurrence.
- Section 12. This section provides realistic time frames in the Board hearing process and rids the statute of Board authorization to rule on a claim without benefit of the parties to be heard.
- Section 13. This section reflects changes necessary because of amendments to AS 23.30.235 found in section 20.
- Section 14. This section clarifies and emphasizes the role of the Board in determining the credibility of witnesses and the weight to be accorded medical testimony and reports. The Board's findings are conclusive, even if the evidence is conflicting or susceptible of contrary conclu-

sions. It is the intent of this section to restore to the Board the decision making power granted by the Legislature when it enacted the Alaska Workers' Compensation Act. Credibility is a difficult area to articulate objective standards. Such factors as demeanor, recollection, bias, and motive are best determined by the fact finding agency and not the reviewing court. Because the Board has a certain amount of expertise, particularly in the area of medicine, it has the ability to assign weight to the testimony or reports of the medical community.

Section 15. This section allows an employer who has advanced or overpaid compensation to be reimbursed by withholding up to 20 percent out of each unpaid installment or installments of compensation due.

Section 16. This section changes the method by which the average weekly wage is determined in all jurisdictions for purposes of computing compensation and provides for a consistent and equitable means to adjust compensation rates for claims being paid to out-of-state recipients.

Section 17. This section clarifies the rules under which compensation rates are adjusted for recipients not residing in Alaska consistent with legislative intent and regulations, insures adequate benefit levels for those recipients and provides for an annual adjustment in the compensation rate commensurate with changes in average weekly wages.

Section 18. This section authorizes the Commissioner of Labor to determine the average weekly wage in jurisdictions in which no average weekly wage is computed by the Secretary of Labor.

Section 19. This section clarifies the relationship between workers' compensation and unemployment benefits. Temporary total and permanent total disability compensation are not consistent with the eligibility of an injured worker to receive unemployment benefits, and accordingly, are not payable to an injured worker receiving unemployment benefits. This section does not affect the payment of temporary partial or permanent partial disability compensation to a worker who is receiving unemployment benefits.

Section 20. This section changes the instances when compensation is not payable to an injured worker. If the injury is proximately caused by the worker's willful intent to injure or kill himself or another, or by intoxication by the injured worker then compensation is not payable. Under the present act an employer must prove the injury was occasioned solely as a result of the worker's intoxication.

The worker is still aided by the presumption contained in AS 23.30.120 found in section 13 which presumes the injury was not proximately caused by the intoxication of the injured worker. The term proximately caused means legally caused, i.e., a substantial factor.

- Section 21. This section provides penalties for persons who willfully make false or misleading statements for the purpose of obtaining or denying workers' compensation benefits.
- Section 22. This section provides for criminal sanctions for the failure to secure the payment of workers' compensation.
- Section 23. See comment to Section 22.
- Section 24. This section provides for new definitions.

"Arising out of and in the course of employment" is limited to exclude activities of a personal nature away from employer provided facilities. The intent is to limit the scope of the "bunkhouse rule" or "remote site doctrine" which has evolved in workers' compensation law.

Specifically excluded from coverage are activities of a personal nature not sanctioned by the employer which occur away from employer provided facilities such as personal hunting trips, travel to and from a job site when employer provided housing at the site is available to the worker, travel to a banking facility when check-cashing facilities are available at the remote site, and similar incidents. Travel to and from a job site provided or required by the employer, recreational activities sanctioned by the employer or activities within the confines of or immediately surrounding the "bunkhouse" or premises, are not excluded from coverage.

"Drugs" are defined to mean a controlled substance as provided by law.

"Suitable gainful employment" provides criteria for determining the need for, and the appropriateness of, rehabilitation or a particular rehabilitation plan.

- Section 25. This amendment permits loss reimbursement plans, i.e., deductibles, as other than a deviation under AS 21.39.070.
- Section 26. This section designates the Rehabilitation Administrator as a partially exempt position.
- Section 27. This section repeals provisions that are unnecessary or inconsistent with proposed legislation.
- Section 28. This section requires the board to publish Section 20 and 21 of this Act as part of a document describing the worker's rights and obligations under the Alaska Workers' Compensation Act.
- Section 29. This section provides that section 3, 20 and 24 of this Act apply only to injuries sustained after the effective date of this Act.
- Section 30. This section provides that the Act takes effect July 1, 1982.

SEC 25 P. 12 L 8-29, P 13 L 1-29, P 14 L 1-24

SCHEDULE DISABILITY UP APPROX 35%

P 14 L 25-26

UNCHEDULE DISABILITY UP 60 000 TO 75 000

NET IMPACT + 10%

SEC 28 P 15 L 25+26

BURIAL UP FROM \$1000 TO 2500

P 9 L 25+26

MINIMUM WEEKLY UP FROM \$65 TO \$110

P 17 L 1+2

DEATH MINIMUMS UP FROM \$45 TO \$75 FOR WIDOW

FROM \$15 TO \$25 FOR CHILD

FROM \$30 TO \$50 FOR CHILDREN

VARIOUS PAGES ALSO SEE SEC 300N PAGE 17-18

66 2/3% OF INJURED WORKERS AVERAGE WEEKLY WAGE CHANGED TO

80% OF INJURED WORKERS SPENDABLE WAGE

NET IMPACT - 1%

REHABILITATION

NET IMPACT 0%

TOTAL BILL IMPACT + 9%

ALASKA

EXHIBIT II-D

Overall Effect of Increasing the Maximum Weekly Benefit, Effective 1-1-82

<u>Type of Injury</u>	<u>Percentage of Losses*</u>	<u>Effect(%)</u>
Death	6.1%	+0.2
Permanent Total	2.3%	+0.02
Major Permanent Partial	43.1%	+0.1
(Serious)	(51.5%)	(+0.1)+
Minor Permanent Partial	14.2%	+ .04
Temporary Total	8.4%	+0.2
(Non-Serious)	(22.6%)	(+0.1)+
Medical	25.9%	0.0
Total	100.0%	+0.1+

*Losses for policies becoming effective during the 24 month period ending 3-31-79 on the 7-1-81 law level and developed to an ultimate basis by serious, non-serious, and medical categories.

+Weighted Average

April 14, 1982

Honorable Kels A. Anderson, Jr.
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Anderson:

Re: House Bill 159

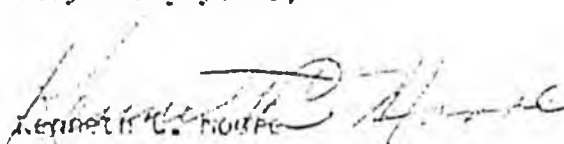
You wrote to our division on April 12, 1982, requesting information about HB 159.

It is true, we have contacted the National Council of Compensation Insurers. We have sent them a copy of the proposed bill and have asked them to put it into their rate calculating mechanism to see how it would impact the employers' costs for Worker's Compensation. The net result of this computation is that there will be an approximate 9% increase in Worker's Compensation rates as they would apply to the average weekly wage in Alaska.

The unscheduled disability going from 60,000 to 75,000 is a very material factor due to the fact that the greatest amount of the Worker's Compensation dollar flows into the partial permanent disability.

Very truly yours,

Enclosure


Kenneth C. Houpe
Director

KC/sal/lb

cc: Charles R. Webster, Commissioner

Section 25

P. 12 L 8-29, P. 13 L 1-29, P. 14 L 1-24
Schedule disability up approximately 35%
Unschedule disability of 60,000 to 75,000

Rate Impact + 10%

Section 28

P. 15 L 25 & 26
Burial up from \$1,000 to \$2,500

P. 9 L 25 & 26
Minimum weekly up from \$65 to \$110

P. 17 L 1 & 2
Death minimums up from \$45 to \$75 for widow
from \$15 to \$25 for child
from \$30 to \$50 for children

IN THOUSANDS

Various pages also see Section 30 on page 17 & 18
66 2/3% of injured workers average weekly wage changed to 80%
of injured workers spendable wage

Rate Impact - 1%

Rehabilitation

Rate Impact 0%

Total Rate Impact + 9%



Alaska National INSURANCE COMPANY

A policy of service and protection

Dick Block

February 24, 1982

Labor and Commerce Committee
House of Representatives
State of Alaska
Pouch Y
Juneau, Alaska 91011

ATT: Honorable Terry Martin, Chairman

RE: HB 159 - Proposed Amendments to the Current Requirements for
Reporting to the Division of Workers' Compensation

Dear Representatives:

In the last session, the Legislature adopted in Chapter 59 of 1981 Laws (CSHB 94 (Fin)am) which, among other things, amended Section 155 of the Alaska Workers' Compensation Act to materially extend the requirements imposed upon insurance companies to file reports of current cases with the Workers' Compensation Board.

The legislation went into effect July 11, 1981, and spawned one of the most prolific paper burdens faced by the insurance industry today.

It will be the purpose of this letter to urge the Committee to include in HS 159 the attached proposed amendments which would have the effect of materially reducing the reporting obligations of insurance carriers to the Board, but will recognize the need for continuing the provision of relevant information to claimants.

It is my understanding that the Division of Workers' Compensation, shortly after the adoption of that amendment and I believe pursuant to some discussions prior to the legislative enactment of those provisions, developed an extremely complex computer system for digesting all of the reported information.

At the invitation of Jackie McLintock, the Director of the Division of Workers' Compensation, I visited their office and reviewed the computer system, watched it work and tested the data it contains.

Frankly, I must state to the Committee that the computer system works well, provides a wide array of information and is basically a well conceived interacting data processing system for manipulation and presentation of the data that goes into the computer. Although I am frank to admit the workability of the system, I have no information as to its cost or as to the practicality of its function except as I will set forth below.

Shortly after the adoption of the legislation, the Division of Workers' Compensation promulgated some early proposed instructions on how to prepare the necessary forms to make the system operative. The book which is 107 pages long explains in intimate detail how to fill out each of the blanks on each of the several forms.

Even with our limited experience in handling workers' compensation claims under the new system, we can tell you that the precision that is required in filling these forms out and the time consumed in answering the several questions contained on these complex forms is enormous. There is even a provision in the statute and implemented by the Division's set of instructions that requires a form be filed on the anniversary date of the claim even though there has been no change in the status of that claim.

We have two very serious concerns about this new law and the way it is being administered:

1. There is an overriding major concern which we have concerning the recent activities and proposals from the Division of Workers' Compensation and the Board. It is our belief that primary responsibility for the day to day management of all workers' compensation claims lies with the insurance carrier or the self-insurance workers' compensation claims administrator. The Division of Workers' Compensation should exercise its responsibility to resolve disputes through the Board hearing process. We also recognize that the Division of Workers' Compensation has a responsibility to assure that the system is working equitably.

Although we recognize that the Division has specific complaints about particular insurance carriers' handling of some claims, or the handling of some claims by workers' compensation self-insurance claims administrators, we believe that on balance most all of the workers' compensation claims in the state are being handled quickly and fairly and in accordance with the law. The Division of Workers' Compensation has authority, as does the Division of Insurance, to investigate insurance carriers and workers' compensation self-insurance claim administrators and to review claim files to determine that they are being handled properly, and we believe that to be a more effective enforcement mechanism than inordinate reportings by all carriers in all cases.

We reject the notion that the Division of Workers' Compensation should thrust itself into the position of becoming the entity primarily responsible for assuring the rights of the injured worker. If that is carried to its logical extreme, the Division of Workers' Compensation will have as many claim adjusters as there are in the whole industry.

It is our view that the Division of Workers' Compensation, the Board and the Division of Insurance need to have the ability to audit for compliance with the laws and the tools to enforce the laws, but they should not be put into the position of usurping the responsibilities of the private insurance sector in the day to day handling and administering of a very complex act.

2. The whole new reporting mechanism is adding a substantial burden of time and expense to the already expensive cost of handling a workers' compensation case. This additional cost must be loaded into the price of workers' compensation insurance and passed on to the employers. This ordinarily would prove to be no problem to the insurance carrier, however, we are concerned that with the substantially increasing costs on the benefit side of the premium dollar, more and more employers are being forced into alternatives to purchasing workers' compensation insurance. While we cannot attribute last year's legislation and the implementation by the Division of Workers' Compensation concerning these reports as the sole contributing factor to these phenomena, we have observed that the overall increase in cost for workers' compensation has driven employers to either:
 - a. Ignore the law and not purchase workers' compensation insurance;
 - b. Force themselves in some way to qualify for self-insurance status to avoid having to purchase insurance;
 - c. Become involved with groups or alternatives to purchase of single insurance with questionable financial responsibility, or
 - d. In some cases go out of business.

While we recognize that there ought to be periodic reconsideration of the benefit structures and a balancing in light of new public policy of the interest of the injured workers against the cost to employers, we do not feel that it is appropriate to continually increase the expense of the system unless there is some compelling reason to impose new administrative burdens.

We are, of course, concerned that in the last month or so in which the reports have been submitted to the Division, I have been given to understand that the Division has returned forms for minor technical errors and has indicated to the insurance carrier that until the forms were resubmitted correctly the penalty periods would be running. The impact is that for minor technical flaws in filling out the report an insurance carrier could be subjected to severe financial penalties.

We think it is ludicrous that an insurance carrier could be penalized more for failure to submit a report to the Board than for failure to submit the payment to the injured employee.

I have made some effort to try to determine what value this new computer system offers injured workers in the State of Alaska or the Division of Workers' Compensation.

The Division is quick to offer several specific examples of how they have been able to use the terminal access facility to answer questions of claimants who make phone calls to the Division. They also indicate that at some point in time the computer system will enable them to digest data for statistical purposes and also enable them to have immediate access to benefit history for a claimant in order to evaluate compromise and release agreements and other matters coming before the Board.

We believe that the limited value derived from having the computer available does not warrant its substantial expense.

Values of The System

1. Ability to answer claimant's questions.

It is indeed of some value to have access to the history of claim payments when a claimant asks a question of the Division of Workers' Compensation. It should be observed, however, that first not all of the claim payment history is or ever will be in the computer since only changes in payments are required to be reported except at anniversary time. Accordingly, when claimants call prior to an anniversary date only inadequate data will be on the computer and it still will be necessary for the Division to refer a claimant to his insurance carrier to get the full information. Furthermore, the frequency of claimant inquiries at the Division, which they regard as substantial, is miniscule when compared to the number of injured workers in the workers' compensation system.

2. Statistical Data

It is true that the Division has been asked by the legislature and by interested groups to provide statistics on frequency and severity of loss by different classifications in the State of Alaska. In fact, while I was Director of the Insurance Division, I argued that the Division of Workers' Compensation should have that information and in the Richard L. Block & Associates' report of 1980 I recommended that the Division have access to that information. My position in this regard has not changed, and I believe it is appropriate that the Division be able to accumulate relevant statistical information on accident frequency and severity. The computer system which they have devised certainly has the capacity for accumulating that data,

but I would point out that absolutely none of the interim reports filed by the carrier contribute in any way to that information. The only information submitted by a carrier which could be used for statistical purposes is the first notice to the Board of the existence of the accident and the last report filed by the carrier which gives a complete description and evaluation of payments, benefits, cause of loss, etc.

3. Ability to evaluate the propriety of compromise and release claims and other inquiries made by the parties.

The value that the computer will have to determine the propriety of matters coming before the Board on specific cases is, at best, questionable. The fact is that compromise and release claims are submitted to the Board for a variety of factors only a minority of which have anything to do with the amount of payments which have in fact been made to date. A compromise and release agreement submitted to the Board must be approved on the merits of each individual case based on information only some of which will be statistical or financial submitted by the employer and the employee. It is ludicrous to establish a complex computer system to accumulate data on every single claim processed in the State of Alaska in order to provide a facility to approve the few lump sum compromise and release agreements submitted to the Board when those submitting those agreements can provide that information themselves.

Cost of The System

There is little available information on the true cost of operating this computer system, however, a review of the Division's budget would indicate that there are several employees either in the Division of Administration or in the Division of Workers' Compensation who have dedicated their time to processing the paper work to make the computer system operative.

In addition and not reflected in the Division of Workers' Compensation's budget is the computer time and computer programming costs which would be more properly buried in the Data Processing Division's budget.

Further, there is the time of employees devoted to working the system for interested inquirers.

I have been advised by Jackie McIntock that they are up to date currently in processing the paper work which has come in; but, as the system becomes more mature and claim frequencies increase, there is going to have to be a substantial additional burden placed on the Division of Workers' Compensation to process all of these reports. After all, if there are to be three or four reports for every claim, then the claim

processing capabilities of the Division of Workers' Compensation would have to essentially be equal to the claim data processing capabilities of all of the carriers processing workers' compensation claims in this state at any point in time.

It is our conclusion that this expense, whatever it may be, is not justified to obtain the limited benefits which are gained from that system.

There are some other issues upon which I can only speculate.

I did observe in reviewing the system that there is a substantial amount of confidential information in the computer. I am troubled by the fact that because it is in the possession of the State it comes under the freedom of information provisions and thus the privacy of every workers' compensation claimant is potentially violated. It is possible, for example, for anyone to go into a Department of Labor office and ask for information concerning a claimant and find out his wages, what physicians he has been seeing in connection with his injury, what his workers' compensation entitlements are and other pertinent information, all of which would not be available if the information were not filed with the State.

I was interested to observe also that the Division is maintaining a master list of attorneys and keying each attorney into the cases he is handling. It is thus possible to write a program to access a report showing all fees paid to the lawyers in the State, who their clients are and other information which I believe the members of the Bar would be concerned to learn is now publicly available information. Each lawyer is now designated in the system as an employers' lawyer or an employees' lawyer.

A further collateral issue has to do with the maintenance of the law digest portion of their program.

Frankly, the work done in preparing the law digest function on the computer appear to be extremely well done, and they are to be complimented for putting together a very good program. My concern is not that they have built this aspect of the system, but rather they have concentrated their efforts on making available to their own internal staff an excellent means of accessing opinions of the Workers' Compensation Boards in order to help draft future opinions, but they have devoted no time whatsoever to making printed versions of the workers' compensation opinions available to anyone else.

The history of access to Board opinions in this regard is that for those lawyers who had contacts with the Juneau office, photo copies of mimeographed versions of their opinions could be obtained; but no one else in the State could have access to them except the parties to each case. Now I understand that the Juneau office will not make them available even to lawyers in Juneau. This means that the Board intends to rely on prior cases in drafting its future opinions, but the lawyers who must argue before the Boards will not have access to those opinions in any way. It seems to me that it would be more appropriate for the Division of Workers' Compensation to have created a facility to make the opinions available to a private publishing firm in Alaska, who could have developed the digest and made it commercially available to all lawyers and other interested parties. It may be that the Division is considering making the opinions and the digest available to interested parties which would be a step forward, but it strikes me as completely inappropriate that such a function that could be well done by private concerns is being done by a state agency.

Alternative Suggestion

While I believe it is inappropriate for the State to be accumulating this information, there are certain things which I do believe are appropriate for the employee to have and it is interesting to note that no one has drafted any statute requiring this information be made available to the employee. It is true that in the set of instructions promulgated by the Board, they ask that the original report go to the employee.

It is further our concern that the reports are so complex that in their current form they are probably more confusing to the employee than they are helpful.

I attach a proposed alternative to be included in Section 155.

Its salient points are these:

1. The carrier must report to the employee at every change in compensation.
2. The form upon which such reports are made to the employee must meet minimum standards established by the Board but are not prepared on Board forms. This will permit each carrier to design a simple form which meets minimum standards but which are readable and understandable by the claimant.
3. There are penalties imposed upon the carrier for not submitting the reports in a timely fashion, but instead of the penalties being automatic they are imposed upon application by the employee, are paid to the employee and are determined ultimately by the Board.

4. The Board will receive only a first notice from the carrier acknowledging receipt of some information concerning the existence of a claim and a final notice which provides whatever statistical information the Board believes is relevant to monitoring the workers' compensation system. This, of course, is in addition to the notice of injury submitted by the employee.

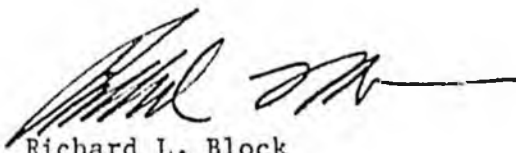
It is our opinion that with the information the Board will be in a position to know all claims have been acknowledged by a carrier and who that carrier is, enabling the Board to refer an injured worker to the proper person handling the workers' compensation claim should any inquiries come to the Division of Workers' Compensation.

Under current law, which we do not propose be changed, an injured worker could file a specific request for hearing before the Board on their workers' compensation claim if they feel they are not being treated properly by the carrier, or may file a claim with the Division of Insurance to investigate whether the insurance company is properly handling the workers' compensation claim and giving it its due attention.

All of the interim reports currently required by Section 155 to be filed with the Board by the carrier would be eliminated.

We regard the change in direction as extremely important and hope the Committee will see fit to adopt the proposed amendment.

Yours cordially,



Richard L. Block
President

RLB/crl

23.30.155 (c) Repeal
23.30.155 (h) Repeal
23.30.155 (m) Repeal
23.30.155 (g) Add

- (i) Within 14 days after receipt of any document which evidences the existence of a claim under this Act, the employer or carrier shall file with the Board and provide to the employee an acknowledgment of claim which shall be on a form prescribed by the Board and which shall be for the purpose of providing both the Board and the claimant with the name and point of contact in the state of Alaska for information concerning the claim, proposed disposition of the claim, and claimants rights and entitlements under the Act.
- (ii) The employer shall notify the claimant of any change in compensation to be paid to claimant. The notice shall be delivered to claimant within 14 days after a last payment before termination or suspension of payments, or with any payment that is less than, more than or being paid pursuant to a different statutory entitlement than any previous payment or which is a resumption of payments. The notice shall be on a form prepared by the employer but which meets minimum standards set by the Board and shall contain:
- 1) Nature of the change in payment.
 - 2) Reason for the change.
 - 3) Amount of the change.
 - 4) Method of calculation.
 - 5) Statutory entitlement being paid, terminated, suspended or modified.
- (iii) Within 14 days after final payment of compensation has been made, the employer shall send to the Board a notice on a form prescribed by the Board stating:
1. Reason for closing the case
 2. Total amount paid for compensation, medical, rehabilitation and allocated loss expense.
 3. Other statistical information as is necessary to determine accident frequency and severity, trends, and which is prescribed by regulation.
 4. Other information which the Board determines necessary to properly administer the workers' compensation system.

(iv) If the employer fails to notify the employee, the Board, upon application of the employee, may assess a civil penalty, payable to the employee of up to \$100.00 for each notice not timely rendered.



GENE A. KREMER, D.C.
President
3020 Minnesota Drive, Suite 10
Anchorage, Alaska 99503
279-2522

TREVOR V. IRELAND, D.C.
Vice President
541 West 36th Avenue
Anchorage, Alaska 99503
279-1488

JULIAN VICKERS, D.C.
Secretary
551 West Diamond Blvd.
Anchorage, Alaska 99502
347-4502

KENNETH G. KETZ, D.C.
Treasurer
3330 C Street
Anchorage, Alaska 99502
274-7221

April 16, 1982

Senator Bob Mulcahy,
Senate Commerce Committee,

Dear Senator Mulcahy:

I am forwarding the following objections to CSHB, 159, (L & C)
and recommended changes.

Section 9, paragraph C, line 14, and following the time set by
the Board for notice of subsequent treatments.

This change would increase the Board's authority and potentially
cause increase cost if the Board requested reporting requirements.
The 1981 version of HB 159 requested reporting after every patient
treatment. Research indicated an increase of approximately half
a million dollars to the providers in an estimated 100 offices
alone, if the 1981 version passed. While the 1982 version has
been "soften" the same potential effect could occur.

Since a provider will not get paid from the Workmen's Compensation
Carrier unless a report is sent, seems to be enough incentive to
report timely.

Page 6, section 10, line 27. Should read:

Physician or surgeon authorized to practice
(medicine) under the laws of _____ the word
medicine should be deleted.

Page 6,7, line 29 and 1.

(The employee has the right to have a physician
paid for by the employer, present at the exam-
ination or examinations). This clause is sched-
uled to be deleted. This should be left in the
Original language of the bill. There is no
supportive evidence why this clause should be
removed.

Section 16, page 9, line 29, 1, 6. Credibility of Witness.

This section gives too much authority to the Board. With a jury trial you have the right to have a prejudice juror removed. Workmens Compensation Members are not unbiased individuals. Board Members cannot be challenged when they have biased opinions. Why should the Workmens Compensation Board have greater powers or be given special privileges beyond other boards and commission in this State. We object to this new section being added. Please delete section 23,30, 122 in its entirety.

Thank you for your consideration.

Sincerely,



Adrian G. Barber D.C.
Chairman of Legislative Committee.
Alaska Chiropractic Society

AGB/ez

TWELFTH LEGISLATURE (Continued)

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."

Agency Affected: Department of Labor

Page 2

1. Assumes an inflation rate of 10% per annum after FY '83.
2. Assumes an effective date of July 1, 1982.
3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost \$16.6

100 Personal Services	\$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	<u>\$16.6</u>

The data processing operations cost will increase by \$14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. \$35.0

The design and printing of new forms. \$2.5

Computer program modifications to implement the changes introduced by the bill. \$20.0

Equipment expense for computer terminals, panelling, cabinets, and files. \$6.0

Included one-time items in FY '83

Equipment	\$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	<u>\$67.9</u>

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	\$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	<u>179.3</u>

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."

Agency Affected: Department of Labor

Page 3

FY' 83 Component Breakdown:

Workers' Compensation Administration

Second Injury Fund

PS		\$161.8
Travel		20.0
Contract*	\$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	<u>\$47.0</u>	<u>\$270.9</u>

Funding

General Fund

Second Injury

Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	<u>(132.3)</u>	<u>450.2</u>

*\$35,000 Workers Compensation Acts and Information Booklets; \$12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

1	POSITION TITLE Rehabilitation Administrator			RANGE/STEP 22A	BARG. UNIT.	LOCATION ERA	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE	

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES SALARY 3714 x 12		44,568
5	BENEFITS .1592		7,095
6	SBS .0613		2,188
7	FIXED BENEFITS 183 x 12		2,196
8	TOTAL PERSONAL SERVICES	01	56,047
9	TRAVEL	02	10,000
10	CONTRACTUAL	03	15,607
11	COMMODITIES	04	850
12	EQUIPMENT	05	1,600
13	OTHER		
14	TOTAL COST		84,104

JUSTIFICATION:

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN. FUNC 1001	
18		IND RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	84,104
21	CONTINUATION		
22	ADDITION	X	

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: \$10,000 (20 trips @ \$500 per trip)

10. Contractual: Space \$3,100 (to be transferred to DOA)
 Auto Lease & Oper. Costs \$5,600
 Indirect (11.46% x 40,000) = \$5,107
 Other costs which include communications, equipment rental, etc., \$1,800

11. Commodities. Cost per position

12. Equipment: Desk, desk chair, side chairs, bookcase, file - \$1,600

4A KEY NUMBER _____ COLUMN NO. _____

FOR B&M USE ONLY

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

FY 83

1	POSITION TITLE Rehabilitation Administrator			RANGE/STEP 22A	BARG. UNIT.	LOCATION EBA	APPROV. BOV	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 PAGE/LINE N/A	APPROV. LTD	DISAPP.

3	TYPE OF EXPENDITURE	AMOUNT
	1	2
4	PERSONAL SERVICES: SALARY 3714 x 12	44,568
5	BENEFITS .1592	7,095
6	SBS .0613	2,188
7	FIXED BENEFITS 183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01	56,047
9	TRAVEL 02	10,000
10	CONTRACTUAL 03	15,607
11	COMMODITIES 04	850
12	EQUIPMENT 05	1,600
13	OTHER	
14	TOTAL COST	84,104

JUSTIFICATION:
 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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

	RECEIPT CODE	FUNDING SOURCE
15		FED RCPTS. 1002
16		GF MATCH. 1003
17	100	GEN. FUND 1004
18		I-A RCPTS. 1005
19		PGM RCPTS 1028
20	841	OTHER Second Injury Fund 84,104

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

- 9. Travel: \$10,000 (20 trips @ \$500 per trip)
- 10. Contractual: Space \$3,100 (to be transferred to DOA)
 Auto Lease & Operating Costs \$5,600
 Indirect (11.46% x 44,568 = \$5,107)
 Other costs which include communications, equipment rental, etc., \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk, desk chair, side chairs, bookcase, file - \$1,600

21	CONTINUATION	
22	ADDITION	X

FOR B&M USE ONLY

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

FY 83

13

REQUEST FOR NEW POSITION

Page 1 of 4 REVISED DATE _____

1	POSITION TITLE Workers Compensation Officer II			RANGE/STEP 18A	BARG. UNIT. GRU	LOCATION JBA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 PAGE/LINE N/A	LEG.		

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
4	SALARY 3249 x 12	38,988
5	BENEFITS .1592	6,207
6	SBS .0613	2,188
7	FIXED BENEFITS .83 x 12	2,196
8	TOTAL PERSONAL SERVICES 01	49,579
9	TRAVEL 02	5,000
0	CONTRACTUAL 03	14,968
1	COMMODITIES 04	850
2	EQUIPMENT 05	1,395
3	OTHER	0
4	TOTAL COST	71,792

JUSTIFICATION:

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilitation providers to expedite the retraining and re-employment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: \$5,000 (10 trips @ \$500 per trip)

10. Contractual: Space \$3,100 (to be transferred to DOA) Auto Lease, Maintenance Agreement & Operating Costs \$5,600 Indirect Costs (11.46% x 38,988 = \$4,468) Other costs which include communications, equipment rental, etc. \$1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, work-table, bookcase \$1,395

RECEIPT CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
100	GEN. FUND 1004	
	I-APPTS. 1005	
	PGM. RCPTS 1028	
841	OTHER Second Injury Fund	71,792

CONTINUATION ADDITION X FOR B&M USE ONLY

MA KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

Page 2 of 4 REVISED DATE _____

13 REQUEST FOR NEW POSITION.

FY 83

1	POSITION TITLE Clerk Typist III				RANGE/STEP BB	DARG. UNIT. GRU	LOCATION AWA	GOV.	APPROV.	DIGAPP.
2	TYPE OF POSITION PFT	STATE MONTHS 12	IPP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE N/A	LED		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1530 x 12		18,360
5	BENEFITS .1592		2,923
6	SBS .0613		1,125
7	FIXED BENEFITS	183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01		24,604
9	TRAVEL 02		
10	CONTRACTUAL 03		7,004
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		33,158

JUSTIFICATION:

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-ARCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	33,158
21	CONTINUATION		
22	ADDITION	X	FOR B&M USE ONLY

- 10. Contractual: Space \$3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = \$2,104)
Other costs which include communications, equipment rental, etc. \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk, desk chair \$700

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

ORU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

Page 3 of 4 REVISED DATE _____

FY 83

1	POSITION TITLE Clerk IV				RANGE/STEP 9B	BARG. UNIT. GBU	LOCATION ERA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE N/A	LEG		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1627 x 12		19,524
5	BENEFITS .1592		3,108
6	SBS .0613		1,197
7	FIXED BENEFITS	183 x 12	2,196
8	TOTAL PERSONAL SERVICES 01		26,025
9	TRAVEL 02		0
10	CONTRACTUAL 03		7,137
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		34,712

JUSTIFICATION:

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-ARCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	34,712

- 10. Contractual: Space \$3,100 (to be transferred to DOA)
Indirect (11.46% x \$19,524 = \$2,237)
Other costs which include communications, equipment rental, etc. \$1,800
- 11. Commodities: Cost per position
- 12. Equipment: Desk and desk chair \$700

21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION	X	

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor PROGRAM Worker Protection

DDU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

I. REQUEST
 Bill/Resolution No. Committee Substitute for House Bill No. 9 (L & C) (1 of 3)
 Title "An Act relating to workers' compensation, and providing for an effective . . ."
 Requested by Labor and Commerce Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Worker Protection
 BRU, Program, or Subprogram(s) Affected Workers' Compensation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(215.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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 the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
 (Continued page 2)

IV. DATE 3/2/82 PREPARED BY *Nico Bus*
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

H B

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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 214 am:

Pertains to circumstances in which there is no designated beneficiary, living at the time of the insured persons death, and increases the amount from \$500 to \$4,000 for which any person, determined by the insurer, is entitled to receive payment for expenses incident to the last illness, death, or funeral of the person insured. This right is to be reserved by the insurer and set out in the insurance certificate.

Amends AS 21.40.160 relating to the payment of insurance benefits.

SENATE

FURTHER: Judiciary

3/31/81

Date: 11 May 1981

Mr. President:

The Committee on LABOR & COMMERCE has had HB 214 am
payment of proceeds due under life insurance policies

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES:

11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an overview of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeanor) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Division of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertently passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

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§ 21.48.130

INSURANCE

§ 21.48.170

force for two years from its date of issue; and that no statement made by a person insured under the policy relating to his insurability may be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force for a period of two years during the person's lifetime or unless it is contained in a written instrument signed by him. (§ 1 ch 120 SLA 1966)

Sec. 21.48.130. Application. The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be considered representations and not warranties, and that no statement made by a person insured may be used in a contest unless a copy of the instrument containing the statement is or has been furnished to the person or his beneficiary. (§ 1 ch 120 SLA 1966)

Sec. 21.48.140. Insurability. The group life insurance policy shall contain a provision setting out the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage. (§ 1 ch 120 SLA 1966)

Sec. 21.48.150. Misstatement of age. The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or of both to be made if the age of a person insured has been misstated, the provision to contain a clear statement of the method of adjustment to be used. (§ 1 ch 120 SLA 1966)

Sec. 21.48.160. Payment of benefits. The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy if there is no designated beneficiary as to all or a part of the sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set out in the certificate to pay at its option a part of the sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled to it by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured. (§ 1 ch 120 SLA 1966)

Sec. 21.48.170. Certificate. The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate listing the insurance protection to which he is entitled, to whom the

HB

252

SENATE AMENDMENT

By Judiciary Committee

To: Senate Secretary SENATE BILL No. _____

To: _____ HOUSE BILL No. 252 (Jud) am

PAGE: 1 LINE: 19

Insert "landlord or" between "the" and "tenant".

rental of dwelling units and the rights and obligations of landlord and tenant;

(2) encourage landlord and tenant to maintain and improve the quality of housing; and

(3) make uniform the law among those states which enact it. (§ 1 ch 10 SLA 1974)

Legislative committee report. — For report on ch. 10, SLA 1974 (SCSCSHB 226), see 1974 Senate Journal, p. 20.

Article 2. Rental Agreements.

Section	Section
20. Terms and conditions of rental agreement	50. Separation of rents and obligations to maintain property forbidden
30. Effect of unsigned or undelivered rental agreement	60. Sublease and assignment
40. Prohibited provisions in rental agreements	

Sec. 34.03.020. Terms and conditions of rental agreement. (a) The landlord and tenant may include in a rental agreement, clauses and conditions not prohibited by this chapter or by law, including rent, terms of agreement, and other provisions governing the rights and obligations of the parties.

(b) In the absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

(c) Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit. Unless otherwise agreed, rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments. Unless otherwise agreed, rent shall be uniformly apportionable from day to day and shall be paid on the date the periodic tenancy begins and payable on or before the same date of each and every month thereafter until the tenancy terminates.

(d) Unless the rental agreement fixes a definite term, the tenancy shall be week to week in the case of a tenant who pays weekly rent, and in all other cases month to month. (§ 1 ch 10 SLA 1974)

Sec. 34.03.030. Effect of unsigned or undelivered rental agreement. (a) If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

(b) If the tenant does not sign and deliver a written rental agreement signed and delivered to him by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

(c) If a rental agreement given effect by the operation of this section

provides for a year. (§ 1 ch 10 SLA 1974)

Sec. 34.03.040.

No rental agreement

(1) agrees to this chapter;

(2) authorizes the rental agreement

(3) agrees to the landlord or tenant or tenant for term

(4) agrees to the rental agreement

(b) A provision in the rental agreement is enforceable if the other party agrees to it. (10 SLA 1974)

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provides for a term longer than one year, it is effective only for one year. (§ 1 ch 10 SLA 1974)

Sec. 34.03.040. Prohibited provisions in rental agreements. (a) No rental agreement may provide that the tenant or landlord

(1) agrees to waive or to forego rights or remedies under this chapter;

(2) authorizes a person to confess judgment on a claim arising out of the rental agreement;

(3) agrees to the exculpation or limitation of any liability of the landlord or tenant arising under the law or to indemnify the landlord or tenant for that liability or the costs connected with it;

(4) agrees to pay the landlord's attorney fees.

(b) A provision prohibited by (a) of this section included in a rental agreement is unenforceable. If a landlord or tenant wilfully uses a rental agreement containing provisions known by him to be prohibited, the other party may recover the amount of his actual damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.050. Separation of rents and obligations to maintain property forbidden. A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with § 100(a) of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.060. Sublease and assignment. (a) Unless otherwise agreed in writing, the tenant may not sublet his premises or assign the rental agreement to another without the landlord's consent.

(b) The tenant's right to sublease his premises or assign the rental agreement to another shall be conditioned on obtaining the landlord's consent, which may be withheld only upon the grounds specified in (d) of this section; no further restrictions on sublease or assignment are enforceable.

(c) When the rental agreement requires the landlord's consent for sublease or assignment, the tenant may secure one or more persons who are willing to occupy the premises. Each prospective occupant shall make a written offer signed and delivered by him to the landlord, containing the following information on the prospective occupant:

(1) name, age and present address;

(2) marital status;

(3) occupation, place of employment, and name and address of employer;

(4) number of all other persons who would normally reside with the prospective occupant;

(5) two credit references, or responsible persons who will confirm the financial responsibility of the prospective occupant; and

(6) names and addresses of all landlords of the prospective occupant during the prior three years.

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

- (1) insufficient credit standing or financial responsibility;
- (2) number of persons in the household;
- (3) number of persons under 18 years of age in the household;
- (4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;
- (5) proposed maintenance of pets;
- (6) proposed commercial activity; or
- (7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

- Section**
 70. Security deposits; prepaid rent
 80. Disclosure
 90. Landlord to supply possession of the dwelling unit

- Section**
 100. Landlord to maintain fit premises
 110. Limitation of liability

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a

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bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

(3) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances, including elevators, supplied or required to be supplied by him;

(4) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(5) supply running water and reasonable amounts of hot water and heat at all times, insofar as energy conditions permit, except where the building that includes the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection; and

(6) if requested by the tenant, provide and maintain locks and furnish keys reasonably adequate to insure safety to the tenant's person and property.

(b) A landlord of a single family residence located in an undeveloped rural area or located where public sewer or water service has never been connected is not liable for a breach of (a)(3) or (5) of this section if the dwelling unit at the beginning of the rental agreement did not have running water, hot water, sewage or sanitary facilities from a private system.

(c) The landlord and tenant of a one- or two-family residence may agree in writing that the tenant perform the landlord's duties specified in (a)(4), (5) and (6) of this section. They may also agree in writing that the tenant perform specified repairs, maintenance tasks, alterations and remodeling. Agreements are allowed under this subsection only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(d) The landlord and tenant of a dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if

(1) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set out in a separate writing signed by the parties and supported by adequate consideration; and

(2) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

(e) The landlord may not treat performance of a separate agreement described in (d) of this section as a condition to an obligation or performance of a rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.110. Limitation of liability. (a) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance. However, the landlord remains liable to the

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tenant for the property and money to which the tenant is entitled under § 70 of this chapter, unless the property and money are specifically assigned to and accepted by the purchaser.

(b) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management. (§ 1 ch 10 SLA 1974)

Article 4. Tenant Obligations.

<p>Section 120. Tenant to maintain dwelling unit 130. Rules and regulations</p>	<p>Section 140. Access 150. Tenant to use and occupy</p>
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Sec. 34.03.120. Tenant to maintain dwelling unit. The tenant shall

- (1) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;
- (2) dispose from his dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner;
- (3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances including elevators in the premises;
- (5) not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit any person to do so; and
- (6) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not unreasonably disturb his neighbor's peaceful enjoyment of the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.130. Rules and regulations. (a) A landlord may adopt rules and regulations, which shall be posted prominently on the premises, concerning the tenant's use and occupancy of the premises. A rule or regulation is enforceable against the tenant only if

- (1) its purpose is to promote the convenience, safety, health, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;
- (2) it is reasonably related to the purpose for which it is adopted;
- (3) it applies to all tenants in the premises in a fair manner;
- (4) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;
- (5) it is not for the purpose of evading the obligations of the landlord; and

(6) the tenant has notice of it at the time he enters into the rental agreement.

(b) A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant and it does not work a substantial modification of his rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.140. Access. (a) The tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

(b) The landlord may enter the dwelling unit without the consent of the tenant in the case of emergency.

(c) No landlord may abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least 24 hours notice of his intent to enter and may enter only at reasonable times and with the tenant's consent.

(4) The landlord has no other right to access except by court order, and as permitted by § 230(b) of this chapter, or if the tenant has abandoned or surrendered the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.150. Tenant to use and occupy. Unless otherwise agreed, the tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement shall require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of seven days; however, the notice shall be given as soon as reasonably possible after the tenant knows his absence will exceed seven days. (§ 1 ch 10 SLA 1974)

Article 5. Tenant Remedies.

Section	Section
160. Noncompliance by the landlord: General	190. Landlord's noncompliance as defense to action for possession or rent
170. Failure to deliver possession	200. Fire or casualty damage
180. Wrongful failure to supply heat, water, hot water or essential services	210. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service

Sec. 34.03.160. Noncompliance by the landlord: General. (a) Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with § 100 of this chapter materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate upon a date not less than 20 days after receipt of the notice if the breach is not remedied in 10 days, and the rental agreement shall terminate as provided in the notice subject to

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the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise, and the landlord remedies the breach before the date specified in the notice, the rental agreement will not terminate. In the absence of due care by the landlord, if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least 10 days written notice specifying the breach and the date of termination of the rental agreement. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family or other person on the premises with his consent.

(b) Except as provided in this chapter, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or §§ 100, 210, or 280 of this chapter.

(c) The remedy provided in (b) of this section is in addition to a right of the tenant under (a) of this section.

(d) If the rental agreement is terminated, the landlord shall return all prepaid rent or security deposits recoverable by the tenant under § 70 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.170. Failure to deliver possession. (a) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in § 90 of this chapter, rent abates until possession is delivered and the tenant may

(1) upon at least 10 days written notice to the landlord terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security deposits; or

(2) demand performance of the rental agreement by the landlord and if the tenant elects, maintain an action for possession of the dwelling unit against the landlord and any person wrongfully in possession and recover the damages sustained by him.

(b) If a person's failure to deliver possession is wilful and not in good faith, an aggrieved tenant may recover from that person an amount not to exceed one and one-half times the actual damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.180. Wrongful failure to supply heat, water, hot water or essential services. (a) If, contrary to the rental agreement of § 100 of this chapter, the landlord deliberately or negligently fails to supply running water, hot water, heat, sanitary facilities or other essential services, the tenant may give written notice to the landlord specifying the breach and may immediately

(1) procure reasonable amounts of hot water, running water, heat, sanitary facilities and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(2) recover damages based on the diminution in the fair rental value of the dwelling unit; or

(3) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance and, in addition, may recover the amount by which the actual and reasonable cost exceeds rent.

(b) If the tenant proceeds under this section, he may not proceed under § 160 of this chapter as to that breach.

(c) Rights do not arise under this section until the tenant has given written notice to the landlord. Rights do not arise under this section if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent. (§ 1 ch 10 SLA 1974)

Sec. 34.03.190. Landlord's noncompliance as defense to action for possession or rent. (a) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount which he may recover under the rental agreement or this chapter. If a counterclaim is made, the court shall determine whether the defense is supported by the evidence and, if so, may order that

(1) the periodic rent is to be reduced to reflect the diminution in value of the dwelling unit during the period of noncompliance;

(2) the action be continued for a reasonable time to enable the landlord to cure the violation;

(3) the tenant pay into court all or part of the rent accrued and thereafter accruing; if the violations have not been cured within six months, the court shall enter judgment for the defendant and either refund to the defendant all money deposited or use the money for the purpose of making the dwelling fit for human habitation; if the violations have been cured, the court shall determine the amount due to each party; the party to whom a net amount is owed shall be paid first from the money paid into the court, and the balance by the other party; if no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession;

(4) the tenant vacate the dwelling during the making of necessary repairs, when the repairs cannot be made without vacation of the premises, the tenant to be reinstated upon completion of the repairs.

(b) In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in (a) of this section but the tenant is not required to pay rent into court. (§ 1 ch 10 SLA 1974)

Sec. 34.03.200. Fire or casualty damage. (a) If the dwelling unit or premises are damaged or destroyed by fire or casualty to the extent that enjoyment of the dwelling unit is substantially impaired, the tenant shall

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