

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2601 SLC SB 35 - SB 66 2201

Audit Findings + Recommendations con't.

Audit Response	ATC Response
<ul style="list-style-type: none"> - supporting documentation of tariff changes is not required + should be - No written documentation of any review - The required annual reports from motor carriers are not being analyzed. 	<ul style="list-style-type: none"> - Steps taken since audit - - applications reviewed by an accounting technician during initial process (Revised form - 10/1/82) - check list for tariff in operation by 8/15/82 - all quarterly air carriers are on computer - analyzed by state agencies - want more staff
<p>1) <u>Complaints + accusations should be investigated in timely manner</u></p> <ul style="list-style-type: none"> - average time - 9 months - involving hearings 4 mths if no hearing - poor record keeping 	<p>4) <u>ATC concurs enforcement might be streamlined</u></p> <ul style="list-style-type: none"> - Change - end of calendar yr, every agent will have a specific assigned cases + will be held accountable
<p>5) <u># of field surveys should be increased</u></p> <ul style="list-style-type: none"> - Out of 630 regulated carriers, 38 surveyed in 1981 - all surveys were performed on air carriers - none on motor carriers - ATC should perform field surveys on motor carrier as well as air carriers 	<p>5) <u>ATC agrees more field surveys should be conducted</u></p> <ul style="list-style-type: none"> - 4 motor + 8 air surveys conducted since 5/82 - to verify annual reports against accounting records would take 3 additional staff members
<p>6) <u>Commissioners + hearing officers should write all formal orders on docketed matters</u></p> <ul style="list-style-type: none"> - requiring staff to write orders creates potential for violation of ATC's ethical regulations - delay of average 53 days for written reply - Commissioners presided over only 27 hrs of 198 hrs 	<p>6) <u>ATC does not agree that Commissioners should write order</u></p> <ul style="list-style-type: none"> - practice in almost every state regulatory agency for prevailing party to write final order

Findings + Recommendations con't

Audit Response	ATC Response
<p>7) <u>ATC should establish procedures for the accountability + collection of civil penalties</u> - 45% of assessed penalties has not collected</p>	<p>7) <u>ATC agrees accounts receivable system is needed</u> - new system on line 8/3/82 - greater effort in collecting assessed penalties during last 6 months</p>
<p>8) <u>Statutes should be amended to exempt dump trucks from certification</u> - applications for authority is routinely granted - regulate only for safety</p>	<p>8) <u>ATC agrees dump trucks should be exempted</u> - worked towards legislation which would exempt trucks</p>
<p>9) <u>Regulations should be promulgated in a timely manner.</u> - Regulations drafted 1978, approved in 1981, still not filed - Regulations - construction - public hearing in 1981 - no action taken - Insurance regulations - hearings 1980 - approved 81, not filed - Re: freight forwarder regulations - beginning 1978 - still not settled</p>	<p>9) <u>ATC - regulations should be promulgated quickly BUT</u> - ATC cannot unilaterally issue regulations - problems cited - 2 on file by 8/82 - 2 revised</p>
<p>10) <u>Seek legislation to increase fees</u> - air carrier fees have not been increased since 1968 - motor carrier - 1972 - ATC's expenditures exceeded its revenues by 20%</p>	<p>10) <u>ATC would support legislation to increase fees</u> - Possibly entire fee structure for commercial vehicles should be reviewed.</p>

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Summary

Criteria for Sunset

I. The extent operated in the public interest -

- Review of policies + procedure indicated that the public's interest was not served in an effective, economical manner.

II. The extent to which the operation of the Commission has been impeded or enhanced by existing statutes, etc.

- Slow promulgation of regulations has impeded Commission's operations.

III. The extent to which the Commission has recommended statutory changes

- Legislation has been introduced to correct some problem areas.

IV. The extent to which Commission has encouraged public participation.

- Commission publishes a bi-weekly journal. Public participation is encouraged through hearing process.

V. The extent to which Commission has encouraged interested persons to report concerning regulations, etc

— Commission receives feedback through hearing process

VI. The efficiencies with which public inquiries regarding the activities of the board.

— Commission processes complaints in an untimely manner

VII. The extent to which Commission has presented qualified applicants to serve public.

Commission's ability to select qualify applicants is impeded by lack of analysis of information submitted

VIII. Are affirmative action requirements observed?

Yes

IX - The extent which change are necessary to better serve the public.

The Commission should merge with Alaska Public Utilities Commission. Decision based on Findings + Recommendations.

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 34 (cont'd)

Anchorage are placed in the same time zone. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 18 and referred to State Affairs and Judiciary.

Transportation
(merging ATC &
APUC/increas.
certain fees)

SENATE BILL NO. 35, by Senator V. Fischer. Would merge the Alaska Transportation Commission with the Alaska Public Utilities Commission, assigning all current duties of the ATC to the AFUC. Also increases the following fees:

--fees for certificates to engage in air commerce as a scheduled carrier, contract carrier, or air taxi operator (from \$100 to \$200 for aircraft of 12,500 pounds or less and from \$200 to \$300 for aircraft of 12,501 pounds or over)(amends AS 02.05.075(a));

--fees for registration of aircraft in AS 02.05.090(f), from a minimum of \$37.50 for aircraft weighing 4,000 lbs. or less (increased from \$25) to a maximum of \$900 for aircraft weight 75,000 lbs. or more (increased from \$600);

--filing fees for permits requesting authority to transport property for compensation by motor vehicle moving in intrastate commerce in Alaska (increased from \$50 to \$75); filing fees for filing an initial registration of authority authorizing a motor carrier to engage in the transportation of property for compensation by motor vehicle in interstate or foreign commerce in Alaska (increased from \$25 to \$37.50); filing fee for renewal application for the registration of authority to engage in interstate transport (increased from \$10 to \$15); (Contained in AS 42.10.160)

--yearly weight fees levied on all motor carriers in Alaska and contained in AS 42.10.240--from a minimum of \$37.50 for private and exempt carriers (increased from \$25) to a maximum of \$112.50 for common and contract carriers with vehicles over 18,000 pounds (increased from \$75).

Repeals laws relating to the Alaska Transportation Commission: AS 39.25.120(c)(7)--ATC staff in partially exempt class of state service; AS 39.50.200(b)(30)--brings ATC officers under Conflict of Interest laws; AS 42.07.011 - 42.07.111, Establishment of Transportation Commission; and AS 44.66.010(a)(2)--Sunsets the ATC on June 30, 1983.

Provides for transition procedures. Effective July 1, 1983.

Introduced January 18 and referred to Labor & Commerce and Finance.

Legislative
Per Diem
(Limiting)

SENATE BILL NO. 36 by Senator Paul Fischer, Halford and Pettyjohn. Would cut off payment of per diem to legislators after 120 days, or for any day of a special session within 30 days after adjournment of a regular session. Amends AS 24.15.010 (Legislative Per Diem). Effective immediately and retroactive to January 1, 1983.

The Alaska Trucking Association, Inc., is a non-profit trade organization representing approximately 375 trucking firms and allied industry firms throughout the State of Alaska. Additionally, our membership consists of all water carriers (steamships and barges) involved in the shipment of freight by water to and from Alaska. Our purpose is to foster and promote an economically sound transportation system in Alaska. Trucking firms within our membership consists generally of two major groups, the For-Hire Carriers and the Private Carriers.

For-Hire Carriers transport freight which belong to others. They may be classified by jurisdiction served, such as interstate, intrastate and local. Interstate commerce carriers are regulated under Federal regulation by the Interstate Commerce Commission (ICC). Intrastate and local carriers are regulated by the State of Alaska under the Alaska Transportation Commission (ATC). As Alaska is not a manufacturing or goods producing state, approximately 80% of all movement of freight to, from and within Alaska is interstate commerce, thereby regulated by the ICC. For-Hire Carriers are also classified by type --- common carriers, contract carriers and exempt carriers.

Private Carriers transport goods and supplies belonging to them and do not generally charge for their transportation services, they are exempt from both Federal and State economic regulation, although they are subject to all applicable safety, insurance and taxation regulations and statutes. With the passage of the Motor Carrier Act of 1980 private carriers are permitted to conduct compensated inter-corporate hauling so long as it is within the corporate family structure.

Common (for-hire) Carriers must offer their services to any shipper to transport goods between designated points at published rates under authority granted them by the ICC for interstate and ATC for intrastate freight. This authority is known as the "certificate of public convenience and necessity", this authority spells out both the types of commodities which may be carried and the service routes, whether irregular route service between areas on a non-scheduled basis or regular route service over designated roads on a scheduled basis. The ICC and/or ATC must also approve the tariffs established for various classes of freight. In general, any service which is not specified by the terms of an operating certificate is forbidden. This public convenience and necessity certificate provision, with its strict requirements for published rates; guarantee of delivery; protection of cargo; and commitment from the Common Carrier, protects the shipper and/or consumer (the general public) rather than the common carrier.

Contract (for-hire) Carriers as the name applies, are restricted to serving a shipper or a limited number of shippers under specific contractual arrangements, and may not, like the common carriers, offer their services to the public at large. Owing to the non-public nature of these carriers, the rates which they may charge differ from the tariff structure governing common carriers. Operating Authorities which specify areas to be served and commodities to be carried must be obtained from the ICC or ATC.

IF YOU'VE GOT IT, IT CAME BY TRUCK



The term "owner-operator" and "independent trucker" are used somewhat interchangeably although there is a distinction between the two. An independent trucker is one who does not hold a certificate or permit -- operating right -- from either the ICC or ATC. He may own one truck which he drives himself, in which case he is an owner-operator or he may own several trucks and employ drivers to operate them. He may also

drive one himself, and in this way he may be either an independent trucker or a lease operator. In either case, he may haul "exempt" commodities or he may lease his truck (s) with drivers to a regulated carrier. While his vehicle (s) is (are) leased to a regulated carrier on a long term basis, he is subject to the lessors complete direction. Under these circumstances, he is not an independent trucker, he is an owner-operator.

The regulated motor carrier industry is composed overwhelmingly of numerous small firms with the vast majority grossing less than \$500,000 a year. At the other end of the spectrum are the large well established carriers and included in this group are some of the industry's publicly held firms.

The importance of a regulated motor carriage system, and the trucking industry as a whole, to our State's vital transportation system cannot be overstated. Our motto, "If You Got It, It Came By Truck", is not an attempt to overrate our industry. It is a simply fact that the clothes we wear, the food we eat, the auto we drive, the house we live in, and all our goods, supplies and materials are shipped to us from outside markets, and that shipment always begins and ends with truck movement.

The Department of Motor Vehicles estimates that during the calendar year 1981, there were 13,281 commercial trucks registered with the State and 9,178 commercial trailers. During 1981, \$220,000 was paid by trucks for the issuance of special permits to operate on the State Highway System. This is in addition to the following:

Road User Taxes paid by a Contract Carrier for a diesel-powered, five-axle truck and full trailer combination, 80,000 pounds gross vehicle weight include:

Registration Fee	\$ 230.00
Other Taxes and Fees*	320.00
Carrier Taxes and Fees	75.00
Diesel Fuel Tax	<u>1,362.00</u>
Total	\$1,986.00

*In Alaska, a local tax is collected on weight and age of the vehicle to take place of the property tax. This amount is shown under Other Taxes and Fees.

Taxes paid by a heavyweight passenger car are as follows:

Registration Fee	\$ 30.00
Other Taxes and Fees	50.00
Gasoline Tax	<u>66.64</u>
Total	\$ 146.64

As pointed out above, the trucking industry does pay their fair share of road users taxes.



As one of the largest private industry trade associations in Alaska, we are very concerned with and interested in, the person selected to be our Senator, on a statewide basis, in the State Senate for the next Legislative Session. Our membership stretches from the northern most tip of Alaska (Barrow), to the extreme south and west (Dutch Harbor and Ketchikan), the Nome/Kotzebue Area and to the Canadian Border on the west. With the largest concentration of membership in the Southcentral, Southeast and Interior Regions.

In an effort to acquaint our statewide membership with the candidate seeking election to our State Senate, we would appreciate your response to the enclosed questionnaire. Please be assured that, although, we have presented these questions in a yes/no/comment type format, we understand that the issues involved deserve a much broader answer than a simple yes-no answer. Be assured also, that this is not an attempt on our part to "grade" you according to your yes-no answer. It is an honest attempt to:

1. Present a few brief facts about our industry
2. Assist you in understanding our concept of a regulated sound industry
3. Attempt to get to know you better.

We deeply appreciate your effort to serve your state at the highest level of the legislative process. Please feel free to contact us regarding this questionnaire or any fact stated within this letter. Our mailing address is 3443 Minnesota Drive, Anchorage, Alaska 99503. Telephone 276-1149.

Sincerely,

T. J. Thrasher
Managing Director

For your information the ATA members serving on the Legislative Committee are;

~~Nina Anderson Davis, Big-State-Motor-Freight.~~
John Longmire, Bulk Energy Transport
Bob Lerman, Consolidated Freightways
Richard Gregory, Sourdough Express Inc.
William Meehan, Alaska Rapid Transport
James Davis, SeaLand Freight Services

Florida's Deregulation: Unanswered Questions

BY REP. C. FRED JONES*

Florida's intrastate motor carrier industry became totally deregulated on July 1, 1980. This was the result of the inability of the two legislative bodies to agree on a regulatory reform bill, thereby allowing the "sunset" of intrastate motor carrier regulations. Since that time, several studies and articles have been written concerning the effects deregulation has had on Florida shippers and motor carriers.

Primaries

(Continued from page 4)

defeated by Wheelock Whitney. Wangberg had the support of Gov. Albert H. Quie, who had decided against seeking another term, as well as the party convention. Spannaus had also been endorsed by his party's convention.

The battle for the Wisconsin gubernatorial seat being vacated by Republican Gov. Lee Sherman Dreyfus will be between Democrat Anthony Earl and Republican Terry Kohler. Earl, former majority leader in the house, beat Martin Schreiber, who was acting governor in 1977 and 1978.

Wisconsin also voted in favor of a measure urging the administration to seek a nuclear weapons freeze. Similar measures will be on the ballot in eight other states in November.

In Nevada, GOP Gov. Robert F. List was renominated. The Democratic challenge will be from Attorney General Richard H. Bryan, who beat Lt. Gov. Myron E. Leavitt.

Maryland Gov. Harry Hughes handily won the Democratic primary over State Sen. Harry J. McGuirk. His Republican opponent is Robert Pascal, Anne Arundel County executive.

Wyoming Gov. Ed Herschler easily won the Democratic endorsement in his bid for a third term. The Republican challenger is House Speaker Warren A. Morton.

Incumbents faced no primary opposition in the other races. Vermont Gov. Richard Snelling (R) faces Lt. Gov. Madeleine Kunin (D) in November. New Hampshire Gov. Hugh Gallen (D) is opposed by former state Rep. John H. Sununu (R). Former GOP Gov. Meldrim Thomson Jr., supports Sununu, and is trying to get his own name as an independent candidate removed. The Colorado contest is between Gov. Richard Lamm (D) and former Speaker John D. Fuhr (R). In Rhode Island, Gov. J. Joseph Garrahy (D), who has served three two-year terms, is opposed by his former manpower chief, Vincent Marzallo (R).

In the District of Columbia, Mayor Marion Barry Jr. defeated Patricia Roberts Harris, who was secretary of health and human services under President Carter, in the Democratic primary. Primaries were also held in Utah and Washington Sept. 14.

In response to some of the conclusions made in these early studies, I would like to raise questions on specific issues that could alter the Florida deregulation experience in future months.

Buyer's Market

The nation's economy has been a major influence during these first two years of total deregulation. The decrease in demand for industrial and consumer goods and the resulting slowdown in production has obviously affected the motor carrier industry. With the decline in freight shipments, motor carriers have increased their efforts to provide service to all shippers at the lowest possible rates. The shippers are experiencing a "buyer's market."

What will happen when the economy goes into an upswing? When shipments are plentiful, will the small shipper continue to receive efficient motor carrier service at reasonable rates? Or, will the motor carrier industry cater to large shippers with volume discounts and preferred service? Will the shippers in rural localities away from the interstates be able to obtain the same level of service and rates that have existed during this first period of deregulation? What will be the results when the shippers experience a "seller's market" in motor carrier services?

Interstate vs. Intrastate

An important segment of Florida's motor carrier industry that has been greatly affected by deregulation is the 100 percent intrastate carrier. These are Florida businesses which must now face competition from any carrier in the nation who decides to seek intrastate shipments in Florida. It has been reported that carriers delivering shipments to the southern part of the state are willing to take a backhaul to northern Florida for the price of the fuel costs rather than travel empty. One carrier's backhaul is another carrier's initial load. How can the Florida intrastate carrier stay in business with this type of competition?

Under total deregulation, out-of-state carriers have an unfair competitive advantage in that they come into the state and seek intrastate shipments with no requirements for Florida licenses other than an \$8 fuel use decal. Though deregulation has opened the intrastate market in Florida to any interested out-of-state competitor, Florida carriers do not have this same opportunity in surrounding states. In seeking a more competitive market through deregulation, has Florida inadvertently turned its back on established intrastate firms who have served the state's needs in past years?

The same situations apply to the charter and tour bus industry. It is cheaper for passenger buses to come to



Transportation deregulation has not yet fully tested in Florida.

Florida during the winter months rather than be winterized for northern climates. With this influx of out-of-state buses into Florida, competition for the charter tourist business is keen. As with freight carriers, the established Florida charter passenger carriers are faced with a large increase in competition, but do not have reciprocal opportunities in other states. Should Florida ignore the disadvantage deregulation has placed on this sector of its business community?

Fly-By-Nighters

The Florida consumer has been directly affected by deregulation in the intrastate shipment of household goods. Though the well-established firms have continued to provide good service, the entry of fly-by-night operators has been a source of complaints and concern. Anyone with a truck can go into business as a household mover and can operate with unskilled movers, no insurance on the household goods, and no guarantee of competitive rates. A recent report from the South Florida Better Business Bureau cites one moving van operator in Dade County who works out of telephone booths, periodically changes his name and the company's, and regularly cheats customers out of their household goods. Doesn't Florida owe its citizens better consumer protection?

As most of the studies, articles, and persons interviewed have acknowledged, deregulation in Florida has not been in existence long enough for any final conclusions to be made. I raise the above question in an effort to present a clearer view of what future results Florida may expect from its total deregulation.

*Rep. Jones is chairman of the Florida House Transportation Committee. Florida's deregulation experiment was the subject of a CSG innovation's report, *Intrastate Motor Carrier Deregulation: The Florida Experience (RM 704)* and an article in the *March State Government News*.



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

March 29, 1982

To: Senator Bill Ray, Chair
Senate Transportation Committee

From: Senator Vic Fischer *Vic*

Re: Backup information on SB 862 - Regulating Common Carriers.

SB 862 changes statutes governing the regulation of dump trucks and requirements for obtaining common carrier permits for some small businesses.

Provisions re-regulating carriers of commodities in bulk in open dump-type equipment were introduced by request from Walter Kubley, of the Alaska Transportation Commission.

According to Kubley, requests for common carrier permits to operate dump trucks are routinely granted without exception. Thus, present restrictions merely create regulatory roadblocks while serving no real public purpose. Under SB 862, current health and safety standards would remain, but the application process would be streamlined both in time and paperwork.

SB 862 also exempts carriers awarded contracts as minority owned businesses through the Small Business Administration from having to show "public convenience and necessity".

A portion of SBA contracts are set aside for minority owned business under Section 8A. These contractors are sometimes required to transport items between federal sites that require traveling over state roads, bringing them under the jurisdiction of the ATC. ATC regulations require every contractor to show public convenience and necessity. If the route is already covered by an existing common carrier, ATC cannot grant a permit to the minority contractor without extensive hearings and arguments. Since these contractors are, by their nature, very small business, the cost of fighting ATC requirements is prohibitive.

State law is presently making implementation of a federal program for minority owned small businesses difficult, if not impossible. Since this problem has affected only two applicants, as far as ATC records indicate, granting exemption should present no significant problem for current carriers.

Since the Senate State Affairs Committee is meeting at the same time as your committee, I will be unable to testify regarding this bill. I hope this memo will assist.

April 2, 1982

To: Jennie Noah

From: Ginger Baim *GB*

Re: Sponsor substitute - SB 862

As per request of Senator Fischer, I would like a sponsor substitute drafted for Senate Bill 862.

The new version of SB 862 will concern itself solely with minority small business common carriers. Any reference to regulations dealing with dump or open type carriers will be deleted.

Under the new bill, businesses meeting the following criteria shall be exempted from the "public need and convenience" provisions in gaining a common carrier permit from the ATC:

1. The business is a "small" business making less than \$1 million gross per year.
2. The business is owned by a minority or female and;
3. Has received or is about to receive a contract through a government agency set aside for minority or female owned business requiring a common carrier permit to fulfill the provisions of the contract.

As usual, we need this sponsor substitute yesterday, but would be pleased to receive it in time for the Senate Transportation committee meeting on Tuesday, April 6. Please call me if there are any questions.

April 9, 1982

To: Jim Lear
Legislative Drafting

From: Ginger Baim, Staff ^{GP}
Senator Fischer

Re: Senate Transportation CS for SSSB 862

As per request of members of the Senate Transportation committee and Senator Fischer, I need a draft committee substitute for SSSB 862 incorporating the following changes:

1. Remove requirement that the small businesses exempted in this legislation be owned by a woman or minority. The committee intends that the exemption from proving public convenience and necessity be applied to all small businesses as defined in this bill.
2. Make this exemption apply only to federal contracts instead of a general reference to "government agencies". All federal contracts are covered here, not just "set aside" ones as the woman or minority owned provisions are removed.

The committee wants all federal contracts awarded or about to be awarded to businesses earning under \$1,000,000.00 gross a year, to be exempted from having to prove "public convenience and necessity."

I have included a marked up copy of SSSB 862 for your information. This bill is scheduled for hearing before the Transportation Committee on Tuesday, April 13. Please call if you have any questions.

April 6, 1982

To: Senator Bill Ray, Chair
Senate Transportation Committee

From: Senator Vic Fischer

Re: SS SB 862 - Common Carrier Permits for minority owned businesses.

The sponsor substitute for Senate Bill 862 is designed to exempt certain small businesses from the requirement of proving "public need and convenience" to obtain a common carrier permit.

To operate as a common carrier in Alaska a person or business must obtain a common carrier permit from the Alaska Transportation Commission. There are two basic requirements for a permit: (1) that the applicant be "fit, willing and able" and, (2) that a "public convenience and necessity" exists that is not being adequately met. It is the second provision that creates a disincentive to minority and women owned small businesses.

In order to prove "public convenience and necessity" an applicant must establish (1) there is a legitimate public need for the services of a common carrier, (2) there are no currently licensed carriers servicing the area, or, (3) the current carrier delivers inadequate service to the public. The applicant would have to prove each point during a hearing before the ATC. Obviously this creates a tremendous burden on small businesses applying for permits.

Under current statutes, the chances of a minority or woman owned small business obtaining the necessary state authority for carrying out contracts awarded through federal, state or local government "set aside" programs are nil.

The ATC feels their hands are "tied" by current statute. SSSB 862 would allow the ATC to award carrier permits without being bound by a provision having a disproportionate impact on woman and minorities.

Vic - Lou Corely hired an attorney, PAID OVER \$3,200.00 and still lost his case before the ATC. He is now on appeal and expects to pay an additional 2 or 3 thousand in attorney fees.

3 p.m.
4-7-82
G.B.

14 January 1981

TO: Senator Fischer
FROM: V.R. Baim, Aide *B*
RE: Constituent problem/ Alaska Transportation Commission

Louis Corely, a constituent and owner of a minority small business called Pye-per Transport, called yesterday requesting your help with problems he is having with the Alaska Transportation Commission in obtaining a carriers permit.

Mr. Corely has been awarded a contract on Elmendorf for moving items from the base to off base sites. He obtained this contract through a special provision in the Small Business Administration for minority owned business which requires that a certain percentage of contracts be let to minority owned business. In order to fulfill the contract, however, he must satisfy all the "appropriate authority" from the state.

The state, through the Alaska Transportation Commission, issues common carrier permits on a kind of "limited entry" basis. In order to get a permit you must show that a "public need and convenience" requires it and that you are "fit, willing and able" to perform the service. The problem is that "public need and convenience" can only be satisfied, under current interpretation of the statutes, when no other carrier is available to perform the service. Obviously this means that only big time, large scale trucking companies can qualify for the limited number of permits available and once they are established, there is virtually no chance for another carrier get a permit.

Mr. Corely has applied for a temporary permit and has been denied based on failure to prove "public need and convenience". He is scheduled for hearing before the ATC the second week in February for a permanent permit.

I spoke with Mr. Cary Parker (274-1695) at the ATC. Off the record, he said that case law he has investigated convinced him that someone like Mr. Corely probably could qualify for a permit because of special provision regarding federal or military base contractors but he would probably have to hire a lawyer or some like person to do the investigation and legal backup necessary to fight the statute and the established trucking companies that would fight him.

Corely?

1726 KARLUK

EAFB contract ~~is~~ *is* awaiting ATC permit.

TC
WHY ORDER 82-1 deny emergency temp authority

S B

64

INTRODUCTION OF BILLS (Senate)(cont'd)

Drunk
Driving
(chemical
breath
tests)

SENATE BILL NO. 61, by Senators Josephson and Kelly.
Identical to HB 6, page

Introduced January 19 and referred to State Affairs and
Judiciary.

Appropriation
(Copper River
Basin natural
gas)

SENATE BILL NO. 62, by Moss. Would appropriate \$1
million to the Alaska Power Authority for a feasibility study
of using Copper River Basin natural gas for generation of
electrical power for local utilities. Effective July 1, 1983.

Introduced January 20 and referred to Resources and Finance.

Commission on
the Status of
Women

SENATE BILL NO. 63, by Senators V. Fischer and Rodey.
Changes name to the Alaska Women's Commission. Adds to list
powers and duties in AS 44.19.175 the duty to "encourage the
development of regional and municipal women's councils or
commissions." Changes section on annual report to require a report
on the proceedings for the previous fiscal year rather than the
previous calendar year. Repeals termination date of June 30, 1983
which was included in the legislation creating the commission (Sec.
2, Ch. 120, SLA 1978), and extends the life of the commission to
January 30, 1987. Does not provide for an effective date
(effective 90 days after the Governor's signature).

Introduced January 20 and referred to State Affairs. January 21,
Sen. Sturgulewski added as a co-sponsor.

Physicians
Employed by
the State
(exempt
service)

SENATE BILL NO. 64, by the Rules Committee by request of
of the Legislative Council (for the Blue Ribbon Commission on
the State Personnel Act). Would include in state exempt
service only those licensed physicians employed by the Divi-
sion of Mental Health and Developmental Disabilities, Dept. of
Health and Social Services. Currently, under AS 39.25.110(13), any
licensed physician employed by the state would be placed in the
exempt service. Does not provide for an effective date (effective
90 days after Governor's signature). Identical to HB 108.

Introduced January 21 and referred to Labor & Commerce.

Municipal
Property Tax
(optional
exemption)

SENATE BILL NO. 65, by Senators P. Fischer and Moss.
Would allow municipalities to exclude or exempt or partially
exempt residential property from taxation, up to \$100,000 for
any one residence. Currently the law only allows up to
\$10,000 per residence for this optional exemption (amends AS
29.53.025(a)). Amends current law effective January 1, 1984 and
amends the appropriate section of the new municipal code (AS
29.45.050(a)) effective on the effective date of the new code.

Does not provide for an effective date (effective 90 days after
Governor's signature).

Introduced January 21 and referred to Community & Regional Affairs
and Finance.

SB 64 TITLE & SPONSOR SUMMARY

14:07 5/22/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO THE INCLUSION IN THE STATE EXEMPT SERVICE OF LICENSED PHYSICIANS EMPLOYED BY THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 1/21/83 IN (S) LABOR & COM

SB 64 SENATE ACTION

14:07 5/22/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/21/83	01	0051	FIRST READING -- COMMITTEE REPORTS LABOR & COMMERCE RULES
****	**	**	*** ** *



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate Labor and Commerce Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: Senate Bill 64 - Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Administrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,



Allen K. Korhonen
Acting Commissioner

same SB64



Hearing 2/2/83

H.B. 108 - place only physicians employed by mental health in exempt classification

Testified

APEA - These physicians already in ~~exempt~~ classified service want to remain

Blue Ribbon - Terry Crammer - same as position paper

Deputy Director, Mental Health, Dick Branton, - psychiatrist who are exempt want to remain exempt. They were originally placed in exempt status so gov could recruit quality people + approve salary schedule.

Assumed zero fiscal impact. Fiscal note had not arrived.

S

B

66

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST 3/25/83 Draft
Bill/Resolution No.: CSSE 66 (L&C)
Title: relating to insurance
Sponsor: S. L&C
Requestor: S. L&C

II. FISCAL DETAIL
Agency Affected: Commerce & Ec. Dev
Program Category Affected: Public Prot.
BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director
Division: Insurance

Phone: 465-2515
Date: 3/25/83

Approved by Commissioner: Richard A. Lyon
Department: Commerce & Economic Development

Date: 3/25/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Original sponsor: Rules/Governor

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IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 66 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to insurance."

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

* Section 1. AS 21.39.155(a) is amended to read:

(a) The director may require carriers, except a reciprocal insurer formed under AS 21.75, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

* Sec. 2. AS 21.75.050 is amended by adding a new subsection to read:

(c) A domestic reciprocal insurer formed under this chapter by ~~two or more municipalities~~ ^{two or more municipalities} shall ⁽¹⁾ comply with (a) of this section or post a bond for an amount equal to the capital that would be required of a domestic stock insurer writing the same lines ^{of insurance} for which the reciprocal insurer seeks to be authorized, and ⁽²⁾ ~~have and~~ maintain a surplus of \$250,000 or a surplus sufficient to operate the reciprocal insurer for one year, whichever is greater.

* Sec. 3. AS 21.75.060(a) is amended to read:

(a) Two [TWENTY-FIVE] or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

* Sec. 4. AS 21.75 is amended by adding a new section to read:

Sec. 21.75.340. DEFINITIONS. In this chapter "municipalities" means a general law municipal corporation and political subdivision, which is a first or second class borough or city, or a third class

1 borough, incorporated under the laws of the state.

2 * Sec. 5. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by ^{municipalities} ~~the state or political subdivision of the~~
5 ~~state~~, public utilities, the Medical Indemnity Corporation of Alaska,
6 and the Health Care Providers Joint Underwriting Association estab-
7 lished under AS 21.88.010 - 21.88.900, who

8 (A) writes any kind of insurance to which AS 21.80.-
9 010 - 21.80.190 apply under AS 21.80.020 including the exchange
10 of reciprocal or inter-insurance contracts, and

11 (B) is licensed to transact insurance in this state;

Sofa
3-14-83

Original sponsor: Rules/Governor

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 66 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance."

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

8 * Section 1. AS 21.39.155(a) is amended to read:

9 (a) The director may require carriers, except a reciprocal
10 insurer formed under AS 21.75 ~~(AS 21.39.155(a))~~ as a condition of
11 writing a line of insurance dealing with workers' compensation, to
12 participate in an assigned risk pool if the director finds that manda-
13 tory carrier participation is in the public interest.

14 * Sec. 2. AS 21.75.050 is amended by adding a new subsection to read:

15 (c) A domestic reciprocal insurer formed under AS 21.75.010 -
16 21.75.330 or ~~AS 21.39.075(b)~~ by the ~~state or a political subdivision~~
17 of the state shall comply with (a) of this section or post a bond for
18 an amount equal to the capital that would be required of a domestic
19 stock insurer writing the same lines for which the reciprocal insurer
20 seeks to be authorized and have and maintain a surplus of \$250,000 or
21 a surplus sufficient to operate the reciprocal insurer for one year,
22 whichever is greater.

23 * Sec. 3. AS 21.75.060(a) is amended to read:

24 (a) Two [TWENTY-FIVE] or more persons domiciled in this state
25 may organize a domestic reciprocal insurer and make application to the
26 director for a certificate of authority to transact insurance.

27 * Sec. 4. AS 21.75 is amended by adding a new section to read:

28 Sec. 21.75.340. DEFINITIONS. In this chapter "state" or "poli-
29 tical subdivision of the state" means a department, agency, or office

AS 29.78.010(8)

1 of the state, borough, city, village, or school district, including
2 the University of Alaska.

3 * Sec. 5. AS 21.80.180(6) is amended to read:

4 (6) "member insurer" means a person, except an assessable
5 reciprocal insurer formed by the state or ^{municipality} political subdivision of the
6 state, public utilities, the Medical Indemnity Corporation of Alaska,
7 and the Health Care Providers Joint Underwriting Association estab-
8 lished under AS 21.88.010 - 21.88.900, who

9 (A) writes any kind of insurance to which AS 21.80.-
10 010 - 21.80.190 apply under AS 21.80.020 including the exchange
11 of reciprocal or inter-insurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 6. AS 23.30.075 is repealed and reenacted to read:

14 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
15 under this chapter, unless exempted, shall either insure and keep in-
16 sured for the employer's liability under this chapter in an insurance
17 company or association duly authorized to transact the business of
18 workers' compensation insurance in this state, or shall furnish the
19 board satisfactory proof of financial ability to pay directly the
20 compensation provided for. If an employer elects to pay directly, the
21 board may, in its discretion, require the deposit of an acceptable
22 security, indemnity or bond to secure the payment of compensation
23 liabilities as they are incurred.

24 (b) Under regulations adopted by the board, two or more munic-
25 ipalities may enter into an agreement to organize a self-insurance
26 group in order to pool their liabilities under this chapter. As used
27 in this subsection, "municipality" has the same meaning as set out in
28 AS 29.78.010.

29 (c) An employer who fails to insure and keep insured employees

1 subject to this chapter or fails to obtain a certificate of self-
2 insurance from the board, upon conviction, is punishable by a fine of
3 not more than \$1,000, or by imprisonment for not more than one year,
4 or by both. If an employer is a corporation, and an injury or death
5 occurs at a time when the corporation is not insured or certified as a
6 self-insurer, then all persons who, at the time of the injury or
7 death, had the authority to insure the corporation or apply for a cer-
8 tificate of self-insurance are subject to the penalties set out in
9 this subsection and are personally, jointly, and severally liable to-
10 gether with the corporation for the payment of all compensation or
11 other benefits for which the corporation is liable under this chapter.

12 * Sec. 7. AS 23.30.265(19) is amended to read:

13 (19) "self-insurer" means an employer who, instead of
14 insuring his liability under this chapter [AS IT PROVIDES], elects to
15 pay directly the compensation provided for, and who has furnished to
16 the board satisfactory proof of his financial ability to make the
17 direct payments; the term includes a member of a municipal self-insur-
18 ance group;
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Introduced: 1/24/83
Referred: Labor and Commerce
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 66

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal self insurance for
7 workers' compensation."

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

9 * Section 1. AS 23.30.075 is amended to read:

10 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
11 under this chapter, unless exempted, shall either insure and keep in-
12 sured for his liability under this chapter in an insurance company or
13 association duly authorized to transact the business of workers' com-
14 pensation insurance in this state, or shall furnish the board satis-
15 factory proof of his financial ability to pay directly the compen-
16 sation provided for. If an employer elects to pay directly, the board
17 may, in its discretion, require the deposit of an acceptable security,
18 indemnity or bond to secure the payment of compensation liabilities as
19 they are incurred.

20 (b) Under regulations adopted by the board, two or more munic-
21 ipalities, ^{or public utilities} may enter into an agreement to organize a self-insurance
22 group in order to pool their liabilities under this chapter. As used
23 in this subsection, "municipality" has the same meaning as set out in
24 AS 29.78.010, and "public utility" means a public utility,
25 certificated under AS 42.05.221 - 42.05.241.

26 (c) An employer who fails to insure and keep insured employees
27 subject to this chapter or fails to obtain a certificate of self-
28 insurance from the board, upon conviction, is punishable by a fine of
29 not more than \$1,000, or by imprisonment for not more than one year,
or by both. If an employer is a corporation, and an injury or death

1 occurs at a time when the corporation is not insured or certified as a
2 self-insurer, then all persons who, at the time of the injury or
3 death, had the authority to insure the corporation or apply for a cer-
4 tificate of self-insurance are subject to the penalties set out in
5 this subsection and are personally, jointly, and severally liable to-
6 gether with the corporation for the payment of all compensation or
7 other benefits for which the corporation is liable under this chapter.

8 [IF AN EMPLOYER IS A CORPORATION, ALL PERSONS WHO, AT THE TIME OF THE
9 INJURY OR DEATH, HAD AUTHORITY TO INSURE SAID CORPORATION OR APPLY FOR
10 A CERTIFICATE OF SELF-INSURANCE, AND THE PERSON ACTIVELY IN CHARGE OF
11 THE BUSINESS OF SUCH CORPORATION SHALL BE SUBJECT TO THE PENALTIES
12 PRESCRIBED HEREIN AND SHALL BE PERSONALLY, JOINTLY, AND SEVERALLY
13 LIABLE TOGETHER WITH THE CORPORATION FOR THE PAYMENT OF ALL COMPEN-
14 SATION OR OTHER BENEFITS FOR WHICH THE CORPORATION IS LIABLE UNDER
15 THIS CHAPTER IF SAID CORPORATION AT SUCH TIME IS NOT INSURED OR QUAL-
16 IFIED AS A SELF-INSURER.]

17 * Sec. 2. AS 23.30.265(19) is amended to read:

18 (19) "self-insurer" means an employer who, instead of
19 insuring his liability under this chapter [AS IT PROVIDES], elects to
20 pay directly the compensation provided for, and who has furnished to
21 the board satisfactory proof of his financial ability to make the
22 direct payments; the term includes a member of a municipal *or public*

23 *utility*
24 self-insurance group;

LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 66

Title "An Act relating to municipal self insurance for workers' compensation."

Requested by Rules Committee Date 1/7/83

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, Or Subprogram(s) Affected Admin. of 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 83	FY 84	FY 85	FY 86	FY 87	FY 88
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)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (see Fiscal Note Preparation Instruction, Section III)

No fiscal impact.

IV. DATE January 7, 1983

PREPARED BY Jacqueline L. McClintock
AGENCY Labor

ALASKA STATE LEGISLATURE - SENATE



SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835
—
POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

MEMORANDUM

TO: Senator Don Bennett, Co-Chair
Senator John Sackett, Co-Chair
Senate Finance Committee

FROM: Senator Dick Eliason, Chair
Senate Labor and Commerce Committee

DATE: May 9, 1983

RE: CSSB 66(L&C)---"An Act relating to insurance."

CSSB 66(L&C) allows the formation of a group of individuals interested in providing group self-insurance. These entities would participate in a reciprocal form of insurance and would be regulated by the Division of Insurance in the Dept. of Commerce and Economic Development.

The Alaska Rural Electric Cooperative Association, Inc., has a particular interest in this legislation. Since January 1, 1980, ARECA has successfully operated a group-self insurance certificate issued by the Workers' Compensation Board. However, in April of 1982, an Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes, it could be interpreted that group self-insurance was not authorized in this state. CSSB 66(L&C) allows group self-insurers to form and to operate in Alaska.

Passage of this legislation would permit ARECA and other organizations such as municipalities, to offer this cost-saving insurance benefit to its members. I request that the Finance Committee consider this legislation at your earliest convenience.

Thank you for your consideration.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 66 (L&C)
 Title: relating to insurance
 Sponsor: Labor & Commerce Comm.
 Requestor: Labor & Commerce Comm.

II. FISCAL DETAIL

Agency Affected: Commerce & Ec. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Division of Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		0	0	0	0	0
CAPITAL		0	0	0	0	0
REVENUE		0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Kenneth C. Moore, Director Phone: 465-2515
 Division: Insurance Date: 4/6/83
 Approved by Commissioner: Richard A. Lyon Date: 4/8/83
 Department: Commerce & Economic Development

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

COMMITTEE REPORT

SENATE

1/24/83

FURTHER: FINANCE

Date: 3/21/83

Mr. President:

The Committee on LABOR & COMMERCE has had S 60

An Act relating to municipal self insurance for workers' compensation

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 SB 16 same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

[Signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Signature]

[Signature]

CHAIRMAN

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 29, 1983
1:00 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: *Senator John Sackett
Senator Don Bennett

*Senator Sackett arrived within the first twelve minutes of the meeting.

COMMITTEE CALENDAR

CSHB 15(Loans)am

"An Act relating to commercial fishing loans (AS 16.10.300-
AS 16.10.370); and providing for an effective date."

SB 66

"An Act relating to municipal self insurance for workers' compensation."

1:30 TELECONFERENCE--Alaska Transportation Commission Sunset Review

SB 184

"An Act extending the termination date of the Alaska Transportation
Commission; and providing for an effective date."

WITNESS REGISTER

(CSHB 15)

Rep. Rick Uehling, Chair

House Loans Committee

Pouch V

Juneau, Alaska 99811

465-4821

Position statement: Discussed Letter of Intent

Rep. Peter Goll

Pouch V

Juneau, Alaska 99811

465-4925

Position statement: Discussed legal aspects of collection provisions
and residency.

Rep. Adelheid Hermann

Pouch V

Juneau, Alaska 99811

465-4942

Position statement: Expressed support for specific provision of HB 15.

Don Hostack, Director, Div. of Business Loans and Veterans' Affairs
Pouch D
Juneau, Alaska 99811
465-2510

Position statement: Provided specific information from Loan Division perspective.

(SB 184--ATC SUNSET REVIEW)

Bill Schneider, Associated General Contractors
Box 4-2500
Anchorage, Alaska 99501
276-5354

Position statement: Testified in opposition to SB 35 (not on calendar, but relates to SB 184).

Andy Hoge, Attorney representing Alaska Truckers Association
437 E, Suite 500
Anchorage, Alaska 99501
276-1726

Position statement: Supports continuation of ATC.

John Ulsher
6901 Dickerson Drive
Anchorage, Alaska 99501
337-7876

Position statement: Supports sunset of ATC.

Jay Bynum
Cordova, Alaska
(No address provided by teleconference network.)

Joe Gilbertson
Fairbanks, Alaska
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

James Bishop, Bishop Brothers Inc.
Box 2989
Kenai, Alaska
262-4245
Position statement: Does not support ATC as functions now.

Arthur Robinson
Box 3519
Soldotna, Alaska
262-9164
Position statement: Supports sunset of ATC.

Tim Gunderson
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

George Carter
Fairbanks, Alaska 99701
(No address provided by teleconference network.)
Position statement: Supports sunset of ATC.

Lois Cook, Director, Div. of Administrative Services
Dept. of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811
465-2505
Position statement: Department favors extension of ATC for one year.

The testimony of the following witnesses was not teleconferenced.

Charles Cole, Attorney (represents Alaska Interior Airways)
Fairbanks, Alaska
Position statement: Supports continuation of ATC.

Jim Wilson
P. O. Box 629
Juneau, Alaska 99802
586-3420, 586-6358
Position statement: Supports sunset of ATC.

PREVIOUS ACTION

(Senate Labor and Commerce only.)

SB 66: Please refer to Labor and Commerce Committee Minutes for Feb. 10 and March 24, 1963.

ACTION NARRATIVE

Tape #15
Side 1
Number 010

Senator Eliason called the meeting to order with members Senator Mulcahy and Senator Rodey in attendance. The first item on the agenda was CSHB 15(Loans)am, relating to fishing loans. The committee members considered a work draft of a Labor and Commerce Committee substitute.

Rep. Rick Uehling, Chair of the House Committee on Loans, testified on HB 15, dwelling on the Letter of Intent which was added as the bill passed out of the House. Because the fishery is seasonal, they feel that a two year residency requirement is legally defensible. At the request of the Chair, he also touched on the letter of intent as it relates to severability of that requirement should it be struck down in the courts, and he addressed the acceleration clause providing for immediate payback of the loan upon the borrower's ceasing to reside in the state. Rep. Uehling cited supportive documents from Attorney General Norm Gorsuch and from the Department of Law.

Number 238

Senator Sackett's presence was noted for the record.

Number 256

Rep. Peter Goll testified on CSHB 15, concentrating his testimony on the requirements outlined in the bill. He stated that chances of loan repayment are increased by the requirement that the loan recipient have three years of active fishing experience. He also discussed the continuing residency requirement (and accelerated repayment provision), the intent of which is that Alaska subsidized loans be directed to Alaska residents; he defended this aspect of the legislation with regard to legal questions which have been suggested, using documents from Legal Services and the Attorney General.

Number 464

Rep. Adelheid Hermann testified on CSHB 15, stating support for the remarks made by Rep. Goll, including his remarks on the severability clause. She had asked that House Research Agency staff to research whether or not California, Oregon or Washington had fishing loan programs now or in the past, and the result was that none of them had. She also posed a question, which she would like answered by the department administering the loan program, concerning whether or not they were actively engaged, or intended to engage in, an outreach program for the fishing loan program as discussed in the past.

Number 505

Don Hostack, Director of DCED's Division of Business Loans and Veterans Affairs, testified on CSHB 15, asked what residency requirement the Division would use to make loan determinations if the two year requirement were severed from the legislation. Senator Rodey responded that the Attorney General would offer guidance as the legal counsel for the Division, and that the existing two year requirement would be followed until ruled out by a court of competent jurisdiction. Mr. Hostack responded to questions from committee members about the fishing loan program concerning loans to rural area residents, termination of Alaska residency, and fraud investigation.

Number 647

(Senator Sackett left the meeting.)

Number 652

The committee took up Senate Bill 66, which had received previous hearings, and for which a Labor and Commerce Committee substitute had been prepared.

Number 705

Senator Eliason recessed the meeting in order to recover a quorum to do business on SB 66.

Number 707

Senator Eliason called the meeting to order to begin the teleconference on the Sunset Review of the Alaska Transportation Commission.

Bill Schneider (Anch), with the Associated General Contractors, testified in opposition to Senate Bill 35, a measure merging the APUC and the ATC. Senator Eliason pointed out that SB 35 was not calendered for discussion. (Teleconference network had accidentally sent SB 35 as part of package pertinent to the teleconference.)

Andy Hoge, attorney who represents Alaska Truckers Association, testified in favor of SB 184 and continuation of the Alaska Transportation Commission. He believes that the legislature should look closely at the performance review done by Legislative Audit, and said that as written testimony had already been submitted he would not read his statement. The Alaska Trucker's Association maintains that the ATC should be extended for four years and should concentrate effort in problem areas. The ATC should receive the money required to do their job.

Tape 15
Side 2
Number 6

Senator Rodey asked if Andy Hoge would favor an interim look at ATC by the Legislative Budget and Audit Committee, to which Hoge responded that a one or two year "sunset" disrupts the activity of the agency.

Number 62

Members of the committee reverted to SB 66, concerning municipal self-insurance for workers' compensation. Senator Rodey moved that the Labor and Commerce Committee Substitute for SB 66 be passed out of committee with individual recommendations. There being no objection it was so moved.

Number 81

John Ulsher (Anch) testified on the Alaska Transportation Commission, stating that he did not own a truck, but that it seemed that the trucking regulations were written for one reason, and accomplish another. He feels that the Commission has failed totally to accomplish the purpose for which they were created (among other things, to prevent cutthroat competition and protect the public). He touched on the subject of safety ("the responsibility of the owner") and stated that the Alaska Truckers' Association should sell its services to members (who would join Trucking Association) in a form of cooperative shipping; this would best serve the consumer. Does not support continuation of ATC as now functioning.

Jay Bynam (Cordova), owner of Bynam and Sons Towing, concurs with ATA (Alaska Truckers Association) in that a four year extension of ATC benefits all. To discontinue the ATC would open the way for cutthroat competition. Some regulation and control, he believes, is necessary.

Joe Gilbertson (Fairbanks) began his testimony with a brief history of transportation in Alaska, stating that Alaska always had a stable trucking industry. He favors termination of the ATC. Watching "what they were set up to do and what they actually do" he finds their activity "counterproductive all the way around" and believes they participate in restraint of trade. There are already too many state agencies, and he sees better ways to spend the money. He feels we can control and regulate better in a free-market society.

Number 370

J. Bishop (Soldotna), Chairman of the Board of Bishop Brothers, Inc., (primarily involved in seafood transport), does not support ATC as it is currently functioning. The theory of ATC is that it should protect a fragile Alaskan economy, and it seems necessary for someone to protect the public need for year-round transportation capability. That same mechanism should insure against industry practices which are contrary to the public interest. And it is in practice, and specifically regarding that last element, "which I feel that the ATC has failed miserably in its responsibility to protect the people of Alaska from monopolistic practices within air transportation in the state." Mr. Bishop further stated that the ATC should continue to operate only under circumstances where "they are moving against an entity with too much power in the state".

Number 530

Arthur Robinson (Soldotna), an attorney from the Kenai Peninsula, testified in support of allowing the ATC to terminate, as they are more concerned with the protection of established economic interests, like the air carriers, without regard to public needs. He suggested the creation of a public agency just to handle safety matters now handled by ATC, and to provide a protest forum in Alaska for what is basically a monopoly in the state.

Tim Gunderson (Fairbanks) is a twelve year resident involved in the trucking industry. He has been a Teamster for carriers in the state, and has been an owner-operator, and shareholder in an Interstate trucking company. At one time he might have supported continuation of the ATC, but, having been involved, he is today opposed to extending their ability to operate. Transportation should be on a competitive basis: the public is the best judge. A person who is insured and can show competency should be allowed to go into business. He urged the committee not to extend the termination date of the ATC.

Number 728

Richard Asay (Anchorage) testified in support of continuation of the ATC, which is helpful in keeping a vital transportation industry in the state. He has been in the trucking industry in Alaska for more than twenty years, and does not feel that deregulation is the answer.

Number 746

George Carter (Fairbanks), an 8½ year resident involved in trucking since 1968, does not support extension of the ATC, and would like to see it done away with.

Number 760

Lois Cock (Juneau), Director of the Dept. of Commerce and Economic Development's Division of Administrative Services, presented the department's position on the Alaska Transportation Commission. The department recommends the ATC be extended for a one year period in order to allow the department the opportunity to conduct a performance review. The review would assess the effect of deregulation which would take place if the ATC were allowed to terminate. The review would assess and provide for a motor safety program (including insurance) and would determine the effect of ATC termination on essential air service.

(NO FURTHER TESTIMONY WAS TELECONFERENCED.)

Charles Cole (Juneau), an attorney from Fairbanks, wished to testify on the ATC "but not necessarily teleconferencing". Therefore, the teleconference was concluded, and Mr. Cole, representing Alaska Interior Airways, testified in support of continuation of the ATC. He has, for twenty six years, been representing air carriers in Alaska. Prior to statehood the authorities consisted of the Civil Aeronautics Board and the International Commerce Commission. Those that called the shots were those who could afford to go to D.C. and woo the Federal authorities.

Number 84½

Mr. Cole provided a historical sketch of air transportation in Alaska, from territorial days to the present, touching on the Alaska Air Commerce Act of 1960, which provided some state regulation of commerce and transportation. He strongly recommends perpetuation of the Alaska Transportation Commission for four years. He pointed out that air transportation in Alaska has developed technologically and commercially over the years.

Tape 2
Number 010

Mr. Cole described what he perceives as the negative aspects of deregulation, stating that bankers will not finance airplanes in the presence of the spectre of deregulation, and that if there was no state agency to grant regulatory authority, we would lose that authority. He feels that regulation of air commerce has been a good thing, by and large, given the developments of the last several years.

Number 146

Mr. Cole responded to a previous speaker's charges that AIA had received favored treatment by the ATC, and offered a rebuttal to allegations of favoritism resulting in AIA having a monopoly. He concluded his testimony by emphasizing the need for stability in air commerce in Alaska, and the need to chart our own destiny. "Somebody has to look

out for the little guy", and AIA favors continuing the Alaska Transportation Commission for four years.

Number 310

Jim Wilson provided final testimony on the Alaska Transportation Commission, describing himself as a "local little guy" trying to get into the business and having trouble doing it. He favors "allowing the sun to set on the ATC." Now that there is an Aeronautics Act, the ATC has outlived its usefulness. He stated that three years ago he "worked for the big guys" and would have testified on the other side of the issue. He cited problems with restrictions on contract carriers in Alaska. He cited various problems he perceives with regulation, and described the current ATC as "political". He does not favor continuation of the ATC (as it is). Mr. Cole and Mr. Wilson conducted a brief dialogue.

Number 560

There being no further testimony, Sen. Eliason adjourned the meeting.

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 24, 1983
1:35 p.m.

Members Present: Sen. Dick Eliason, Chair
Sen. Bob Mulcahy
Sen. Pat Rodey

Members Absent: Sen. John Sackett*
Sen. Don Bennett

*Sen. Sackett arrived three minutes after the meeting was called to order.

COMMITTEE CALENDAR

SB 171

"An Act relating to compensation of state officials and employees."

SB 66

"An Act relating to insurance."

HB 224 (efd. added)

"An Act relating to the board of nursing; and providing for an effective date."

CSHB 218(Finance)

"An Act relating to the Board of Marine Pilots; and providing for an effective date."

WITNESS REGISTER

(SB 171)

Senator John Sackett

Pouch V

Juneau, Alaska 99811

465-3753

Position statement: Prime sponsor of SB 171; provided supportive testimony.

Cherie Shelley, Alaska Public Employees Association

340 N. Franklin St.

Juneau, Alaska 99801

586-2334

Position statement: Suggested clarification of language of bill to alleviate conflict with PERA.

(SB 66)
Don Koch, Division of Insurance, (DCED)
Pouch D
Juneau, Alaska 99811
465-2577

Position statement: Department of Commerce and Economic Development thinks it seems "a fair bill". Don Koch provided section-by-section explanation of proposed committee substitute.

Mike Thomas, American Insurance Association
Box 1211
Juneau, Alaska 99802
586-3340

Position statement: Proposed CS responds to most concerns; outlined remaining problem areas.

Dave Hutchens, Alaska Rural Electrification Cooperative Association
237 Fireweed, #301
Anchorage, Alaska 99503

Position statement: Draft (of CS) a product of compromises, would like to see Section 5 amended.

(HB 224)
Sammye Rink, President, Board of Nursing
c/o Occupational Licensing, (DCED)
Pouch D

Juneau, Alaska 99811
Position statement: Spoke in support of continuation of Board of Nursing and HB 224.

PREVIOUS ACTION
(Senate Labor and Commerce Only)

SB 66: Please refer to Senate Labor and Commerce minutes for Feb. 10, 1983.

ACTION NARRATIVE

Tape #14
Number 008

Senator Eliason, Chair, called the meeting to order at 1:35 with members Sen. Mulcahy and Sen. Rodey in attendance. He outlined the agenda and the committee took up Senate Bill 171, concerning compensation of state officials.

Number 040

Senator Eliason asked that the record reflect the presence of Senator Sackett.

Number 054

Senator Eliason explained that, due to a technical error, SB 171 had been printed incorrectly, and lacking the last section. The corrected version of the bill has been made available and is before the committee. Senator Eliason summarized the intent of SB 171 and invited Senator Sackett, prime sponsor of SB 171, to further explain the measure. Senator Sackett stated that he introduced the bill as a result of a number of things which occurred this year. He said that a number of state salaries have passed the \$100,000 figure. At some point there must be a "reduction in amounts and total services...it is my feeling that a lid has to be put on it." Senator Sackett stated that it seemed that the most obvious limitation should be the salary of the chief executive officer (Governor). He cited information before the committee which listed the State positions (in all branches of government and the University of Alaska) for which salaries exceed that of the Governor.

Number 100

Sen. Eliason noted that a fiscal note accompanied SB 171. Sen. Sackett explained that this was attributable to the last section of the bill, which provides for conducting an annual cost of living survey. Sen. Sackett noted that what he is trying to do in other legislation is to put all state programs under a single system with reference to a cost of living differential to be considered in establishing pay ranges. SB 171 is consistent with that goal.

Number 170

Sen. Rodey and Sen. Sackett discussed application of SB 171 to highly paid, technical tradespersons and professionals employed by the state.

Number 220

Sen. Sackett concluded his remarks by noting that allowances had to be made for such employees, however the bill addresses the positions in which an employee has a \$95,000-\$100,000/year salary, plus auto, plus expense accounts bringing it up to as much as \$120,000, and a lid has to be put on it.

Number 255

Cherie Shelley, representing the Alaska Public Employees' Association, stated that the language of SB 171 is contrary to PERA (Public Employment Relations Act) which provides that employees may bargain for all conditions of employment. APEA represents probably fewer than 12 people who would be affected by the bill, most of whom live in the Bush, (e.g. Nome has 9 step cost of living differential, and employee has longevity increase) and some of whom receive overtime. The bill is not clear on whether provisions would apply to overtime, or just base monthly salary. She asked that the measure identify what constitutes a base salary. She noted that University employees are not in classified service, and suggested that the bill could state that it does not apply to classified employees (represented by APEA). With respect to the Cost of Living differential, Cherie Shelley stated that APEA contracts follow what is in statutes set forth by legislature.

Number 362

Sen. Rodey asked Cherie Shelley how accurate the Bureau of Labor statistics were for this purpose, to which she responded that they were pretty accurate and done more than once a year.

Number 376

Sen. Rodey moved that the bill be passed from committee with individual recommendations. There being no objections, it was so moved.

Number 390

Senate Bill 66, relating to insurance, was taken up for consideration.

Sen. Elason reviewed committee action on SB 66 at the Labor and Commerce hearing February 10, 1983, when testimony had been received from several parties. The committee had asked that certain members of these factions work together to resolve disagreements and develop language for a proposed committee substitute. The proposed committee substitute was taken up at this March 24 meeting.

Number 398

Don Koch, from the Division of Insurance, produced a letter from Commissioner Dick Lyon giving the Department's (Commerce and Economic Development) position on SB 66 and outlining the changes they wished to see incorporated in the substitute measure. The proposed CS continues the regulation of insurers (group self-insurers) in the insurance code, and applies the requirements for formation of an insurer to a group of municipalities. The requirements that would apply to municipalities, as well as public utilities, have been eased. (The Department's changes were incorporated in the proposed CS.) They believe "that this is a reasonable stance which provides adequate public protection for claimants and policyholders." Don Koch said that he was not sure everybody was happy with it, but that it seems a fair bill. He then walked committee members through a section-by-section analysis of the proposed committee substitute.

Number 444

Don Koch's sectional analysis touched on the following points:

Section 1: Removes reciprocal insurers from assigned risk pool.

Section 2: Aimed at municipalities; reduces financial requirements by permitting the use of a bond in lieu of cash surplus and by reducing the amount of operational surplus necessary.

Section 3: Reduces the number of entities required to form a reciprocal insurer.

Section 4: Defines "municipality" (not defined in Insurance Code).

Section 5: The subject of controversy---Amends statute to except from the definition of "member insurer" the reciprocal insurers formed by municipalities and public utilities. Exempts certain reciprocals from the Guaranty Association.

Number 600

Mike Thomas, representing the American Insurance Association, testified on SB 66, and presented a letter from the law firm of Monagle, Eastaugh, and Bradley on behalf of AIA; the letter contained a statement of policy on proposals of this type (which create new entities which are self-insurers). He stated that many questions which arose during the Feb. 10 hearing are handled by the proposed substitute. The following are not: AIA feels that by exempting reciprocals from the "assigned risk" pool, commercial insurers are bearing the burden of this "residual market mechanism", in addition to losing the part of the market which makes up the new reciprocals. AIA also disagrees with the portion of the proposed CSSB 66 which provides that some reciprocals are exempt from the Guaranty Association (Section 5); perhaps a separate solvency mechanism for self-insureds and proposed municipal reciprocals should be considered. AIA also feels that with respect to formation of a reciprocal, 10 entities should be a minimum requirement, rather than the two proposed in the CS.

Number 744

Dave Hutchens, representing the Alaska Rural Electrification Cooperative Association, provided testimony on SB 66, stating that the draft CS is a product of compromises. He went through the bill providing a sectional commentary, dwelling primarily on Section 5: he stated that he had not been aware of the provisions proposed in Section 5 concerning public utilities, and would like to see the language amended to address remaining concerns. He would most of all like to see the bill move from committee.

Number 800

Committee members acknowledged Dave Hutchens concerns with the bill, and agreed to have the CS redrafted to reflect accommodation of those concerns. The new section excepts reciprocal insurers formed by municipalities or public utilities from the definition of "insolvent insurer" in AS 21.80.180.

There was no further discussion of SB 66. The redrafted CS would be ready for committee action at the next meeting.

Number 820

The next item on the agenda was HB 224, providing for the extension of the operation of the Board of Nursing, which is up for "sunset" review. Sammie Rink, President of the Board of Nursing, provided brief testimony, indicating that the Board had attempted to reach goals and objectives suggested by the Legislative Budget and Audit Committee in an audit released four years ago, and had succeeded in almost every area. The goals which they failed to reach, cited in the recent audit, were not accomplished due to lack of funds, specifically, \$16,000 they needed for a survey in order to complete their regulations.

Sen. Mulcahy moved that HB 224 be passed from committee with individual recommendations. There being no objections, it was so moved.

The committee took up HB 218, providing for the extension of the Board of Marine Pilots. The Committee had already heard testimony on this matter when SB 145 came before the committee for consideration on March 10. Harry Treager, from the Division of Occupation Licensing, had expressed a willingness) to testify further if the committee members wished.

Sen. Rodey moved that HB 218 be passed from committee with individual recommendations. There being no objections, it was so moved.

Sen. Eliason adjourned the meeting.

SENATE LABOR & COMMERCE
STANDING COMMITTEE
February 10, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

SB 66 "An Act relating to municipality self insurance for worker's compensation."

WITNESS REGISTER

Dave Hutchens, Executive Director
Alaska Rural Electric Cooperative Assn, Inc.
237 E. Fireweed, #301
Anchorage, Alaska 99504
586-2660

Position Statement: Supports measure as introduced and proposed amendment.

Jackie McClintock, Workers' Compensation Division
Department of Labor
P. O. Box 1149
Juneau, Alaska 99811
586-2790

Position Statement: No objection to concept, however questions where (what agency, division) best administered.

Don Koch, Insurance Division (Chief of Market Surveillance
section)

Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2577

Position Statement: Takes issue with SB 66; if passed as is, it would create conflict in law.

Marilyn Miller, Alaska Municipal League
204 N. Franklin
Juneau, Alaska 99801
586-1325

Position Statement: Municipal League is interested, and supports concept of SB 66, although feels municipalities already have this power.

Michael Thomas, American Insurance Association
Box 1211
Juneau, Alaska
586-3340

Position Statement: Please consider amending "reciprocal statute" to read "less than 25". Does not support SB 66, but supports reciprocal exchange instead.

Dick Block, Alaska National Insurance Co.
Box 3440
Anchorage, Alaska 99510
248-2642

Position Statement: Does not support passage of bill; existing statutory authority provides for reciprocal exchange. Amend?

PREVIOUS ACTION

SB 66 No previous action to record on SB 66.

ACTION NARRATIVE

TAPE# 4
Recording
Number 010

Senator Eliason, Chair, called the meeting of the Senate Labor & Commerce Committee to order at 1:35 pm, with members Senator Rodey and Senator Mulcahy in attendance. The agenda consisted of SB 66 relating to municipal self-insurance for workers' compensation.

Number 025

Dave Hutchens, representing the Alaska Rural Electric Cooperative Association, Inc., proposed an amendment to SB 66. Although he supports the measure as introduced, he would like to see it broadened to include public utilities as well as municipalities in order to provide for their grouping together for self-insurance purposes. He outlined the background of the Alaska Rural Electric Cooperative, Inc., in this matter (their self-insurance certificate was made void by the Workers' Compensation Board and they are presently self-insured under the authority of the Superior Court rather than the Workers' Compensation board, a situation which needs to be remedied.

Number 092

Senator Rodey asked some questions about REAs (Rural Electric Associations, which are

private corporations, being grouped together with municipalities.

Dave Hutchens replied that he saw no conflict, and that the proposed language covered public utilities, not just REAs. The public utilities, Mr. Hutchens stated, are stable entities existing by state authorization, certificated as fit to serve the public.

Number 167

Senator Sackett arrived.

Number 183

Senator Eliason noted Senator Sackett's arrival for the record.

Number 198

Jackie McClintock, Director of the Workers' Compensation Division at the Department of Labor, stated that her division does not object to the concept of SB 66, but that the matter poses the question of where (what division) it would best be administered: under the Workers' Compensation Act/Board, or under the Insurance Code? Noting that Don Koch would cover the latter aspect, Jackie McClintock discussed the particulars of having such a program administered through the Workers' Compensation Division. She further stated that Don Koch would be preparing alternative language for the bill.

Number 248

Don Koch, Chief of the market surveillance section of the Department of Commerce & Economic Development Division of Insurance, stated that if passed, SB 66 would create a conflict in law. If a group of municipalities were to seek self-insurance certification from the Worker's Compensation Board, the Division of Insurance would stop it, for the municipalities would, in effect, have become insurance companies. Don Koch suggested changes which would alleviate problems he sees with the bill, one of which is to amend existing statute including removing the impediment caused by the statutory minimum number of municipalities required in order to arrange an exchange agreement (AS 21.75.060 requires at least 25), and to leave the provision in the Insurance Code. A second alternative would be to leave the provision in the Workers' Compensation section of the statutes and modify it, adding a new subsection to AS 21.03.021 to read: "(b) This title does not

apply to a municipal self insurance pool or a public utility pool formed in accordance with AS 23.30.075(b)." If the first alternative were exercised, \$1 million would have to be provided to capitalize it.

Number 345

Senator Rodey commented that the major municipalities already have their own plans, so that this legislation attempts to provide for small municipalities, and through the exchange agreement under existing law the needs of such municipalities might be met.

Don Koch pointed out that only when these municipalities could find 24 other entities seeking a plan would their problem be solved.

Number 394

Senator Mulcahy pointed out that large municipalities are capable of doing it alone, whereas small municipalities would have to pool their resources to do it or be "borderline". Don Koch made it clear that if the committee did not wish the Insurance Code to apply to SB 66 they must include exclusion in 21.03.

Number 425

Marilyn Miller, representing the Alaska Municipal League, stated that the Municipal League is interested, and supports SB 66. She mentioned several of the self-insured municipalities in the state, and stated that the League feels that municipalities already have the power SB 66 seeks to grant in Title 29 (AS 29.48.310, Article 10, section 1). She further stated that the remarks made by Mr. Koch were new to her, and that she would not comment on them. With regard to Dave Hutchens' proposal to include utilities, Marilyn Miller stated that they (AML) had no wish "to jeopardize their (the utilities') chances, but that they did not want to jeopardize the chances of the bill passing.

Senator Sackett said, "I take it you want this bill?" to which Ms. Miller responded, "Yes, we were under the impression this would solve our problems and didn't know about" the issues raised by Mr. Koch.

Number 527

Senator Eliason asked if Ms. Miller and Don Koch would get together and put together proposed amendments to cover the options. They agreed.

Number 532

Michael Thomas, representing the American Insurance Association, asked the committee to think about policy questions. He clarified the difference between self-insurance and a group or reciprocal exchange insurance. A reciprocal exchange has several provisions the entity must meet (not present in SB 66), several formal requirements (such as the surplus requirement) not present in SB 66. "I'm not saying that the intention isn't there, but there's no mention of it yet." The reciprocal statute includes a number of provisions to assure strength and security of coverage. If the system were expanded to private groups, the "concern becomes much greater..." He asked that the committee please consider amending the reciprocal statute to provide for less than 25 municipalities.

Number 658

Dick Block, representing the Alaska National Insurance Company, stated that for seven years, his testimony always preceded that of Michael Thomas and Mr. Thomas always began his testimony by saying "I incorporate Mr. Block's comments". Mr. Block opened his testimony by saying, "I incorporate Mike's comments." He outlined a fundamental principle, which is that the concept of "group self-insurance" is a misnomer. Self-insurance is to assume one's own loss. "Group self-insurance" is insurance, and although the term sounds good it is inaccurate and just a reason to try to exempt it from regulation. Public policy is that all insurance is regulated; there must be strength behind the program to protect the persons covered by the program to protect the persons covered by the program. The period of time for which the entity is responsible is quite long, and may "mean a lot of money". There is a need to recognize that the Workers' Compensation system is an integrated system including an assigned risk pool. There needs to be a mechanism for employers who are unable to afford it, hence the assigned-risk pool. If someone is excused from participating in the insurance program they are also excused from the assigned-risk pool. There is also the matter of the Insolvency Relief Fund---if group self-insurance is approved, there is nothing to guarantee their solvency and they

don't pay into the pool. If there is to be a tax (Premium Tax) it should be equitably distributed. If the creation of an insurer not subject to the Insurance Code is permitted, they pay no premium. The state has encouraged the growth and entrance of new insuring entities, and the issue is one of parity. Existing statutory authority contains the solution to the problem, contended Mr. Block, and he agreed that the number of entities required for a reciprocal exchange may need to be reviewed.

Number 829

Dave Hutchens returned to the stand to make some closing comments on reciprocal exchange as it applies to utilities, specifically REAs, and to respond to comments made by the Alaska Municipal League: "Our program has operated for three years...ought to give us squatters' rights...Ginny Chitwood assured me they (AML) would support this amendment."

Number 000

CHANGE TAPE TO SIDE 2.

Number 020

Senator Eliason addressed Dick Block's point about equity, and Dave Hutchens responded, "We buy insurance for risk of above \$200,000 per occurrence. We feel that we're vastly different than an insurance company. The financial strength of the self-insurer is not the issue as much as the size."

Number 070

There being no further testimony, the meeting was adjourned.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99802
Phone: (907) 465-2700

February 7, 1983

The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason;

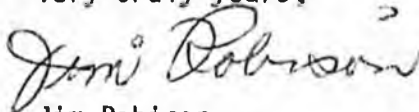
Proposed legislation in Senate Bill 66 allows municipalities to pool their workers' compensation liabilities and claims handling under a group self-insurance concept. It has been suggested that the language of this bill be broadened to include public utilities. Neither the Department nor the Workers' Compensation Board object to the concept of group self-insurance for municipalities or public utilities; however, the groups must be subject to regulatory criteria similar to other self-insured employers to insure that the group is financially able to cover its liabilities to employees.

The effect of group self-insurance is potential savings in employer premium costs. This would be particularly advantageous to small municipalities or public utilities which do not have the financial ability to individually self-insure their risks, but could pool their liabilities under a group fund. ARECA, at one time, was issued a self-insurance certificate which was not renewed when the Attorney General advised that the Workers' Compensation Board did not have the authority to grant this self-insurance. The Board had no problems with ARECA during the period of self-insurance and their safety record was good.

I would suggest that the committee contact the Division of Insurance on this issue, since it can be argued that a "group self-insured" falls more under the jurisdiction of Title 21 than Title 23.

Thank you for the opportunity to comment.

Very truly yours,



Jim Robison
Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

DIVISION OF INSURANCE

March 23, 1983

Honorable Richard I. Eliason
Chairman
Committee on Labor and Commerce
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

RE: Position Paper SB 66

The Administration has carefully reviewed the ramifications of SB 66 and concludes that the public would best be served by a committee substitute that deletes the content of the current bill and replaces it with the enclosed changes which are similar to those forwarded to you on March 1, 1983.

SB 66 would allow two or more municipalities to pool their workers' compensation liabilities in a self-insured pool. The terms "self-insured pool" and "group self-insured" are anomalous terms. Self-insurance for two or more entities is insurance. The insurance code would normally apply to such situations. The bill as written, however, does not treat the combination of municipalities as an insurer. It would be more consistent with the general approach of the insurance code to treat this combination of municipalities the same as other combinations of other entities.

We recommend that SB 66 be replaced with a CS that would continue the regulation of insurers (group self-insurers) in the insurance code and apply the requirements for formation of an insurer to a group of municipalities. The requirements that would apply to municipalities, as well as public utilities, can be reasonably eased in view of the nature of those entities. The recommended easing would incorporate four changes. These are:


1. Reduction of the financial requirements for municipalities by permitting the use of a bond in lieu of cash surplus and by reducing the amount of operational surplus necessary;

March 23, 1983

2. Removal of any assigned risk liabilities that might otherwise accrue to an insurer formed by a group of municipalities or public utilities;
3. Reduction of the number of entities required to form a reciprocal insurer; and,
4. Removal of any liabilities in the Alaska Guaranty Association for insolvencies of other insurers if the insurer formed by a group of municipalities or public utilities is an assessable reciprocal insurer.

We believe that this is a reasonable stance which provides adequate public protection for claimants and policyholders.

Very truly yours,



Richard A. Lyon
Commissioner

RAL/cw#2113

Enclosure

cc: Art Peterson
Department of Law



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

6000 C STREET • SUITE C • ANCHORAGE, ALASKA 99502 • (907) 278-3235

January 26, 1983

Senate Labor and Commerce Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

RE: Senate Bill 66

Gentlemen:

I am sure that permitting the Alaska Municipal League to establish a group self-insurance program, as Senate Bill 66 now does, is in the public interest. However, we very strongly urge that this bill be expanded at least to include the utility industry. Our association has successfully operated a group self-insurance program for three years, but our program faces termination unless favorable legislation is enacted this year.

In 1979, the Alaska Rural Electric Cooperative Association applied to the Workers' Compensation Board for a self-insurance certificate for our member utilities. The certificate was issued effective January 1, 1980 and was renewed for a year effective January 1, 1981. Our program has been completely successful in meeting its obligations to the employees of its participants and in saving the participants substantial sums of money in insurance costs. Other associations, including the Municipal League, expressed interest in adopting group self-insurance programs modeled after ours.

At the beginning of 1982, our certificate was renewed for only a few months, and we were told that the Board was "reviewing the situation." In February 1982, Ms. Jacqueline McClintock of the Department of Labor requested an Attorney General's opinion regarding the legal status of group self-insurance programs in Alaska. In April, the Attorney General's opinion declared that since group self-insurance is not specifically mentioned in the Alaska statutes and it is in some other jurisdictions, it can be interpreted that group self-insurance is not authorized in this state.

Based on this opinion from the Attorney General, the Workers' Compensation Board terminated our certificate effective September 30, 1982. We appealed this action to the Superior Court, and we were successful in obtaining a stay of the Board action pending appeal. At the present time we are self-insured as a group by order of the Superior Court.

DEMOCRACY IN ACTION

Alaska
MUNICIPAL
League

TELEPHONES
(907) 586-1325
586-6526

204 N. FRANKLIN ST.
JUNEAU, ALASKA 99801

February 10, 1983

To: Senator Richard Eliason, Chair
Senate Labor & Commerce Committee
and all members of the Committee

From: Ginny Chitwood, Executive Director
Alaska Municipal League

Re: SB 66

The Alaska Municipal League supports SB 66 which says regulations may be adopted allowing municipalities to organize a self-insurance group in order to pool their liabilities. The League feels municipalities have that power now because of the strong cooperative agreement clause in Title 29:

"29.48.010 Municipalities have the following general powers, subject to other provisions of law:

- (4) to enter into agreements, including those for cooperative or joint administration of any functions or powers with a local government, with the state, or with the United States;"

AS 29.48.310 and .320 also speak to the liberal construction of powers of boroughs and cities.

In addition to Title 29, the Alaska Constitution, Article X, Section 13, states "Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter." Article X, Section 1, also speaks to "maximum local self government".

(over)

hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors inside and outside this state;

(3) the systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers with respect to any kind of insurance, or with respect to a subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(5) in the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not more than the most recent five-year period for which experience is available;

(6) when there is an established program to inspect new and existing dwellings and the program has been certified by the director as likely to reduce the incidence of fires in inspected dwellings, then in any rate plan used in this state, dwellings which have been found by the inspection to meet the standards established by the program shall have credits applied to the rate in amounts approved by the director.

(b) Except to the extent necessary to meet the provisions of (a)(1) of this section, uniformity among insurers in matters within the scope of this section is neither required nor prohibited. (§ 1 ch 120 SLA 1966; am §§ 1, 2 ch 34 SLA 1977)

Effect of amendments. — The 1977 amendment, in subsection (a), deleted "and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a

period of not less than the most recent five-year period for which experience is available" from the end of paragraph (2) and added paragraphs (5) and (6).

Sec. 21.39.155. Assigned risk pool. (a) The director may require carriers, as a condition of writing a line of insurance dealing with workers' compensation, to participate in an assigned risk pool if the director finds that mandatory carrier participation is in the public interest.

(b) The assigned risk pool and the procedures to be followed in administering the pool shall be established by regulation. (§ 1 ch 252 SLA 1976; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "workers' compensation" for "workmen's compensation."

Sec. 21.39.175. Statistics. Any insurer providing malpractice coverage for health care providers shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the insurer shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics, including the supplemental reports, shall be made available to the State Medical Board. (§ 38 ch 177 SLA 1978)

Editor's notes. — As to the purpose of the 1978 amendatory act, see § 1, ch 177, SLA 1978 as amended by § 7, ch. 46, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

Sec. 21.39.180. Definitions. In AS 21.39.010 — 21.39.180 "dwelling" means a residential structure containing not more than four family living units. (§ 3 ch 34 SLA 1977)

Chapter 42. The Insurance Contract.

Section	Section
75. Reimbursement of losses	350. [Repealed]
80. Power to contract — Purchase of insurance by minors	355. Coverage for cost of services provided by nurse midwives
130. Grounds for disapproval	360. [Repealed]
320 — 340. [Repealed]	370. Separate accounts
345. Required provision for coverage for newly born children	

Sec. 21.42.040. Interest of named insured.

NOTES TO DECISIONS

Applicability of section. — See Moran v. Kenai Towing & Salvage, Inc., Sup. Ct. Op. No. 1056 (File Nos. 1924, 1934), 523 P.2d 1237 (1974).

property damage, to which the maximum and minimum insured amounts apply;

(5) the maximums provided for in column (A) are net of applicable reinsurance;

(6) the deposit of surplus in the amount specified in columns (G) and (H) must thereafter be maintained unimpaired; the deposit is subject to the provisions of AS 21.24.019 — 21.24.130. (§ 1 ch 120 SLA 1966; am § 1 ch 127 SLA 1970; am § 60 ch 94 SLA 1980)

Effect of amendments. — The 1970 amendment, in subsection (b), added "Marine, Wet Marine, and Transportation" at the end of column (A), added "50" at the end of column (B), added "50" at the end of column (C), added "annual" at the end of column (D), added "\$1,000" at the end of column (E), added "\$25,000" at the

end of column (F), added "\$100,000" at the end of column (G), substituted "(6)" for "(7)" in column (H) and added "\$200,000" at the end of that column.

The 1980 amendment substituted "Workers'" for "Workmen's" in column (A) of subsection (b).

Sec. 21.69.490. Dividends to stockholders.

Cross references. — For exception to the requirements of this section, see AS 21.22.100(c).

Chapter 75. Reciprocal Insurers.

Article

1. General Provisions (§§ 21.75.010 — 21.75.290)
2. Cooperative Insurance Coverage (§§ 21.75.300 — 21.75.330)

Article 1. General Provisions.

Section	Section
30. Name, suits	
50. Surplus funds required	
55. Surplus funds for cooperative insurers	
230. Nonassessable policies	

Sec. 21.75.030. Name, suits. (a) A reciprocal insurer shall

(1) have and use a business name; the name shall include the word "reciprocal" or "interinsurer" or "interinsurance" or "exchange" or "underwriters" or "underwriting" or "association";

(2) sue and be sued in its own name.

(b) In addition to the requirements of (a) of this section, a cooperative insurer organized under AS 21.75.300 — 21.75.330 shall include the word "cooperative" in its name. (§ 1 ch 120 SLA 1966; am § 3 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment added subsection (b).

Sec. 21.75.050. Surplus funds required. (a) A domestic reciprocal insurer formed in accordance with the provisions of AS 21.75.010 —

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Effect amendm

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21.75.330 shall have and maintain a surplus no less than an amount equal to the total of the capital and one-half of the surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal insurer seeks to be authorized.

(b) A foreign reciprocal insurer shall have and maintain a surplus no less than an amount equal to the total capital and surplus that would be required of a domestic stock insurer writing the same lines for which the reciprocal seeks to be authorized. (§ 1 ch 120 SLA 1966; am § 4 ch 150 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Sec. 21.75.055. Surplus funds for cooperative insurers. A cooperative insurer organized under AS 21.75.300 — 21.75.330, if it has otherwise complied with the applicable provisions of AS 21.75.010 — 21.75.330, may be authorized to transact insurance if it has and maintains surplus funds equal to one-half of the capital required for a domestic reciprocal insurer under AS 21.75.050(a) and such additional surplus as the director considers sufficient. (§ 5 ch 150 SLA 1978)

Sec. 21.75.230. Nonassessable policies. (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital and surplus required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the director shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for as long as all the surplus remains unimpaired.

(b) Upon impairment of the surplus, the director shall immediately revoke the certificate. The revocation shall not render subject to contingent liability a policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after the revocation no policy may be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The director may not authorize a domestic reciprocal insurer to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish the liability of all its subscribers and in all the policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of those subscribers which may acquire the policies in that state, and need not extinguish the contingent liability applicable to policies theretofore in force in that state. (§ 1 ch 120 SLA 1966; am § 6 ch 150 SLA 1978)

of a stock insurer for authority to transact a like combination of kinds of insurance. (§ 1 ch 120 SLA 1966)

Sec. 21.75.060. Organization of reciprocal insurer. (a) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate of authority, a declaration setting out

(1) the name of the insurer;

(2) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained in this state;

(3) the kinds of insurance proposed to be transacted;

(4) the names and addresses of the original subscribers;

(5) the designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) the names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) the powers of the subscribers' advisory committee, and the names and terms of office of the members;

(8) that all money paid to the reciprocal (insurer) shall, after deducting any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) a copy of the subscribers' agreement;

(10) a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate filed with and approved by the director;

(11) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by § 50 of this chapter is on hand;

(12) a copy of each policy, endorsement, and application form it then proposes to issue or use.

(c) The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds. (§ 1 ch 120 SLA 1966)

Sec. 21.75.070. Certificate of authority. (a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The director may refuse, suspend or revoke the certificate of authority, in addition to other grounds, for failure of the at-

Sec. 21.80.170. Termination and distribution of funds. (a) The commissioner shall by order terminate the operation of the Alaska Insurance Guaranty Association as to any kind of insurance covered by AS 21.80.010 — 21.80.190 with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which

(1) is a permanent plan which is adequately funded or for which adequate funding is provided; and

(2) extends, or will extend to the Alaska policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to the policyholders and residents than the protection and benefits provided with respect to the kinds of insurance under AS 21.80.010 — 21.80.190.

(b) The commissioner shall by the same order authorize discontinuance of future payments by insurers to the Alaska Insurance Guaranty Association with respect to the same kinds of insurance so long as the assessments and payments continue, as necessary, to liquidate covered claims of insurers adjudged insolvent before the order and the related expenses not covered by the other plan.

(c) If the operation of the Alaska Insurance Guaranty Association is terminated as to all kinds of insurance otherwise within its scope, the association, as soon as possible thereafter, shall distribute the balance of money and assets remaining (after discharge of the functions of the association with respect to prior insurer insolvencies not covered by the other plan, together with related expenses) to the insurers which are then writing in this state policies of the kinds of insurance covered by AS 21.80.010 — 21.80.190 and which had made payments to the association, pro rata upon the basis of the aggregate of the payments made by the respective insurers during the period of five years next preceding the date of the termination order. Upon completion of this distribution with respect to all of the kinds of insurance covered by AS 21.80.010 — 21.80.190, AS 21.80.010 — 21.80.190 shall be considered to have expired. (§ 1 ch 121 SLA 1970)

Sec. 21.80.180. Definitions. In AS 21.80.010 — 21.80.190, unless the context requires otherwise,

(1) "account" means any one of the three accounts created by AS 21.80.040;

(2) "association" means the Alaska Insurance Guaranty Association;

(3) "commissioner" means the commissioner of the Department of Commerce or his representative;

(4) "covered claim" means an unpaid claim, including one unearned premium, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which AS 21.80.010 — 21.80.190 apply issued by an insurer, if the insurer becomes an insolvent insurer after August 6, 1970, and (A) the claimant or insured is a resident of this state at the time of the insured event;

or (B) the property from which the claim arises is permanent. y located in this state; "covered claim" does not include any amount due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise;

(5) "insolvent insurer" means an insurer

(A) authorized to transact insurance in this state, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900, either at the time the policy was issued or when the insured event occurred, and

(B) determined to be insolvent by a court of competent jurisdiction;

(6) "member insurer" means a person, except the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association established under AS 21.88.010 — 21.88.900, who

(A) writes any kind of insurance to which AS 21.80.010 — 21.80.190 apply under AS 21.80.020 including the exchange of reciprocal or inter-insurance contracts, and

(B) is licensed to transact insurance in this state;

(7) "net direct written premiums" means direct gross premiums written in this state on insurance policies to which AS 21.80.010 — 21.80.190 apply, less return premiums thereon and dividends paid or credited to policyholders on direct business; "net direct written premiums" does not include premiums on contracts between insurers or reinsurers. (§ 1 ch 121 SLA 1970; am §§ 43, 44 ch 102 SLA 1976)

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alaa. Const., art. II, § 14.

Effect of amendments. — The 1976 amendment inserted the language beginning "except the Medical Indemnity Corporation of Alaska" and ending "under AS 21.88.010 — 21.88.900" in paragraph (5)(A) and in the introductory language of paragraph (6).

Editor's notes. — Section 48, ch. 102, SLA 1976, provides: "AS 01.10.030 applies to this Act except that if any portion of AS 21.88.110 — 21.88.180 is held invalid all of AS 21.88.110 — 21.88.180 shall be void and the Medical Indemnity Corporation of

Alaska shall assume all duties and liabilities incurred by the Health Care Providers Joint Underwriting Association before the declaration of invalidity; and except that if the requirement that health care providers purchase medical malpractice insurance from the Medical Indemnity Corporation of Alaska is found to be invalid, secs. 41, 42, 43, and 44 of this Act are void; however, the Medical Indemnity Corporation of Alaska and the Health Care Providers Joint Underwriting Association shall continue to discharge and assess to pay claims incurred before the declaration of invalidity." AS 21.88.110 — 21.88.180 were repealed by § 40, ch. 177, SLA 1978.

NOTES TO DECISIONS

Applicability of AS 21.80.010 — 21.80.190. — AS 21.80.010 — 21.80.190 were applicable to a claim against a policyholder for personal injuries as a result of an automobile accident from the time his insurer became insolvent. King v.

Jordan, Sup. Ct. Op. No. 1956 (File Nos. 3400, 3401, 3673), 601 P.2d 273 (1979).

AS 21.80.010 — 21.80.190 on their face limits "covered claims" to those asserted by claimants or insureds. White v. Alaska Ins. Guar. Ass'n, Sup. Ct.

Op. No. 1813 (1979).

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1983

SUBJECT: Municipal self insurance
(SB 66)

TO: Senator Richard I. Eliason
Attn: Sheila Peterson

FROM: Thomas A. Sofo ^{TAS}
Legislative Counsel

You have asked whether the municipal self insurance groups described in sec. (b) of AS 23.30.075 in SB 66 would be subject to regulation by the division of insurance. Although legislation in previous years has been suggested which incorporated parallel provisions in the insurance code for assessing self insurance capabilities of self insurers generally under the Alaska Worker's Compensation Act, the bill as presently drafted, would not subject the municipal self insurers to regulation by the division of insurance. Self insurance is only mentioned in AS 23.30.075 and 23.30.-090. In each case, it is the Worker's Compensation Board which has the discretion to accept or deny a plan of self insurance, whether individual or group.

TAS:ljb

Explanation - Assigned Risk Pool

Assigned risk pool is where an individual obtains insurance - workers' comp or auto - when he/she is not able to obtain insurance elsewhere. Person applying must be current with prior insurance premiums.

Every insurance policies are handled by 5 insurance carriers. The premiums pay loss. If it comes up short, the short-fall is pro-rated among all insurance carriers. Workers' comp works this way.

Automobile insurance risks are covered by all. Automobile insurance - the risk is shared.

Explanation - Capital required for reciprocals

If writing to cover only one form of insurance, the capital requirement would be \$500,000 (capital) + \$500,000 (surplus) = \$1 million for non-assessable groups. Assessable groups would need 1/2 of amt. or total of \$500,000.

If coverage is for 2 or more kinds, \$750,000
(capita) + \$750,000 (surplus) is needed for
non-assessable. Assessable is 1/2 amount.

①

Summary of CSSB 66

Section 1 - This section exempts reciprocal insurers from the assigned risk pool. The rationale is that a reciprocal insurers only a specialized group of individuals with similar activities, and should be responsible with their own classification of insurance

Description of an assigned risk pool.

Assigned Risk Pool

Since insurance is required to be carried by all employers, but insurance companies are not legally obligated to provide insurance to a particular employer, it was necessary to create a mechanism for poor risks, or risks that underwriters chose not to write voluntarily, to obtain their workers' compensation insurance. In Alaska an assigned risk pool has been established, and any employer who cannot obtain their insurance through negotiation with an insurance company may obtain their insurance from the assigned risk pool at standard rates. The net cost of operating the assigned risk pool, that is, the amount by which losses from pool risks exceed premium from pool risks, is paid by assessment of all other insurance companies pro-rata to their writings of workers' compensation insurance. In short, the cost of underwriting pool risks is borne by the workers' compensation system.

Section 2 - This section states or allows a municipality to post a bond equal to the amount necessary for capitalization

minus \$250,000 which must be cash.
The required capital for a domestic stock insurer would be \$1 million if only one form of insurance is covered, for example workers' comp, and \$1.5 million if two forms of insurance are covered.

Section 3 - The number of persons needed to form a reciprocal was reduced to two.

Section 4 - The new definition of municipality is included. It was felt this definition encompassed the municipalities who could participate, i.e. those with taxing powers.

Section 5 - Defines "member insurer" to exclude an assessable reciprocal which in turn takes an assessable reciprocal out of the Guaranty Act.

The Guaranty Act is established to protect insurers if an insurance company folds up. An assessable reciprocal is responsible for its own insurers & therefore should not be responsible for others.

AS 21.80.180 (5) should probably be amended to exclude municipalities, public utilities from "insolvent insurer". If this were done then the municipalities + utilities would neither participate in the Guaranty nor would they be protected by it.

Dick Block
Ak National
Insurance
Company

Note that your work draft excludes the reciprocal from AS Section 21.80.180 (6) (A), (Who Must Pay an Assessment for an Insolvency) but does not exclude them from AS 21.80.180 (5) (A) (Who's Insolvency Must Be Protected By The Guarantee Association.) It is my position that the municipal reciprocal must be included as part of the Guarantee Association both as to assessability and coverage, or excluded from the Guarantee Association both as to assessability and coverage. Because of the highly political nature of such a program and because I do not believe that the minimum criteria for forming a municipal reciprocal provides adequate protection for the long term growth and stability of such an organization, I would elect to have them not included in the Guarantee Association and exempt them from assessment.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

Bill Sheffield, Governor

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 1, 1983

The Honorable Richard I. Eliason
Chairman
Committee on Labor and Commerce
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

Re: SB 66

Thank you for your request of February 16, 1983. We are responding to your request in the format of a committee substitute for SB 66. The changes are relatively straightforward. The CS would keep the regulation of insurers in the insurance code.

Part 1 of your request corresponds to Sec. 3 of the CS appearing on page 2, lines 1-5. It is a one-word change.

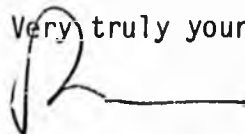
Part 2 of your request corresponds to Sec. 2 of the CS appearing on page 1, lines 15-25. This is a new section that would allow municipalities to replace a substantial portion of their cash start-up obligation with a bond but still require sufficient funds to operate for at least one year.

Part 3 of your request is reversed from discussions on the subject. Assessable groups could arguably be permitted to avoid participation in the Guaranty Act while the nonassessable groups could not. We have taken the liberty to respond in that light and further limited the drop-out provision to governmental and public utilities forming an assessable reciprocal. The corresponding section in the CS is Sec. 4 appearing on page 2, lines 6-18.

Part 4 of your request corresponds to Sec. 1 of the CS appearing on page 1, lines 8-14.

Finally, you may wish to consider an effective date clause in view of the interest of the various parties in an ability to use these changes at the earliest possible date.

Very truly yours,



Richard A. Lyon
Commissioner

08-H2LH

RAL/saH/29



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

February 16, 1983

Dick Lyon, Commissioner
Department of Commerce
and Economic Development
Fouch D
Juneau, Alaska 99811

Dear Commissioner Lyon:

On February 10, 1983, the Senate Labor and Commerce Committee heard testimony on SB 66, an Act relating to municipal self-insurance. During the hearing a question was raised regarding the appropriate placement of the program in the statutes (and within the administrative branch)---either Title 21 (Insurance/Dept. of Commerce and Economic Development) or Title 23 (Labor and Worker's Compensation/Dept. of Labor).

A meeting was held the following Tuesday, February 15, with Jackie McClintock (Division of Workers' Compensation, DoL), Don Koch (Division of Insurance, DCED), Ginny Chitwood (Alaska Municipal League), Dave Hutchens (Alaska Rural Electric Cooperative, Inc.) and Sheila Peterson of my staff, to further explore this issue. Although the present SB 66 is written to allow "group self-insurance" to be regulated by the Workers' Compensation Board, those attending the meeting discussed the possibility of making modifications to allow "group self-insurance" under the reciprocal arrangement provided for in existing statute. (See AS 21.75.010-290.)

The four areas identified as requiring statutory changes are:

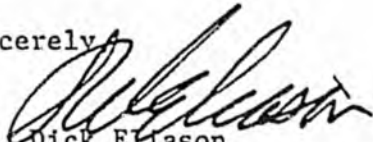
- 1) reduction of the number of entities required to form a reciprocal exchange (from 25 to 2);
- 2) language change to permit entities, such as municipalities, the right to post a bond for part of the necessary capitalization;
- 3) language change to require participation of assessable groups in the Alaska Insurance Guarantee Assn., while not requiring non-assessable entities to participate; and

4) language change to delete the necessity of reciprocal exchanges participating in the assigned risk pool.

Please consider this letter as a request to prepare language for a proposed Labor and Commerce Committee Substitute for SB 66 in response to the above concerns.

Thank you in advance for your assistance.

Sincerely,


Sen. Dick Eliason

cc: Don Koch, Division of Insurance
Jackie McClintock, Division of Workers' Compensation

Re: SB 66 - Relating to Municipal Self-Insurance

Attached is Div of Insurance's suggested solution of group self-insurance.

Sec. 1 - Reciprocal insurer is removed from the assigned risk pool

Assigned risk pool is where an individual obtains insurance - workers' comp or auto - when he/she is not able obtain insurance elsewhere. The person must be current with prior insurance premiums.

Rationale for change - Reciprocal is designed to handle only one class of risks, ie municipalities, logger activities, etc. Their members should not be required to pick-up exposure which they don't cover themselves.

Sec. 2 - Allows govt or govt agencies, state or political subdivisions to post a bond for the necessary capital.

The required capital for a domestic stock insurer would be \$1 million if only one form of insurance is covered, for example workers' comp, and 1.5 million if two forms of insurance are covered.

If municipalities decide to post a bond for the above mentioned amount, the municipalities would need a surplus of cash for the amount of \$250,000.

Sec. 3 - Changes the necessary number of persons to form a reciprocal from the existing 25 persons to 2 people.

Sec. 4. - Defines "member insurer" to exclude an assessable reciprocal which inturns takes an assessable reciprocal out of the Guaranty Act.

The Guaranty Act is established to protect insurers if an insurance company folds up. An assessable reciprocal is responsible for its own members insurers & therefore should not be responsible for others.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1983

SUBJECT: Municipal self insurance
(SB 66)

TO: Senator Richard I. Eliason
Attn: Sheila Peterson

FROM: Thomas A. Sofo ^{TAS}
Legislative Counsel

You have asked whether the municipal self insurance groups described in sec. (b) of AS 23.30.075 in SB 66 would be subject to regulation by the division of insurance. Although legislation in previous years has been suggested which incorporated parallel provisions in the insurance code for assessing self insurance capabilities of self insurers generally under the Alaska Worker's Compensation Act, the bill as presently drafted, would not subject the municipal self insurers to regulation by the division of insurance. Self insurance is only mentioned in AS 23.30.075 and 23.30.-090. In each case, it is the Worker's Compensation Board which has the discretion to accept or deny a plan of self insurance, whether individual or group.

TAS:ljb

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

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February 7, 1983

The Honorable Richard I. Eliason
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Sheila Peterson, your Researcher, had requested a fiscal note on Senate Bill 66 if the bill were amended to include "public utilities." This amendment would not change the fiscal impact and a zero fiscal note would be submitted by the Department of Labor.

I will be happy to prepare a revised fiscal note when or if you have a committee substitute drafted which I assume would have a new title. Please contact me when the fiscal note is needed.

Sincerely,

Judy Knight

Judy Knight
Special Assistant
to the Committee

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March 24, 1983

The Honorable Richard Eliason
Chair, Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 66

Dear Senator Eliason:

This letter is submitted on behalf of the American Insurance Association after review of the proposed committee substitute for SB 66. I had asked the Association for a statement of policy relating to proposals to treat certain groups differently than either commercial insurers or existing reciprocals, and the Association's general statement on the subject is as follows:

Government regulation of insurance is an expression of the State's duty to protect insurance buyers and injured parties against the insolvency of insurers. The interest of the public in a solvency of insurers can best be vindicated by the incorporation of the following regulatory guidelines in any proposed legislation:

1a. Groups should be regulated by the Division of Insurance, not the Worker's Compensation Commission; and

1b. There should be insolvency mechanisms for all groups acting as insurers, but entities which do not fully meet all the requirements imposed on insurers should never be included in the industry's insolvency fund.

2. A group, before being allowed to form, should submit a set of by-laws or plan of operation. In

addition, the names of the members should be set forth along with an agreement executed by all the prospective members providing for joint and several liability.

3. Financial requirements should be established. These will vary by the size of the groups and by state, but should closely track the financial requirements for private carriers.

4. Groups should pay premium taxes and be assessed as are carriers for the support of various funds (such as second injury, administrative, unsatisfied judgment funds).

5. Groups should be subject to the same provisions of the insurance code as carriers regarding such things as actuarially sound reserves, surplus, licensing requirements and fees, unfair trade practices, financial statements, examination by the Division (including costs of examination), rates, liquidation, rehabilitation and dividends.

6. The groups should be made up of companies in the same business or industry. There should be a minimum number of companies in the group; ten is recommended. The groups should be required to be in existence for a period of time and for reasons other than establishing an insurance mechanism.

7. The Director of Insurance should determine if a group has the necessary in-house personnel to properly pay claims and provide loss control services. If the Director determines that a group does not have such personnel, he shall require the group to contract with a licensed service company to provide claim and loss control services.

8. All groups should be responsible for a fair share of any mandatory involuntary market mechanisms.

Applying these standards to the committee substitute, many of the concerns are fully responded to. Some, however, are not, and I would like to focus on those.

First, the bill exempts all reciprocals from sharing responsibility for picking up those persons who cannot obtain insurance in the market, by excepting reciprocals from any "assigned risk" pool. (Section 1, amending AS 31.39.155(a)). To the extent reciprocals are formed, the