

ALASKA LEGISLATURE COMMITTEE FILES 1983 - 1984 8672

2617 SLC SB 162 (FILE 2) - SB 171

2017

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

ALABAMA

FIRE DEPARTMENT

Sec. 450 (4). Disability or death of fire fighter caused by hypertension, heart disease or respiratory disease.--(1) Definitions.--As used herein the following words and terms shall have the meanings ascribed to them herein unless a contrary meaning is indicated by the context: "City" shall mean any municipality of the state, regardless of its population; "fire fighter" shall mean a person employed as a fire fighter or fireman by a city "fire fighter's occupational disease" shall mean any condition or impairment of health caused by hypertension heart disease or respiratory disease; "disability" shall mean disability to perform duties as a fire fighter; "benefit" shall mean any monetary allowance payable by a city, or from a pension system established for the firemen of a city, to a fire fighter on account of his disability, or to his dependents on account of his death, irrespective of whether the same is payable under a pension law of the state or under some other law of the state.

(2) The provisions of this section shall apply to fire fighters who upon entering the service of the city as fire fighters have successfully passed a physical examination which failed to reveal any evidence of a fire fighter's occupational disease and who have completed at least three years service as fire fighters; provided, however, a physical examination was required at the time of entry into service.

(3) If a physical examination was not required at the time of entry into service, a fire fighter who has had at least three years continuous service as a fire fighter, next preceding the effective date of this section, shall be deemed eligible for benefits under the provisions of this section.

(4) If a fire fighter who qualifies for benefits under the provisions of this section suffers disability as a result of a fire fighter's occupational disease his disability shall be compensable the same as any service connected

disability under any law which provides benefits for fire fighters of such city injured in the line of duty. If a fire fighter who qualifies for benefits under the provisions of this section dies as the result of a fire fighter's occupational disease, his death shall be compensable to the same extent as the death of a fire fighter killed in the line of duty. (1967, p.1323, appvd. Sept. 8, 1967.)

FLORIDA

175.23' Diseases of firemen suffered in line of duty; presumption.--Any condition or impairment of health of a fireman caused by tuberculosis, hypertension, or heart disease resulting in total or partial disability or death shall be presumed to have been accidental and suffered in the line of duty unless the contrary be shown by competent evidence, provided, however, that such fireman shall have successfully passed a physical examination before entering into such service, which examination failed to reveal any evidence of such condition. This section shall be applicable to all firemen employed in Florida only with reference to pension and retirement benefits under this chapter.

IDAHO HEART AND LUNG LAW

OCCUPATIONAL DISEASES

Compensation shall be payable for disability or death of an employee resulting from the following Occupational Diseases:

"Cardiovascular or pulmonary or respiratory diseases of a Paid Fireman, employed by a municipality, village, or Fire District as a regular member of a lawful established Fire Department, caused by overexertion in times of stress, or danger, or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes, or other toxic gases arising directly out of, or in the course of, his employment."

The above enumerated Occupational Diseases are not to be taken as exclusive.

LOUISIANA

Sec. 2581. Development of heart and lung disease during employment in classified fire service; occupational disease

Any disease or infirmity of the heart or lungs which develops during a period of employment in the classified fire service in the State of Louisiana shall be classified as a disease or infirmity connected with the employment. The employee affected, or his survivors, shall be entitled to all rights and benefits to which one suffering an occupational disease is entitled as service connected in the line of duty, regardless of whether the fireman is on duty at the time he is stricken with the disease or infirmity. Such disease or infirmity shall be presumed, prima facie, to have developed during the employment whenever same is manifested at any time after the first five years of employment.

Title of Act: Declaring heart and lung disease developing during employment in the classified fire service in the State of Louisiana an occupational disease and providing for benefits to an affected employee; creating a presumption as to the development of the disease. Acts 1968, No. 337.

AN ACT

Declaring heart and lung disease developing during employment in the classified fire service in the State of Louisiana an occupational disease and providing for benefits to an affected employee; creating a presumption as to the development of the disease.

Be it enacted by the Legislature of Louisiana:

Section 1. Any disease or infirmity of the heart or lungs which develops during a period of employment in the classified fire service in the State of Louisiana shall be classified as a disease or infirmity connected with the employment. The employee affected, or his survivors, shall be entitled to all rights and benefits to which one suffering an occupational disease is entitled as service connected in the line of duty, regardless of whether the fireman is on duty at the time he is stricken with the disease or infirmity. Such disease or infirmity shall be presumed, prima facie, to have developed during the employment whenever same is manifested at any time after the first five years of employment.

Section 2. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provisions or applications and, to this end, the provisions of this Act are hereby declared severable.


SPEAKER OF THE HOUSE OF REPRESENTATIVES


LIEUTENANT GOVERNOR AND PRESIDENT OF THE SENATE


GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:  20, 1968

APR 24 '75

169

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

H. P. 230 — L. D. 286

AN ACT Relating to Pulmonary and Cardiac Diseases under the Workmen's
Compensation Act.

Be it enacted by the People of the State of Maine, as follows:

39 MRSA §§ 64-B and 64-C are enacted to read:

§ 64-B. Cardiovascular injury or disease or pulmonary disease suffered
by a fire fighter

If any person has been an active member of a municipal fire department or of a volunteer fire fighters' association for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and if said disease has developed or the injury has occurred within 6 months of having participated in fire fighting or training or drill which actually involves fire fighting, it shall be presumed, unless the employer proves the contrary by a preponderance of the evidence, that the employee received the injury or contracted the disease arising out of and in the course of his employment, that sufficient notice of the injury or disease has been given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

§ 64-C. Cardiovascular injury or disease or pulmonary disease resulting
in a firefighter's death

If any person had been an active member of a municipal fire department or of a volunteer fire fighters' association for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and provided that the person had developed the disease or had suffered the injury which resulted in death within 6 months of having a cardiovascular disease or pulmonary disease which resulted in his death, and had participated in fire fighting or training or drill which actually involves fire fighting, it shall be presumed, unless his employer proves to the contrary by a preponderance of the evidence, that the person received the injury or disease arising out of and in the course of his employment, that sufficient notice of the injury or disease was given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

AN ACT to add new Section 102 64A to Article 101 of the Code of Maryland (1970 Supplement), title "Workmen's Compensation," to be under the new subtitle "Death and Disability Payments—Fire Fighters," to follow immediately after Section 102 64 thereof, to establish certain medical conditions or disability of a fire fighter is presumed to be a result of his employment PROVIDE THAT THE ASSUMPTION OF COMPENSABLE OCCUPATIONAL INJURY IN CASES OF CERTAIN FIRE FIGHTERS TEMPORARY OR TOTAL DISABILITY OR IMPAIRMENT OF HEALTH UNDER CERTAIN CONDITIONS, AND TO PROVIDE THAT BENEFITS MAY ALSO BE PAYABLE UNDER A SYSTEM UNDER CERTAIN CONDITIONS.

SECTION 1. Be it enacted by the General Assembly of the State of Maryland That new Section 102 64A be and it is hereby added to the Annotated Code of Maryland (1970 Supplement), title "Workmen's Compensation," to be under the new subtitle "Death and Disability Payments—Fire Fighters," SUBTITLE, "DEATH AND DISABILITY PAYMENTS—FIRE FIGHTERS,"

to follow immediately after Section 102 64 and to read as follows:

Death and Disability Payments—Fire Fighters

102 64A.

Any condition or impairment of health of any fire fighter employed by a county, airport authority, port authority, or fire commission caused by lung diseases, heart diseases, or hypertension resulting in total or partial disability or death shall be presumed to have been suffered in the course of his employment, provided that such fire fighter had successfully passed a medical examination upon entering into service as a fire fighter to reveal any evidence of any such condition or impairment. **PRESUMED TO BE COMPENSABLE UNDER THIS ACT AND TO HAVE BEEN SUFFERED IN THE LINE OF DUTY AND AS A RESULT OF HIS EMPLOYMENT.**

NOTWITHSTANDING ANY PROVISION OF THIS ACT AND ANY PAID FIRE FIGHTER WHOSE BENEFIT CLAIM RESULTS FROM A CONDITION OR IMPAIRMENT OF HEALTH CAUSED BY LUNG DISEASES OR HYPERTENSION AND HAS BEEN SUFFERED IN THE LINE OF DUTY SHALL RECEIVE SUCH BENEFITS AS ARE PROVIDED FOR IN THIS ACT IN ADDITION TO SUCH BENEFITS AS HE IS ENTITLED TO UNDER THE RETIREMENT BENEFIT SYSTEM WHICH SAID FIRE FIGHTER WAS A PARTICIPANT IN AT THE TIME OF HIS CLAIM. THE BENEFITS RECEIVED UNDER THIS ARTICLE HOWEVER, SHALL BE ADJUSTED SO THAT THE TOTAL OF ALL WEEKLY BENEFITS SHALL NOT EXCEED ONE HUNDRED PERCENT OF THE WEEKLY BENEFIT WHICH WAS PAID TO SAID FIRE FIGHTER.

SEC. 2. And be it further enacted, That this Act shall take effect on July 1, 1971.

Introduced by Delegates Robey and Welsongoff.

M. C. B. S. P. N. C. F. A.

M. C. B. S. P. N. C. F. A.

M. C. B. S. P. N. C. F. A.

M. C. B. S. P. N. C. F. A.

M. C. B. S. P. N. C. F. A.

MASSACHUSETTS

Sec. 94. Impairment of health caused by hypertension, etc., resulting in disability or death of paid fire or police department member; presumption. Notwithstanding the provisions of any general or special law to the contrary affecting the non-contributory or contributory system, any condition of impairment of health caused by hypertension or heart disease resulting in total or partial disability or death to a uniformed member of a paid fire department or permanent member of a police department, or of the police force of the metropolitan district commission, or of the state police in the department of public safety, or of the capitol police, or of the public works building police, or to any employee of the registry of motor vehicles in the department of public works who entered the service of the registry as an investigator or examiner and performed police duty, or to any employee in the department of correction whose regular or incidental duties require the care, supervision or custody of prisoners, criminally insane persons or defective delinquents, or to any permanent crash crewman, crash boatman, fire controlman or assistant fire controlman employed at the General Edward Lawrence Logan International Airport, shall, if he successfully passed a physical examination on entry into such service, or subsequently successfully passed a physical examination, which examination failed to reveal any evidence of such condition, be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

Added St.1950, c.551, as amended St.1951, c.594; St.1956, c.411;
St.1956, c.511; St.1956, c.580; St.1963, c.610.

MASSACEUSETTS

Sec. 94A. Disability or death caused by disease of lungs or respiratory tract; paid fire department member; presumption. Notwithstanding the provisions of any general or special law to the contrary affecting the non-contributory or contributory retirement system, any condition of impairment of health caused by any disease of the lungs or respiratory tract, resulting in total disability to a uniformed member of a paid fire department, shall, if he successfully passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition, be presumed to have been suffered in the line of duty, as a result of the inhalation of noxious fumes or poisonous gases, unless the contrary be shown by competent evidence.

Added St.1962, c.164.

MICHIGAN STATUTES

Sec. 17.237 (401) Definitions; ordinary diseases not compensable; hernia. Sec. 401. Whenever used in this act:

(a) "Disability" means the state of being disabled from earning full wages at the work in which the employee was last subject to the conditions resulting in disability.

(b) "Disablement" means the event of becoming so disabled.

(c) "Personal injury" shall include a disease or disability which is due to causes and conditions which are characteristic of and peculiar to the business of the employer and which arises out of and in the course of the employment. Ordinary diseases of life to which the public is generally exposed outside of the employment shall not be compensable. A hernia to be compensable must be clearly recent in origin and result from a strain arising out of and in the course of the employment and promptly reported to the employer.

Sec. 17.237 (405) Respiratory and heart diseases of firemen and law enforcement personnel; conditions precedent to filing claim. Sec. 405.

(1) In the case of a member of a full paid fire or police department of a city, township or incorporated village employed and compensated upon a full-time basis, a county sheriff and his deputies and members of the state police, "personal injury" shall be construed to include respiratory and heart diseases or illnesses resulting therefrom which develop or manifest themselves during a period while the member of the department is in the active service of the department and result from the performance of duties as a fire fighter or policeman.

(2) Such respiratory and heart diseases or illnesses resulting

therefrom are deemed to arise out of and in the course of employment in the absence of evidence to the contrary.

(3) As a condition precedent to filing an application for benefits, the claimant, if he is one of those enumerated in subsection (1), shall first make application for, and do all things necessary to qualify for any pension benefits which he, or his decedent, may be entitled to. If a final determination is made that pension benefits shall not be awarded, then the presumption of "personal injury" as provided in this section shall apply. The employer or employee may request two copies of the determination denying pension benefits, one copy of which may be filed with the bureau.

Sec. 17.237(411) Disablement from occupational disease or injury deemed personal injury. Sec. 411. The disablement of an employee resulting from such disease or disability shall be treated as the happening of a personal injury within the meaning of this act and the procedure and practice provided in this act shall apply to all proceedings under this chapter, except where specifically otherwise provided herein.

§ 176.011 WORKMEN'S COMPENSATION

MINNESOTA

Subd. 15. Occupational disease. "Occupational disease" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where such diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes such disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the workman would have been equally exposed outside of the employment. If immediately preceding the date of his disablement or death, an employee was employed on active duty with an organized fire or police department of any municipality, as a member of the Minnesota highway patrol, conservation officer service, state crime bureau, or sheriff or full time deputy sheriff of any county, and his disease is that of myocarditis, coronary sclerosis, pneumonia or its sequel, and at the time of his employment each employee was given a thorough physical examination by a licensed doctor of medicine, and a written report thereof has been made and filed with such organized fire or police department, with the Minnesota highway patrol, conservation officer service, state crime bureau, or sheriff's department of any county, which examination and report negatived any evidence of myocarditis, coronary sclerosis, pneumonia or its sequel, the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of his employment.

CHAPTER 281

CREATE PRESUMPTION IN DEATH OR DISABILITY

Legislative Bill 826

INTRODUCED BY TERRY CARPENTER, 48TH DISTRICT; EUGENE T. MAHONEY, 51H DISTRICT; WILLIAM R. SKARDA, JR., 7TH DISTRICT; BILL K. BLOOM, 20TH DISTRICT; HAROLD T. MOVLAN, 6TH DISTRICT

AN ACT relating to public employment; to provide a presumption in certain cases of death or disability of firemen or policemen as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. Whenever any fireman who has served a total of five years as a member of a paid fire department of any city in this state or any policeman of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of his duty for all purposes of Chapter 15, article 10, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, sections 16-329 to 16-337, Revised Statutes Supplement, 1967, Chapter 35, article 2, Reissue Revised Statutes of Nebraska, 1943, and any firemen's or policemen's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this act to be a matter of general statewide concern. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to the effective date of this act and which has not been processed to final administrative or judicial conclusion prior to such date.

Approved May 5, 1969.

Research
Dept

HB 269 ~~Chapter 506~~
STATE OF NEW HAMPSHIRE

*In the year of Our Lord one thousand
nine hundred and seventy-three*

AN ACT

relative to diseases characteristic of
the occupation of firefighting.

*Be it Enacted by the Senate and House of Represen-
tatives in General Court convened:*

506: 1 New Provision. Amend RSA 281:2 (supp), as amended, by inserting after
paragraph V the following new paragraph:

V-a. Notwithstanding the provisions of the foregoing paragraph, there shall exist a prima facie presumption that heart or lung disease in a firefighter, whether he is a regular, call, volunteer or retired member of a fire department, is occupationally related; provided, however, that a call or volunteer firefighter shall have the benefit of this prima facie presumption only if there is on record reasonable medical evidence that he was free of such disease at the beginning of his employment. It shall be the duty of the employer of call or volunteer firefighters to provide the said reasonable medical evidence; if the employer fails to do so, the call or volunteer firefighter shall have the benefit of the prima facie presumption regardless of the absence of the said reasonable medical evidence. Provided further, that a retired firefighter who agrees to submit to any physical examination requested by his city, town, or precinct shall have the benefit of the prima facie presumption only during the period of time of five years from the effective date of his retirement. For the purposes of this paragraph,

a call or volunteer firefighter shall mean a firefighter not regularly employed by a fire department of any city, town or precinct in the state, but answering for duty only to alarms of fire, and who has been appointed by the fire department and is a member of the New Hampshire State Firemen's Association, provided however, that the benefits of this section shall not continue in effect beyond one month after a call, volunteer or permanent firefighter, reaches his sixty-fifth birthday.

506: 2 Effective Date. This act shall take effect sixty days after its passage.

Approved July 2, 1973
Effective Date August 31, 1973

ASSEMBLY, No. 2100

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1971

By Assemblymen COLEMAN, HORN, FAY, GARIBALDI, FLORIO,
HIGGINS, LEFANTE, ESPOSITO, CONWELL, JACKMAN,
IRWIN, PARKER, LITTELL, FORAN, BROWN, MABIE,
SEUSTED, TURNER and AZZOLINA

Referred to Committee on Labor Relations

A SUPPLEMENT to "An act providing for the retirement of police-
men and firemen of the police and fire departments in municipi-
palities of this State, including members of the fire departments
of any fire district located in any township and including all
police officers having supervision or regulation of traffic upon
county roads, and providing a pension for such retired policemen
and firemen and members of the police and fire departments,
and the widows, children, and sole dependent parents of deceased
members of said departments, and supplementing Title 43 and
amending R. S. 43:16-1, 43:16-2, 43:16-3, 43:16-4, 43:16-5,
43:16-6, 43:16-7 and repealing 43:16-11," approved May 23,
1944 (P. L. 1944, c. 253).

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. Notwithstanding the provisions of any law to the contrary,
2 any conditions or impairment of health caused by hypertension,
3 heart disease or tuberculosis of the respiratory system resulting
4 in total or partial disability to a full time employed uniformed
5 member of a paid or part-paid fire department, or permanent mem-
6 ber of a police department, who successfully passed a physical
7 examination on entry into such service, which examination failed
8 to reveal any evidence of such condition, shall be presumed to have
9 been suffered in the line of duty unless the contrary be shown by
10 competent evidence.

1 2. This act shall take effect immediately.

STATEMENT

Instances of upper respiratory infections and heart disease are
high among firemen and policemen.

The firemen and policemen have a thorough preemployment physical examination including an X-ray of the chest. Therefore, it must be assumed that when a man enters either department he is as free of heart and lung disease as is humanly possible to ascertain.

Undoubtedly, the high instances of heart disease among firemen is due, in part, to the startling effect of each alarm of fire sounded over the siren, the speed with which they must drive the apparatus and the tenseness of going through congested traffic. This together with the lugging of hose, climbing 65- or 100-foot ladders undoubtedly places a severe strain on the heart.

There are other features which make heart disease prevalent among the members of a police department. They too, are frequently subjected to violent physical strain, chasing, wrestling with and apprehending prisoners and battling bandits, the pursuit of stolen cars, directing modern traffic—all of which certainly predisposes to an unusual amount of strain on the heart.

With regard to the diseases of the lungs or upper respiratory tract, the members of the fire departments are subjected to work in the heat of summer, as well as the cold, rain and snow; provocative of colds, bronchitis and pneumonia.

Tuberculosis of the lungs is caused by a germ, but with frequent attacks of bronchitis and other respiratory infections resistance against tuberculosis especially if it be latent is lessened and active pulmonary tuberculosis may follow such attacks.

It is, therefore, only reasonable to assume that such afflictions are acquired by firemen and policemen in the line of duty.

STATE OF NEW YORK

IN SENATE

January 21, 1969

Introduced by Messrs. DONOVAN, FLYNN--read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions--reported favorably from said committee, committed to the committee of the whole, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT

To amend the retirement and social security law, in relation to benefits payable to, or in behalf of certain firemen and policemen injured or killed in the performance of duty

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The retirement and social security law is hereby
2 amended by inserting therein a new section, to be section three
3 hundred sixty-three-a, to read as follows:

4 Section 363-a. Firemen and policemen; certain disabilities. 1. Notwith-
5 standing any provision of this chapter or of any general, special
6 or local law to the contrary, any disability or death resulting from
7 an injury to or impairment of the heart, caused by reason of and
8 in the performance of duty as a fireman or policeman and not
1 caused by the wilful negligence of such fireman or policeman, pre-
2 sumptively shall be deemed to be the natural and proximate result
3 of an accident, in the absence of substantial evidence to the con-
4 trary for the purposes of this article, or any general, special or local
5 law relating to the operation and qualification for benefits under
6 any municipal pension or retirement plan or system.

7 2. As used in this section, the term "fireman" and "policeman"
8 means any member who is performing police or fire service, as the

9 phrase police or fire service is defined in paragraphs a, b, c and d
10 of subdivision eleven of section three hundred two of this article,
11 and who, prior to entry into service as a fireman or policeman, suc-
12 cessfully passed a physical examination which failed to disclose
13 evidence of any disease or other impairment of the heart.

14 Section 2. This act shall take effect on the first day of September next
15 succeeding the date on which it shall have become a law and shall
16 remain in force and effect to and including the thirty-first day of
17 August in the year next succeeding the year in which it shall have
18 become a law.

PENNSYLVANIA

No. 435

AN ACT

HB 505

~~Amending the act of June 21, 1939 (P. L. 566), entitled "An Act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties; further defining diseases of fire fighters within the act, and fixing liability for compensation thereunder on the Commonwealth.~~

The General Assembly of the Commonwealth of ~~the Commonwealth~~ hereby enacts as follows:

Section 1. Clause (o) of section 108, act of June 21, 1939 (P. L. 566), known as "The Pennsylvania Occupational Disease Act," added December 10, 1959 (P. L. 1746), is amended to read:

Section 108. The term "occupational disease," as used in this act, shall mean only the following diseases:

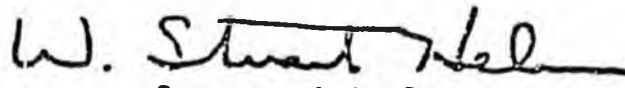
* * *

(o) Diseases of the ~~the Commonwealth~~ resulting in either temporary or permanent total or partial disability or death, after four years or more of service in [the full time salaried occupation of] fire fighting for the benefit or safety of the public, caused by extreme over-exertion in times of stress or danger or by exposure to heat, smoke, fumes or gases, arising directly out of the employment of any such firemen. The Commonwealth shall pay the full amount of compensation for disability under this clause.

APPROVED—The 17th day of December A. D. 1965.

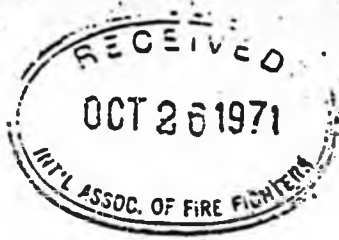
WILLIAM W. SCRANTON

The foregoing is a true and correct copy of Act of the General Assembly No. 435.


Secretary of the Commonwealth.

Heilman

Senate: Bristow and Rubin
Attorney: Heilman
Stenographer: Hall
Date: 2-1-67
No.: 157



SOUTH CAROLINA

S. 157
gen. com.

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1962, BY ADDING NEW SECTION 72-251.1, SO AS TO CREATE A PRESUMPTION IN FAVOR OF FIRE FIGHTERS THAT CERTAIN CONDITIONS OF HEALTH ARISE OUT OF AND IN THE COURSE OF THEIR EMPLOYMENT FOR THE PURPOSES OF THE SOUTH CAROLINA WORKMEN'S COMPENSATION LAW.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The Code of Laws of South Carolina, 1962, is amended by adding new Section 72-251.1, so as to create a presumption in favor of fire fighters that certain conditions of health arise out of and in the course of their employment, as follows:

"Section 72-251.1. Notwithstanding the provisions of Chapter 5 of Title 72, for purposes of the South Carolina Workmen's Compensation Law, any impairment or injury to the health of a fire fighter caused by tuberculosis, hypertension, heart disease or respiratory disease resulting in total or partial disability, or death, shall be presumed to have arisen out of and in the course of employment; unless the contrary is shown by

competent evidence, if such fire fighter is at the time of such impairment or injury a bona fide member of a fire department in this State. In order to be entitled to the presumption provided for herein, any person becoming a member of a fire department after the effective date of this act must be under the age of thirty-seven years and must have successfully passed a physical examination by a competent physician upon entering into such service, which examination failed to reveal any evidence of such condition or conditions."

SECTION 2. This act shall take effect upon approval by the Governor.

SOUTH DAKOTA

Circulatory or respiratory disease presumed occupational in firemen.

Notwithstanding the provisions of any general or special law to the contrary, any condition of impairment of health caused by hypertension, heart disease, or respiratory disease resulting in total or partial disability to an officer or member of a fire department who successfully passed physical examination on entering into such service, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence.

HOUSE BILL NO. 790

BY

Atkinson
Galbreath
Allen
Bradley
Agee
Mrs. Anderson
Cook
Pride

AN ACT to provide for a presumption that the impairment of health by lung disease, hypertension or heart disease of Firemen or Fire Fighters regularly employed by the State of Tennessee, any county, city, municipal or other governmental agency in the State of Tennessee, shall be presumed to have occurred, suffered or arose out of and in the course of duty of such employee.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, That the State of Tennessee, or any municipal corporation or other political subdivision thereof that maintains a regular Fire Department manned by regular and full-time employees and has established or hereafter establishes any form of compensation, other than workman's compensation, to be paid to such Firemen or Fire Fighters for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such Firemen caused by disease of the lungs hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Provided, however, that such firemen shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon his governmental employment and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

It is hereby declared to be the legislative intent that this Act is to be remedial in character and to permit and require any municipal corporation maintaining any permanent Fire Department heretofore created or created after the effective date of this Act, to be covered by its provisions.

SECTION 2. BE IT FURTHER ENACTED, That all Acts or parts of Acts in conflict with the provisions of this Act be and the same are hereby repealed, and the provisions of this Act are declared to be severable; and, if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent, now hereby declared, that this Act would have passed even if such unconstitutional or void matter had not been included therein.

SECTION 3. BE IT FURTHER ENACTED, That this Act take effect from and after its passage, the public welfare requiring it.

PASSED: March 19, 1965

SPEAKER OF THE HOUSE OF REPRESENTATIVES

SPEAKER OF THE SENATE

GOVERNOR

APPROVED:

WISCONSIN

WORKMEN'S COMPENSATION

66.191 Special death and disability benefits for certain public employes subject to Wisconsin retirement act and conservation warden fund. (1) Whenever a policeman, fireman, county undersheriff, deputy sheriff, county traffic policeman, conservation warden, state forest ranger, field conservation employe of the department of natural resources who is subject to call for forest fire control or warden duty, member of the state traffic patrol, university of Wisconsin full-time policeman, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution including central state hospital, investigator employed by the division of criminal investigation of the department of justice who is a participating employe under subch. I of ch. 41 shall, while engaged in the performance of duty, be injured or contract a disease due to his occupation, and be found upon examination to be so disabled by a disability which is likely to be permanent, as to render necessary his retirement from any of the aforesaid services, the department of industry, labor and human relations shall order payment to him monthly, under s. 20.865 (1) (d) or 102.21, of a sum equal to one-half his monthly salary in such service at the time that he became so disabled. A disability of such a nature as to require reduction in pay or position or assignment to light duty shall adversely affect promotional opportunities within the service shall be deemed sufficient to permit the employe the option of retirement.

(2) If such injury or disease shall cause the death of such person, or the death of a conservation warden who is a member of the conservation warden pension fund under subch. II of ch. 41, and he dies leaving surviving a widow or an unmarried child under the age of 18 years, the department shall order monthly payments as follows.

(a) To the widow, unless she shall have married the deceased after he sustained such injury or contracted such disease, one-third of the monthly salary being paid to the

deceased in such service at the time of his disability or death until she marries again.

(b) To the guardian of each such child, \$15 until he becomes 18 years of age; provided that the total monthly payments ordered under this subsection shall not exceed 65 per cent of the monthly salary being paid to the deceased in such service at the time of his disability or death, and there shall be a pro rata reduction in the benefits paid hereunder, if necessary, in order to comply with such limitation. On or before January 15 in each year any widow entitled to a benefit under this subsection shall file with the municipality which makes payments hereunder an affidavit stating that she has not married again. The monthly payment ordered to any widow under this subsection shall begin in each calendar year only after such affidavit shall have been filed with the clerk of such municipality, and no payment shall be made for any month in such year prior to the one in which such affidavit was filed.

(c) If any person entitled to death benefit payments under this subsection is also entitled to death benefits under ch. 102 because of the death of such participating employe, the death benefit payments due under this subsection shall be reduced by an amount equal to the total weekly death benefits payable under ch. 102.

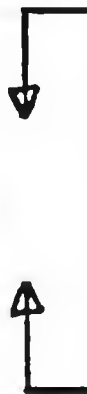
(3) Any policeman, fireman or conservation warden who has fulfilled all other requirements for inclusion as a participating employe under the Wisconsin retirement fund shall be eligible to the benefits payable under this section during the qualifying period established pursuant to s. 41.02 (6) (c).

(4) This section shall be administered by the department of industry, labor and human relations, which may adopt necessary rules relating to *** investigations and other matters in connection with applications for benefits under this section. *In case of dispute the procedure for hearing, award and appeal shall be as set forth in ss. 102.16 to 102.26.*

(5) Any person entitled to disability benefit payments under this section may file with the department of industry, labor and human relations and the board of trustees of the Wisconsin retirement fund a written election to waive such payments and accept in lieu thereof such payments as may otherwise be due under s. 41.13; but no person shall receive disability benefit payments under both s. 41.13 and this section.

(6) Any city, village, town or county liable to pay special death and disability benefits provided for by this section may insure payment of such benefits in any insurance company authorized to transact business in this state.

891.45 Presumption of employment connected disease. in any proceeding involving the application by a municipal fireman or his beneficiary for disability or death benefits under s. 66.191 or any pension or retirement system applicable to firemen, where at the time of death or filing of application for disability benefits the deceased or disabled fireman had served a total of 5 years as a fireman and a qualifying medical examination given prior to the time of his joining the department showed no evidence of heart or respiratory defect or disease, and where the disability or death is found to be caused by heart or respiratory defect or disease, such finding shall be presumptive evidence that such defect or disease was caused by such employment.



being a regulation under
The Workers Compensation Act
respecting fire fighters

1. In this regulation "fire fighter" means a full time member of a professional fire fighting department.
2. Where
 - (a) a fire fighter suffers injury to the heart diagnosed as such by a duly qualified medical practitioner;
 - (b) the fire fighter has been in continuous service as a fire fighter during the 2 years immediately preceding the injury; and
 - (c) the fire fighter on or after beginning service as a fire fighter underwent a physical examination, including an examination of the circulatory system, required by the fire fighting department of which he is a member, and was in light of the physical examination approved for service as a fire fighter;unless the contrary is shown, the injury shall be presumed to have arisen out of and in the course of his employment as a fire fighter.
3. A fire fighter who has had an injury to the heart and who has, thereafter, been medically certified to be fit for service as a fire fighter is, in the case of any subsequent injury to the heart, entitled to the benefit of section 2.
4. Where a fire fighter suffers injury to his lungs, brain or kidneys, unless the contrary is shown, the injury shall be presumed to have arisen out of and in the course of his employment as a fire fighter resulting from the inhalation of smoke, gases and fumes or any of them.
5. Where a fire fighter suffers disability by reason of inhalation of carbon monoxide, unless the contrary is shown, the disability shall be presumed to have been caused by injury arising out of and in the course of his employment as a fire fighter.
6. Where a fire fighter is disabled by reason of injury to his lungs, brain or kidneys resulting from the inhalation of smoke, gases and fumes or any of them, or by reason of inhalation of carbon monoxide, the date of the beginning of the disability shall be deemed to be the date of the accident causing the disability.
7. Manitoba Revised Regulation W200-R2 is repealed.

PULMONARY DISEASE AMONG FIRE FIGHTERS

By M. Howard Skolnick, M.D.
Medical Advisor to the John P. Redmond Memorial Fund
Director of the Redmond Library

Tuberculosis is the second of the most commonly occurring diseases of chronic nature among fire fighters. (Heart disease is first.) It is universally recognized as a scourge of mankind to which all individuals are exposed. Modern existence, in which one cannot live in isolation, provides the condition that makes this disease so widespread. In every activity that one performs in a normal day, whether it is eating, riding, walking or working, he is constantly exposed to other people, and therefore may be the unwitting target of infection.

The picture is not as gloomy as it may seem at first, however. The danger of the infection is widespread but, fortunately, individuals have built up a resistance or fighting protection against it. The more the human race congregates with each succeeding generation, the greater the resistance developed against this malady.

Almost the entire adult population has had contact with the germ of tuberculosis, and while in states of good health most have resisted the development of this disease. Yet, as if nature seems to challenge one's right to maintain freedom from this disease, certain obstacles may be thrown in one's path to break down this state of protection.

It is these obstacles or antagonizing conditions that result in a latent condition, which is, without practical exception, being thrown into an activity by reason of some interference with the otherwise protective resistance that certain individuals possessed in keeping them free from this disease.

These thoughts form an important basis in the understanding of how

the responsibility lies with the extraneous developments, such as occupational hazards. These do not expose the individual to a new infection but, instead, activate an already present germ into the active stages of the disease.

Therefore, there should be no undue surprise when the incidence of active tuberculosis may, at one time or another, show fluctuations in the degree of occurrences. It is with the full understanding of the various factors, and indeed there are many responsible for the precipitation of this disease, and in proper avoidance or elimination of these factors that future hope for reducing tuberculosis lies.

From an occupational point of view as it affects fire fighters, the chief factors involved in producing this infection into an active disease are: (1) exposure to irritants (gases); (2) exposure to general breakdown of resistance; and (3) exposure to trauma or injury.

Without going into the too technical explanation of the mechanism involved in this process of active disease, the point may be best explained by citing an actual case which exemplifies the factors involved.

The following case illustrates the definite role that the exposure to such irritants as gases assumes in the precipitation and development of the active form of tuberculosis of the lungs.

CASE REPORT

Case of fire fighter, E.M., who was age 37 at time of study.

Present Illness: The patient states that he was apparently in perfect health since entering the fire service 14 years ago. On June 23 he responded to an alarm for an explosion which occurred in a bin containing sawdust, mixed with an acid and carbon tetrachloride which was fed by six sprinklers. There were no flames. The explosion blew the bin door open, filling the vault with obnoxious gases. Chlorine and phosgene gases were predominant.

The victim reported that he worked outside the door for three or four

minutes and some additional time on top of the sawdust pile. He estimated his total exposure to have been about seven or eight minutes. He experienced an immediate reaction of choking spells, difficulty in breathing and a burning sensation of the eyes. After returning to the fire station, he continued to have a slight difficulty in breathing.

The next morning he felt fine. Later in the day, however, while moving a house trailer frame at his home, things went black before his eyes and he had a sudden dizzy spell. This occurred after only a few moments of work. He went into the house and laid down. For the following two hours he was in a stupor, taking no interest in his immediate surroundings. When he attempted to sit up, he experienced difficulty in breathing and a tightness in the right side of his chest. He explained that he took only rapid, shallow breaths because of this discomfort.

The following morning (36 hours after the exposure) he reported for duty at the fire station. At that time, upon questioning by his captain (who had seen eight of his men similarly ill at the scene of the explosion) he related that he had a tightness in his chest and difficulty in breathing but had no nausea or vomiting. The department doctor was then called to examine him. The doctor ordered him hospitalized because of a fever and the difficulty in breathing.

At the hospital the chief treatment consisted of the use of an oxygen tent, which was applied every alternate hour for the following 26 hours. The patient improved very satisfactorily and promptly, leaving the hospital shortly thereafter at his own request.

However, while driving his car the next day, he experienced a severe coughing spell and became ill again. He had to pull over to the side of the road and wait until he regained control of himself. He went to the doctor, who ordered rehospitalization after determining that the patient

had a fever and other signs of weakness. He remained in the hospital for three days, and spent the following week at home.

When he returned to duty, he stated that he felt apparently well and had lost the feeling of tightness in his chest and shortness of breath. However, he still was not entirely free of chest discomfort at any time.

During the following months he paid frequent visits to the doctor's office. His condition was slowly progressing into weakness, tiredness, malaise, and general lassitude, and he had frequent chest pains and breathing discomfort.

On April 30 of the following year (about 10 months after the initial incident) he took a leave of absence with permission of the department doctor. He spent the time in a southern climate. After his return, he again conferred with the department doctors, and on July 6 was ordered to report back to his old engine company for light duty. While carrying out his duties, he reported feeling fairly well except for occasional pains and a burning sensation in the right upper section of his chest. He continued to work until relieved of duty early in November (18 months after the initial incident.) He still, however, experienced the pains in his chest. In addition, he had several night sweats, wet cough, weakness, and shortness of breath on the least exertion.

Past History: The patient stated that he had the usual childhood diseases, without complications, and had never had an operation. He had been on the fire department 14 years and two months at the time of the explosion incident. During this time he was assigned a company which was no busier than most companies. He consumed the average amount of smoke but was never hospitalized or overcome.

Family History: There was no family history of tuberculosis, diabetes, cancer, goiter, nephritis, arteriosclerosis, nervous afflictions or heart disease.

Physical Examination: The patient was well-developed, age 39, weighing 166 pounds, and was 69 inches in height. The examination findings were essentially negative, except for chest disclosures of fine moist rales over both apices. His heart function was normal in rate and rhythm, and was forceful and without murmurs. His blood pressure was 128/78.

Special Examinations: An x-ray of his chest taken six days after the explosion incident was interpreted as showing a mottled and granular condition in both upper chest areas. It was diagnosed as a healed chronic tuberculosis process. Another chest x-ray, taken three months after the explosion incident, indicated a similar condition with some questionable improvement (clinically, the patient was less improved). Another chest x-ray, taken seven months after the explosion incident, indicated a questionable activity of the tuberculosis process of both right and left upper lobes. (This was the first time this condition was discussed with the patient. He was then ordered off duty, on a temporary basis.)

Another chest x-ray was taken 16 months after the explosion incident. This interpretation was given: "Bilateral upper lobe parenchymal process, a little more extensive on the right side, with cavitation in the upper left lobe. From this film study, this is a process of active type and is of tuberculous origin."

A tuberculin test, begun a week later, was interpreted as strongly positive and recorded as a four plus reaction.

An electrocardiogram, taken at the same time, was interpreted as entirely negative, thus ruling out heart disease. A Wasserman blood test was negative for syphilis. A urinalysis was essentially negative.

Diagnosis: Based on the patient's history, physical examination, x-rays of his chest, as well as the exclusion of other conditions, the diagnosis was: active pulmonary tuberculosis, with involvement of the right and left upper lobes and cavitation in the left upper lobe.

CASE DISCUSSED

In review, this case presents a fire fighter who suffered from an exposure of irritating gases (apparently short duration) with varying degrees of effects.

The first effect was the immediate reaction to the mucous membranes of his eyes, throat and lungs due to the contact irritation. The next effect was due to the absorption of these gases producing shock and toxemia. The third effect, which was slow but progressive, was the activation of a latent or quiescent tubercular condition into an active disease of tuberculosis. It was this last stage that represented the disability stage and permanently affected the patient. Through the course of x-ray examinations the development of the progress of this disease was apparent with all processes being in an active stage and even to the stage of tuberculous cavity formation. These findings showed the necessity for immediate hospitalization and corrective treatment.

In conclusion, it was therefore evident that this fire fighter was entitled to a disability retirement, due to the occupational nature of his tuberculosis of his lungs. (NOTE: A disability retirement with compensation was granted to him.)

SUMMARY

It is a recognized fact that almost every adult at some time or other has been exposed to tuberculosis of the lungs but due to inherited resistance has been able to avoid an active case of this disease. However, medical authorities substantiate the opinion that latent tuberculosis can become active if the lungs are irritated by inhaling strong gases. Since this danger is an occupational hazard a fire fighter cannot possibly avoid, any fire fighter who develops active tuberculosis, after encountering irritating gases while performing fire fighting duties, should be fully compensated for the disability.

Pulmonary emphysema is a destructive condition of the small units of the lung, leading to big sacculations in the lung. In the microscopic study of this condition of the lungs, portions of the lung are seen as destroyed, resulting in big cysts or blebs all through the lung tissue. In the normal lung, there are tiny sacs consistently scattered within this area.

This lung disease develops slowly and chronically into an obstructive lung condition, in which there results an increasing difficulty in the usual exchange of air in and out of the lungs.

Laboratory findings of the ventilation, diffusion, and the blood circulation studies, as recorded in the pulmonary function tests, indicate a very appreciable interference of oxygen use in the lungs. There results an interference with maintaining the airflow in and out of the lungs, with the usual passing of oxygen across the lung membranes, as well as with the normal transportation of oxygen in the blood stream. In addition to the interference of oxygen gas, there correspondingly results an excessive accumulation of carbon dioxide in the tissues.

The general laboratory confirmation of the diagnosis of pulmonary emphysema is found from the combined studies of the chest x-ray, bronchoscopy, bronchogram, along with the history and physical examination of the individual. Incidentally, especially in the stages of early development of the disease, the x-ray evidence of emphysema may not be demonstrated.

Treatment of emphysema results in only more or less temporary relief, with improvements only in associated effects (as drainage, spasm) but not in basic emphysematous damage, which is by its nature progressively deteriorating. These treatments may slow or temporarily stop deterioration of the involved lung tissue, but are not curative or even permanently helpful.

The basic process of the emphysematous destruction continues, faster with associated maladies of infection, spasm and lung irritation. Thus all irritations to the lung must be stopped or curtailed. The chief irritant is smoke (which, in fire fighters, represents an ever present occupational hazard predominating this professional activity). In addition, any possible infection must be avoided or radically treated. The specific bacteria that invade these diseased tissues are not present in normal lungs. These bacteria are even present as actual or potential menaces throughout the remaining years of life in these cases of emphysema. Conditions favoring developing infection are stagnant bronchial secretions, which must be removed by some form of postural drainage, or by the aid of special suction machines, and/or bronchoscopic manual removal of the resultant plugs. When these mucous plugs become excessive and obstructive to normal breathing, pulmonary embarrassment of the breathing function of the lungs results as pulmonary insufficiency.

Due to the difficult management procedures of constant vigil, the victims of severe impairment of pulmonary emphysema, by self defense and possibly fear of extenuating circumstances, soon become very, very inactive. These individuals have great limitations of activity because of physical and mental suffering in starting a chain event of severe discomfort beginning with shortness of breath, dyspnea, and coughing as clinical symptoms of this lung disease.

Regardless of whatever treatment is expended against the immediate distress, this disease process of the lungs thus continues as an irreversible chronic disease. The basic principles of this temporary treatment are directed towards attempting to get the best air exchange. The avoidances and minimizing of lung irritations form the major factors in the treatment of this lung disease. Smoke resulting from fire combustions with its ever

present noxious gases as products of occupational conflagrations must be avoided or at least drastically reduced or removed from the scene of life activity. As readily seen, fire fighting activities present these unavoidable hazards in varying quantities.

The following case is presented to illustrate the definite role that factors of a fire fighter's occupation assumed in the precipitation and development of this disease of pulmonary emphysema, which led to his disability and subsequent retirement.

CASE REPORT

Case of fire fighter, W.J.R., male, age 53 (during study).

Present Illness: This fire fighter was apparently in perfect health while engaging as a fire fighter over a period of approximately 27 years. As a fire captain, he responded with his company to a factory fire. Upon arriving at the scene of the fire, it was evident that there was a heavy haze inside the building. The factory was closed at the time and nobody was available to give information relative to which chemicals were involved. In the course of his investigation inside the factory, the captain found an unmarked vat and leaned over in order to try to determine its contents so that the proper extinguishing agent could be used. It proved to be perchlorethylene giving off toxic fumes. Later, while outside, he was believed to have had a heart attack, with a chief symptom of breathing difficulty. After being given oxygen at the station house for an hour and a half, he was transported to a hospital for additional oxygen and additional treatment. This was diagnosed as a coronary disease.

Progress Report: Since that time, he had on various occasions repetition of the same symptoms, which included shortness of breath, wheezing, and pains in his chest. This was always attributed to his heart condition,

along with the diagnosis of chronic bronchitis. Inhalation of smoke at fires and getting wet and cold continued to cause these attacks. Some of these attacks had emergencies, for which he had to be hospitalized. In the last 14 months, he had been in the hospital seven times. Finally, following all these episodes, he was referred to a lung specialist by his own treating doctor. The final diagnosis of pulmonary emphysema was made, substantiated by pulmonary function tests. In his recent hospitalization, he experienced one good day with four bad days. He was advised to have a change of climate to help his breathing and control of resulting infection. Subsequently he became distressed even after walking a few feet.

In review, this case was caused by the chronic exposure of smoke which was finally precipitated into this chronic lung condition of pulmonary emphysema by the inhalation of toxic fumes, with the progressive deterioration resulting from the effects of smoke inhalation and resultant complication of persistent lung infections.

SUMMARY

Thus, when so established, an irreversible progressive deterioration of a developing impairing degree of a lung disorder was finally diagnosed as pulmonary emphysema. This was the result of the occupational nature by exposure of inescapable smoke and gas hazards. Despite mechanical means of minimizing smoke, the byproducts of smoke and its toxic accompaniments are the major causative factors of this type of lung irritation.

This resultant pulmonary emphysema must be universally accepted as being caused from fire fighting professional activities. These affected fire fighters are therefore entitled to a disability pension when so retired from active duty by this disease.

Bronchiectasis is another disease of the lungs. It consists of dilatation and destruction of the walls of the bronchi (the small breathing tubes of the lungs). Infection is usually present, often as a precursor, in the lung tissues. This accounts for the most common clinical manifestation, the irritating persistent cough. This repeated and chronic persistent coughing expels large quantities of infective and foul smelling colored (varieties of yellow) sputum. Usually the greater the block to adequate drainage and the developing infection determines the degree of severity and disability of the resultant bronchiectasis.

The bronchial walls and the surrounding lung tissues so involved are the seats of pathological changes that produce these excessive pus formations, along with local death of tissues (necrosis). These changes begin in the lungs and may progress beyond the branches of the bronchial system, by becoming systemic in spread and involving other organs. Depending upon the severity and extent of the primary focus, this lung disease of bronchiectasis may be extremely widespread or may remain sharply localized with no spread at all.

Due to the varying degrees of pathological changes present in each case, the symptoms often vary considerably with the extent of involvement pathologically related to the severity of the lung infection. The onset and course of the disease are also variable. Usually, following an acute lung infection, the full blown characteristic course of bronchiectasis may develop rapidly. But more often, it takes a slow chronic form, with spurts of activity especially when associated with upper respiratory infections. During a quiet period, symptoms may subside even to the point of disappearance. Frequently there may be episodes of acute lung involvement, as in a current case of pneumonia, that would increase the severity of an already pre-existing bronchiectasis.

The classical clinical course of bronchiectasis is one of fever episodes with subsequent increase in both local and constitutional symptoms. There are discomforts and harassments by attacks of severe coughing with expectoration of large quantities of sputum, often very foul smelling. This severe coughing produces pain and soreness in the chest and abdomen. This pain, although physically distressing, is not of serious significance pathologically. However, resultant hemorrhaging that occasionally follows is therefore very serious, and may be fatal in extreme cases. Varying changes may eventually result in the lungs during the development of this process, such as: atelectasis, fibrosis, emphysema, and empyema. In addition, if prolonged sepsis continues, death may result. This points out the necessity for early diagnosis, so that appropriate and adequate treatment may be correctly applied.

Even during this course of active involvement, complications of bronchiectasis may involve other organs, particularly the heart and brain.

In addition to these physical factors, bronchiectasis may also impose serious psychologic handicaps. There often develops the fear that any activity may produce a dreaded attack of lung hemorrhage with infection, forerunners and aftermaths of advanced bronchiectasis. There is also an embarrassment associated with an uncontrolled hacking cough and the expectoration of large quantities of this foul smelling sputum.

The diagnosis is dependent upon the physical signs, x-ray examination of the chest, contrast dye study of bronchography, bronchoscopy, and bronchograms. Bronchiectasis is proven by the demonstration of dilatations of the bronchi, as illustrated best by the contrast medium of iodized oil.

Other medical studies are thereafter indicated to ascertain the possible causative factors, among these are the types of infectious processes or other reasons for this pathological development. The extent of the disease

and the degree of abnormal dilatation may aid in determining the intensity of the destructive changes, with resultant evidence of other organ involvement and signs of degrees of toxicity.

Treatment is therefore guided by the forementioned findings. This study would serve as a guide in determining whether the diseased lung tissue should be removed by surgery or treated by the more conservative medical approach, if conditions are especially unsuited for surgery. This form of conservative treatment consists of a definite regime of establishing adequate drainage, controlling infection and improving the general health.

As to the last improvement of the general health--a well regulated life which provides proper periods of rest, nutrition and freedom from lung irritants are essential.

The effects from smoke of fire combustion, along with its resultant toxic and irritating gases, must be avoided or at least drastically reduced to minimal effects. Fire fighting activities with its unavoidable occupational hazards increase the risk of substandard health, or even life in extreme cases of this disease, especially in the susceptible or developed case of significantly resultant bronchiectasis.

The following case is presented to illustrate the definite role that factors of a fire fighter's occupation assumed in the precipitation and development of this disease of bronchiectasis, which led to his disability and subsequent retirement. (note: the official determining board concurred in the disability allowance of this fire fighter in awarding him an occupational pension award.)

CASE REPORT

Case of fire fighter, G.W.B., male, age 45 (during study).

Present Illness: This fire fighter was thought to be in apparent excellent health up until the last six or seven years of his fire fighting career.

His poor health began during this period with complaints of congestion in his chest. Frequently the congestion would clear up and then return. He began to suffer from frequent colds. After each of these, the congestion would last longer. He had used various antibiotic medications prescribed by several physicians. These only helped to temporarily clear up his increasing expectorations. While employed as a fire fighter, there had been several occasions during which he was exposed to excessive amounts of smoke, with one particular exposure to excessive smoke from a mattress fire.

During this period his reactions to exposure to even milder degrees of smoke, dust inhalations, chest colds, and minimal degrees of infection produced chest discomfort more severe than that experienced by his fellow fire fighters under comparable conditions.

He began to notice an increasing degree of coughing, bringing up at these times, yellowish to brownish material. He also noticed that humid weather produced more mucus and that at these times his coughing was worse. This symptom related directly to his exposures to varying amounts of water while fighting fires. However, there were periods during which he felt better and did not cough. These occurred most frequently when he was not exposed to conditions irritating to his lungs.

Past Medical History: His medical record showed that he had undergone surgery for hemorrhoids and had his tonsils removed as well as a planter wart. There was no history of allergies (sulfa and penicillin tolerated).

No significant history in his systemic review. Interesting were the negative phases in his cardio-pulmonary review (other than mentioned in the previous present history of pulmonary distress from coughing and its sequences) especially as not affecting the cardiac portion. There was no shortness of breath, no ankle edema, no orthopnea, and no chest pain (other than induced by the physical violence of severe coughing). He could walk

up stairs without shortness of breath, and could do his ordinary activities without true shortness of breath (when free from coughing).

Physical Examination: This fire fighter was a tall, well developed, well nourished male who (on a routine examination, without a coughing spell) was in no apparent distress. But on initial discussion of his problem, he was clearing his throat rather frequently. There were no significant abnormalities of the systems other than his chest. His chest was slightly emphysematoid. Physically, the diaphragms move adequately. No rales were noted to auscultation, no dullness to percussion. The heart is not increased in size to percussion, no murmurs noted, regular sinus rhythm heart rate, and normal blood pressure readings.

Laboratory Studies: Blood counts, urinalysis (routine and special), blood sugar and cholesterol were all within the normal limits. The electrocardiogram was essentially normal. The chest x-ray showed essentially normal cardiac silhouette with a prominence of both pulmonary arteries, increased lung markings throughout both lung fields, and a depression of the leaves of the diaphragm. Bronchograms were typical evidence of demonstrations of dilations of the bronchi, characteristic of bronchiectasis. Bronchoscopy confirmed these findings.

Primary Diagnosis: Bronchiectasis, as proven by bronchoscopy and bronchogram studies, which demonstrated chronic inflammatory disturbances involving the bronchi of both lower lobes of the lungs, as well as involving the right middle lobe.

Recommendations: (including treatment): In order not to aggravate his lung condition and thus hope to slow up the inevitable progressive increase in the degree and extent of his pulmonary disturbance, he was relieved of duty as a fire fighter. Any exposure to the normal routine of fire fighting duties would have certainly aggravated this condition. The immediate treatment with specific medical antibiotic drugs for the actual presence of infection was an essential adjunct in controlling specific instances of the pulmonary infections.

Pulmonary fibrosis is another disease of the lungs in which large amounts of fibrous tissue grow into the substance of the lungs, either diffusely or in localized areas. There is a generalized type of pulmonary fibrosis that is caused by constant irritations of the lung tissue by smoke products of combustion, with the prolonged inhalation of the very fine irritating particles from the polluted air. This causes a toxic reaction in the lung tissues with gradually increasing deposition of fibrous tissues. The earliest abnormal effect is the decreased pulmonary function, which is reflected by the increase of the muscular effort required for respiration.

In the late stages of this process, irritations and infections develop in the diseased lung, causing a multitude of other abnormalities besides the decreased pulmonary function. In a previously discussed article on pulmonary diseases among fire fighters, the instance of developing and precipitating of pulmonary tuberculosis was the determining result which caused further fibrosis, as well as much destruction of the pulmonary structure.

The initial principal effect of pulmonary fibrosis is the increase in the work load of respiration. This is usually followed later by an alveolo-capillary block of the pulmonary circulation with a reduced diffusing capacity of gas exchange in the lungs. Among the developing complications of this increasing pulmonary fibrosis, varying pathological conditions may be superimposed.

Various types of pulmonary insufficiency results from this developing dysfunction. As previously mentioned, in the beginning, the increased airway resistance due to the increasing fibrosis causes a greatly increased work load on the respiratory muscles, leading to the chronic increase in the respiratory effort.

Secondly, greatly reduced diffusing capacity of the gases circulating in the lungs, results in a reduction of the membrane area, alveolo-capillary

block, and the abnormal ventilation-perfusion ratios. This necessitates still further increase in the ventilatory effort. This, combined with the increased workload even for normal ventilation, multiplies the effort of respiration to the point of the development of air hunger and severe dyspnea. Thereafter, this difficulty finally becomes so severe that the tissue cells of the lungs themselves develop respiratory difficulties. This serious result of developing anoxia initiates the diminishing availability of oxygen to the cells of the body. This anoxia of the reduced oxygen of the arterial blood upon which the deficiency is reflected in the body fluids, is a very serious pathological development. Anoxia, if severe enough, can actually cause death of the cells, but in less severe degrees, it results principally in a depressed mental activity, sometimes culminating in coma. In addition, anoxia can cause a marked reduction of the work capacity of the respiratory muscles. The prominent symptom of dyspnea, which is "air hunger" or a desire for air, is also very frequently experienced in the advancing stages of pulmonary fibrosis. A cycle is set up when dyspnea builds up, severely affecting the respiratory muscles to a degree of paralysis. This causes the lungs to function with a wholly inadequate intake of oxygen and an accumulation of carbon dioxide, which is deficiently expelled. This dyspnea results from the abnormal excessive accumulation of carbon dioxide, as well as the reduced amount of oxygen in the body fluids.

PATHOLOGIC CONDITIONS

A number of pathologic conditions cause this excessive fibrosis in the supportive tissues in the lungs. The fibrous tissue in turn contracts around the vessels of the lungs. Among the most frequent conditions are those due to the constant irritation of impurities of the air. Most prominently are the smoke particles of fire combustion, the dust and irritants stirred

up during these times of conflagrations with various mixtures of obnoxious products in this air environment. In this condition, the advent of infection (notably tuberculosis in the susceptible individual) adds to this disturbed lung by this development of lowered tissue resistance. In addition, the resulting diminished diffusion and increase of resulting fibrosis may lead to pulmonary emphysema and atelectasis.

In this development of pulmonary emphysema (discussed in more detail as an entity in the previous article of Pulmonary Disease Among Fire Fighters), the alveolar walls become stretched and may even rupture, leaving much fewer small alveoli. This greatly decreases the total alveolar surface area and hinders gaseous exchange from the alveoli to the blood.

An additional possible development is a condition of atelectasis, the collapse of the lung in whole or in part, especially with the advent of plugged bronchi. When the bronchi become plugged, the blood in the capillaries rapidly absorbs the air in the entrapped alveoli, causing these alveoli to collapse. When a permanent atelectasis of a portion of a lung occurs, that portion gradually becomes fibrosed, with the resulting fibrotic tissue in gradual contraction. This causes the flow of blood through this permanent atelectic area of the lungs soon to be entirely cut off, thereby gradually destroying the lung tissue in a spreading manner.

Fortunately, however, a great amount of lung tissue may be so destroyed up to as much as two thirds of both lungs in which a person can still live without total impairment, as long as he is inactive.

SIMILAR SYMPTOMS

Symptoms produced by any of the chronic pulmonary diseases may stimulate each other in any of these diseases. In other words, there are no individual or distinctive symptoms of any one disease that is not present in some or all these diseases. For optimum treatment, early diagnosis is essential so that specific treatments can be applied most effective with

each cause of this lung involvement.

Prevention or minimizing the principal culprits or precipitating effects remains the best treatment for the individual, if one is especially susceptible to lowered lung tissue resistance. Specialized diagnostic procedures should be resorted to in difficult to diagnose cases, especially in their early pathological developments. In addition to the physical examination, laboratory means, as material expectoration studies, blood analysis, x-rays with bronchography and bronchoscopy (if indicated) are very valuable for understanding the nature of the underlying lung disease.

The symptomatology of common occurrence in any or all of these lung conditions involve coughing, with or without expectoration, dyspnea, hemoptysis (hemorrhaging in degrees), all of which may be accompanied by an otherwise unexplained loss of weight. Other symptoms, depending upon the accompanying involvement of the organs or parts of organs, are usually also prominently present.

From the occupational standpoint of the fire fighter, the inhalation of irritating gases and fumes is a primary factor in inducing a chronic inflammatory reaction in the lungs. This is especially true in the susceptible fire fighter with a history of repeated insults resulting in the lowering of his resistance, in tissue and exposure to bouts of infection. Dust, particularly that containing silica particles (a well established industrial hazard) may be a major factor in this developing pulmonary disease. In many cases, the cough of this disease is constantly being aggravating by exposure to the sensitizing substances of these irritants. In addition, pulmonary stasis is favored in developing fibrosis, acting as precipitating causes by interfering with normal respiratory mechanics. This is present in such predisposing causes as chronic passive congestion, emphysema, and atelectasis (as previously reviewed).

Respiratory complications are common whenever the pulmonary fibrosis has progressed to extensive degrees. These, in turn, may cause cardiac

embarrassment by involving right heart failure, which may result in death.

IRREVERSIBLE

Most unfortunately, pulmonary fibrosis is irreversible, never resolves to a normal state. At best, control of activating factors may reduce progression, depending upon the individual success, to a standstill. This would be best accomplished by removal from the environmental cause of the irritation. In fire fighting, serious consideration is given to complete separation from active service, at least that phase of involving exposures of the responsible hazards contained in this causation of pulmonary disease.

The following case is presented to illustrate the definite role that factors of a fire fighter's occupation assumed in the precipitation and development of this disease of pulmonary fibrosis, which led to his disability and subsequent retirement. (Note: the official determining board concurred in the disability allowance of this fire fighter in awarding him an occupational pension award.)

CASE REPORT

Case of fire fighter, W.T.H., age 70 (at study). Experience, 43 years.

This case concerns a fire fighter who, after a prolonged time experience in the fire department, answered his last service call on August 31, 1963. At this fire he suffered from inhalation of intense heat, acrid smoke, and gases, chiefly affecting his chest and throat. He remained on duty until September 3, 1963, when he went on vacation. However, he was unable to return to duty on October 1, 1963 when his vacation ended, remaining off duty since.

On a physical examination, upon his return for duty, he complained of dyspnea on exertion, accompanied by a persistent chronic cough.

The physical examination report (last from his service on June 1964) indicated a decided evidence of a distinct weight loss, with his chest

distinctly conforming to his emphysemous breathing with diminished breath sounds in his lungs. There was significantly noted the presence of cyanosis of both hands and feet, although there was no extremity edema present at this examination.

The primary diagnosis was pulmonary fibrosis with emphysema. The prognosis was guarded. As for work there was a recommendation for a complete removal from his fire fighting duties, with a recommendation for this fire fighter to lead a sedentary life, with rest from any work activity, along with a continued medical observation and corresponding treatment.

He was accordingly awarded an occupational pension, after due deliberation of the appropriate authorities, on July 8, 1964.

SUMMARY

Pulmonary fibrosis represents another type of pulmonary disease among type of pulmonary disease among fire fighters, resulting from the ordinary and usual discharge of their occupational duties.

This disease category does not necessarily exist in a constant pattern of distinctive form. The susceptible individual may end up in varying degrees of pathology with varying combinations.

For example, in this development of pulmonary fibrosis, there may also result in combination degrees of pulmonary emphysema, pulmonary atelectasis, various inflammatory reactions, acute and chronic (of which pulmonary tuberculosis is most prominent) all of which in causing pulmonary insufficiency is most incompatible with good health, with an inevitable diminishing lung function.

Nature has richly endowed the individual with an overabundant amount of lung tissue for life--but even these limits can be reached if these individuals are not removed from this devastating working environment if the disease is in a progressive stage. Much of the lung pathology so resulting

is permanent and irreversible, with treatments having only a holding action, if effectively applied.

The major irritations of occupational smoke of conflagrations and its accompanying noxious and irritating gases must be recognized, especially in susceptible or previously diseased lung victims, as the very significant occupational factors tending to extend this disease, once started, either to disability or progressively to death--especially if not removed from this environment of fire fighting.

These fire fighters who so develop the progressive stage of pulmonary fibrosis, with the involvement of pulmonary insufficiency, should therefore be entitled to a disability pension, when so retired from active duty as a consequence of this disease.

#####

S B

164

SENATE AMENDMENT

By _____ LABOR AND COMMERCE

To: AMEND _____ SENATE BILL No. CSSB 164 (HESS)

To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 8

AFTER "Board" and BEFORE "."
INSERT "; and providing for an effective date"

PAGE: 9 Line: 26-28

DELETE "Evidence that the defendant has failed to file a license
with the clerk of the court is prima facie evidence that
the defendant is not licensed."

PAGE: 10 After Line: 17

ADD a new section to read:
"Sec. 20. This Act takes effect immediately in accordance
with AS 01.10.070(c)."

POSITION PAPER
STATE MEDICAL BOARD

The Department of Commerce and Economic Development supports continuation of the State Medical Board.

The board has continued to function in the interest of protecting the public by licensing and regulating the practice of medicine, osteopathy, acupuncture by physicians, podiatrists, physician assistants and paramedics.

The board has continually strived to have legislation introduced and placed into law defining the practice of medicine. They have continued to work with the Board of Nursing, Board of Pharmacy and State agencies for the interest of the public and profession.

As evidenced by the Legislative Audit report, after being made aware of audit concerns and recommendations in 1978/1979, efforts were made to eliminate problems. They were successful in addressing the problem areas and taking appropriate action. The failure of having legislation passed was beyond their control, and was not because the board lacked interest.

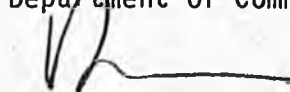
The department's position on Section 1, AS 01.01.050(c)(1) to (3) is supportive if Section 13 (page 4, line 26), AS 08.64.315 is also approved. The revenue generated by the licensing fees, although placed in the General Fund, would offset the State expenditure for the investigative position.

This position should be for all health care related investigations.

The Medical Board should be continued



Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce & Economic Development

 4/13/83

Richard A. Lyon, Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/7, 1983

I. REQUEST

Bill/Resolution No.: CSSB 164
 Title: "AN Act relating to medical practice"
 Sponsor: H.E.S.S. Committee
 Requestor: Labor & Commerce Committee

II. FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: Public Prot.
 BRU, Program of Subprogram(s) Affected: Occupational Licensing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		48.8	51.4	55.0	58.8	63.0
200 TRAVEL		7.2	7.7	8.2	8.8	9.4
300 CONTRACTUAL		13.0	13.9	14.9	15.9	17.0
400 COMMODITIES		.4	.4	.5	.5	.5
500 EQUIPMENT		3.4	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		72.9	73.0	78.6	84.0	89.9
CAPITAL						
REVENUE		549.0	17.6	17.6	17.6	549.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		72.9	73.0	78.6	84.0	89.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

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

Not identified by the sponsor

IV. ANALYSIS: Attach separate page for any Analysis

Prepared By: Darrell Miller
 Division: Occupational Licensing
 Approved by Commissioner: Richard A. Lyon
 Department: Commerce & Economic Development

Phone: 465-2535
 Date: April 7, 1983
 Date: 4/8/83

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

CSSB 164 FISCAL IMPACT: Medical Practice Act.

(NOTE: 7% inflation factor projected for FY '85 through FY '88 for operating costs)

100 PERSONAL SERVICES - FY '83 Salary Schedule

1 Investigator, Range 18A, General Government,
12 months, to be located in Anchorage \$48,755.00

200 TRAVEL

4 board meetings annually (2 days each @ \$80.00/day per diem = \$160.00 x 4)	\$ 640.00
Transportation - board meetings annually (\$350.00/each x 4)	1,400.00
Investigative travel - 5 days per month (@ \$80.00/day per diem x 5 x 12)	4,800.00
Transportation - 1.5 trips per month (@ \$350.00/each x 12)	4,200.00
	<u>\$ 7,240.00</u>

300 CONTRACTUAL

Postage, telephone, printing, publication and operating cost	\$ 3,000.00
Computer terminal use, prorated share (@ \$350.00/mo x 12)	4,200.00
1 lease vehicle with maintenance for investigator use (\$385.00/mo x 12)	4,620.00
Fuel, \$100.00/mo x 12	1,200.00
	<u>\$13,020.00</u>

400 COMMODITIES

Stationery, typewriter ribbons, pens, pencils, and other miscellaneous desk top supplies	\$ 400.00
---	-----------

500 EQUIPMENT (One time cost FY '84 only)

1 desk, double pedestal, 60" x 30"	\$ 427.00
1 chair, executive swivel w/arms	202.00
1 typewriter, IBM Selectric II	1,129.00
1 typewriter table	94.00
1 chair, side, without arms	104.00
1 desk calculator	332.00
1 recorder, Lanier	705.00
1 book case	138.00
1 file cabinet, 4 drawer, legal w/lock	306.00
	<u>\$ 3,437.00</u>

One position total:	<u>\$72,852.00</u>
---------------------	--------------------

CSSB 164 ASSUMPTIONS: Medical Practices Act

This bill increases the licensing fees for the medical profession a substantial amount and would impact revenues generated in FY '84 and FY '85 as follows:

FY '84

709 active license renewals, January 1, 1985 @ \$600.00 each	\$425,400.00
535 inactive license renewals, January 1, 1985 @ \$200.00 each	107,000.00
Average 5 new applications @ \$50.00 each (annually)	250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '84) @ \$200.00 each	8,600.00
Total projected FY '84 revenue from licensing	<u>\$549,000.00</u>

FY '85

Average 5 new applications @ \$50.00 each (annually)	\$ 250.00
Average 3 new licenses by examination @ \$200.00 each (annually)	600.00
Average 2 new licenses by reexamination @ \$150.00 each (annually)	300.00
Average 79 Locum Tenens permits @ \$50.00 each (annually)	3,950.00
Average 78 temporary permits @ \$50.00 each (annually)	3,900.00
Average 43 license by credentials (½ FY '85) @ \$200.00 each	8,600.00
Total projected FY '85 revenue from licensing	<u>17,600.00</u>

Projected revenue for subsequent years would be impacted as this bill establishes the license renewal from biennial to every four years.

1.	POSITION TITLE Investigator III				RANGE/STEP 18A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.	
2.	TYPE OF POSITION IPP	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT All	LEG.			
3.	CONTINUATION LEVEL				ADDITION		JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT							
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		34.1								
6.	Benefits		5.3								
7.	Supplemental Benefits		2.1								
8.	Fixed Benefits		2.9								
9.	TOTAL PERSONAL SERVICES		01		44.4						
10.	Travel		02		7.2						
11.	Contractual		03		13.0						
12.	Commodities		04		0.4						
13.	Equipment		05		3.4						
14.	Other				---						
15.	TOTAL COST				68.4						
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		68.4							
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									
FOR I&M USE ONLY											
4A KEY NUMBER											

This position is required under Senate Bill No. 164, "An Act relating to professional licensing and to the regulation of the practice of medicine. (Section 1, AS 08.01.050(c) to conduct investigations into alleged violations of AS 08.84, and into alleged violations of regulations and orders of the State Medical Board)

13 REQUEST FOR
NEW POSITION

AGENCY Commerce and Economic Development
PROGRAM Consumer Protection
BRU Occupational Licensing
COMPONENT Investigations

FY 84

Page of
Revised Date

SB 164 TITLE & SPONSOR SUMMARY 16:14 6/04/84 PAGE 1 OF 2

AMENDED TITLE:
AN ACT RELATING TO PROFESSIONAL LICENSING AND TO THE REGULATION
OF THE PRACTICE OF MEDICINE, AND EXTENDING THE
TERMINATION DATE OF THE STATE MEDICAL BOARD

PRIME SPONSOR: JOSEPHSON.

CO-SPONSORS:

CURRENT STATUS: 6/09/83 IN (S) RULES

SB 164 SENATE ACTION 16:14 6/04/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/08/83	01	0339	FIRST READING -- COMMITTEE REPORTS
04/05/83	02	0579	HESS -- CS03, NR01
04/13/83	03	0681	L&C -- CS02, NR01
04/13/83	04	0681	L&C F/NOTE SEN SUPPL #17
06/09/83	05	1254	MOVED FROM FIN TO RLS BY UNAN CONSENT RULES
****	**	**	*** ** *

COMMITTEE REPORT

SENATE

FURTHER:

4/5/83

Date:

4/12/83

Mr. President:

The Committee on Labor & Commerce has had SB 164

Relating to professional licensing and to the regulation of the practice of medicine, and extending the jurisdiction of the State Medical Board

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

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends 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

SB 164 - RELATING TO THE PRACTICE OF MEDICINE; EXTENDS THE STATE MEDICAL BOARD

- SECTION 1 Permits the employment of an investigator by the Board, and lists the duties of the investigator. (This is in response to audit findings that there is a significant lag in investigations of physicians reported to the board).
- SECTION 2 Extends the life of the Board until 1987
- SECTION 3 Amends current law to specify that the physicians appointed to the Board must be licensed in the state, and represent different geographical areas.
- SECTION 4 Amends current law to limit successive terms to two, and clarifies the language on staggered terms.
- SECTION 5 Allows the Board the authority to remove a member for not attending Board meetings.
- SECTION 6 Amends current law to require a minimum of four meetings a year. Current law has no requirements for meetings.
- SECTION 7 Amends current law to list duties of the Board, there are no duties listed at this time.
- SECTION 8 Amends current law by adding a new subsection (a) (4) to exempt those licensed under another chapter of state law from the requirements of this chapter.
- SECTION 9 In response to audit findings, specifies the reasons to refuse licensure to an applicant. The particular wording that was found offensive was the reference to "morally..unfit".
- SECTION 10 Amends current law by changing references to "endorsement" to "credentials" and includes podiatrists in the chapter.
- SECTION 11 Amends the temporary permit section, which includes physician assistants and osteopaths, to also cover podiatrists.
- SECTION 12 Changes license renewal from 2 years to 4 years.
- SECTION 13 Changes fee amounts listed in statute.
- SECTION 14 Amends current law to specify the grounds for disciplinary action.
- SECTION 15 List the disciplinary sanctions available to the Board.
- SECTION 16 Amends current law, which requires physicians to report another physician they feel imposes a danger to the patient, to include required reporting by a hospital of any physician whose hospital privileges have been restricted or refused.

SECTION 17 Amends current law concerning practicing without a license by exempting persons licensed under another chapter of state law, and finds this punishable as a class B misdemeanor.

SECTION 18 More clearly defines the practice of medicine and osteopathy in current law.

SECTION 19 Repeals the following:

AS 08.64.030 - SUBSTITUTION OF MEMBERS AT MEETINGS OF THE BOARD

AS 08.64.140 - ANNUAL REPORT TO THE GOVERNOR

AS 08.64.200(1) - eliminates "good moral character" from the qualifications of a physician assistant.

AS 08.64.325 - LIMITS OR CONDITIONS ON LICENSE;DISCIPLINE

AS 08.64.330 - GROUNDS FOR REVOCATION OF LICENSE

AS 08.64.380(3) - Eliminates "unprofessional or dishonorable conduct" from the definition section.

SSHB 173

"An Act making a special appropriation to the Department of Transportation for turn lanes and signs at the access to the Weller Elementary School in Fairbanks; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

HB 230

HOUSE BILL NO. 230 by the Rules Committee by Request of the Governor, entitled:

"An Act relating to licensing and regulation of the practice of medicine."

was read the first time and referred to the Health, Education & Social Services and Labor & Commerce Committees.

A zero fiscal note accompanied the bill.

The Governor's message, dated February 28, 1983, follows:

"Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to licensing for and regulation of the practice of medicine. The bill would revise and clarify the statutes relating to licensing for the practice of medicine, and the powers and duties of the State Medical Board. The bill also would clarify the grounds for disciplinary action by the board and the types of disciplinary action which it may take.

Further, the bill would revise the definition of the practice of medicine to include more modern views of what constitutes medical practice. The new language also expands the definition of the practice of medicine to encompass types of activity not clearly regulated under existing law, including the treatment of a person who does not clearly fall within the definition of a person who is 'sick or injured.'

Sincerely,

s/ Bill Sheffield
Bill Sheffield
Governor"

Re: Funds for Investigator

Revenue currently generated every two years.

$$\begin{array}{r} 85.0 \\ 28.6 \\ \hline 113.6 \end{array}$$

(in thousands)

$$\begin{array}{r} 113.6 \\ 113.6 \\ \hline 227.2 \end{array}$$

revenue
~~staying~~
every
4 yrs

Revenue proposed - every four years

$$\begin{array}{r} 549.0 \\ 17.6 \\ 17.6 \\ 17.6 \\ \hline 601.8 \end{array}$$

~~Revenue~~ Revenue difference between proposals

$$\begin{array}{r} 601.8 \\ 227.2 \\ \hline 374.6 \end{array} \text{ for every four years}$$

$$4 \overline{)374.6} = 93.65 \text{ for each year}$$

(in thousands)

COMMENTS ABOUT SB164

Jeffrey A. Partnow, MD
Alaska State Medical Board

I. Improvements in the Medical Practice Act

A. Four (4) meetings annually mandated by law {08.64.085}-- this should make the Medical Board immune to the occasional budgetary williwaws of the Division of Occupational Licensing.

B. Grounds for license denial are made more specific (and less ambiguous) {08.64.240} and initial licensure can be denied on the basis of actions which would result in discipline to a license holder. This should result in substantial savings to the State by avoidance of extensive pro forma hearings. Further, it is simpler (and much less expensive) to deny initial licensure to an unfit candidate than it is to revoke a license which has already been granted.

C. Language is altered to specifically include Podiatrists, whose regulation is statutorily under the Medical Board. {AS 08.64.250, etc.}.

D. Grounds for imposition of disciplinary sanctions are clarified and are much more specific than in the current version of the Law. The replacement of {08.64.330} by {08.64.326} is crucially important to effective investigative and disciplinary efforts. Currently, the only specific grounds for discipline ("unprofessional conduct" and "professional incompetence") are sufficiently vague that they pose potential legal problems in the Court proceedings which seem to follow disciplinary decisions as surely as summer follows spring.

E. The Physician's license can be conditioned on the basis of substandard care rendered by some one working under his supervision {08.64.326(6)}. The Medical Board feels that this is necessary, given the proliferation of non-MD health providers who work in collaboration with, or under the supervision of physicians.

F. The Medical Board is given statutory authority to discipline a license holder on the basis suspension or revocation in another state {08.64.326(a)(13) and (b)}, {08.64.331(e)}. Further, the proceedings in the other state are elevated to evidentiary status (the lawyers tell me). Once again, this should result in significant savings, since this type of hearing could be streamlined.

G. Disciplinary sanctions are spelled out more clearly than in the current Law {08.64.331}.

H. Emergency summary suspension powers are provided {08.64.331(c)} for public protection in the case of licensees who "pose a clear and immediate danger to the public health and safety." The rights of the licensee are specifically protected by (1) expedited hearing and

(2) judicial recourse.

I. Hospitals are required to report significant restrictions of hospital privileges to the Medical Board {08.64.336(b)} and the Medical Board may act on such reports. Currently, there is no such requirement, and a seriously impaired licensee could conceivably not come to the attention of the Medical Board until after a good deal of preventable pain and suffering had taken place.

J. The definition of "practice of medicine" is made much more specific {08.64.380(2)}.

II. Need for an Investigator

Under AS 08.64, the Alaska State Medical Board is required to license Physicians, Osteopaths, Podiatrists, and Mobile Intensive Care Paramedics. The Medical Board also authorizes the practice of Physician Assistants, and is jointly responsible (with the Alaska Board of Nursing) for the "delegated medical" acts of Advanced Nurse Practitioners. In addition to license-granting activities, the Medical Board must also insure the continuing competence of those professionals which it regulates and licenses. Finally, the Medical Board must also carry out investigations dealing with continuing competence, license violations, regulatory compliance, and with the qualifications of applicants.

The Medical Board is comprised of five licensed physicians and two "lay members", persons with no particular connection to the field of medicine. The Board has neither the expertise nor the time to carry out its own investigations. For this function, it relies on the investigative staff of the Division of Occupational Licensing. Due to the often highly technical nature of these investigations, as well as the importance of strict confidentiality to protect the rights of licensees, the Medical Board feels that special expertise in the area of medical investigation is needed. We feel that there is a significant difference in the skills required to investigate a physician who may be impaired in certain areas of his practice as opposed to, say, a hairdresser who is over-charging, or a concert promoter who advertizes in a misleading fashion.

The Division of Occupational Licensing does not currently have an investigator with specific training in medical investigations. Further, the investigative branch has been unable to conduct investigations of medical cases in a coordinated fashion and has been unwilling to avail itself of the special expertise of the Medical Board physician members in this highly technical field where professional expertise is essential. No new cases of substance have been pursued in over two years. Abysmally, at least one extremely serious case has lain fallow to the point where investigation at this point would be a pointless exercise in ancient historical reconstruction. The Medical Board has no idea of how many potential cases may have been ignored or closed due to investigative lack of knowledge, motivation, or, perhaps fear of one "getting in over one's head" in a strange and technical area.

The Medical Board feels strongly that a Medical license in the State of Alaska should stand for something in the eye of the Public. We feel that our investigative efforts have been suboptimal due to lack of predictably good investigative support. We feel that the establishment of an Investigator responsible to the Medical Board would be a major step in the direction of rectifying our investigative shortcomings. Thus, the Medical Board strongly supports the establishment of the Investigator position outlined in SB164.

III. Need for an Executive Officer

I mentioned earlier that the Medical Board consists of five licensed physicians and two public members. All are employed in full time occupations and they are scattered throughout the State, getting together three or four times annually for Medical Board meetings. There is usually a moderate amount of work to be done between meetings and periodically questions arise that require Board opinions or actions. Frequently, the Legislature or another group desires input from the Medical Board concerning proposed legislation or other issues. Often license applicants or licensees have questions which the clerk at the Division of Occupational Licensing (called the "license examiner") is either incapable of answering or unqualified to answer. Board correspondence must be carried out; frequently this is of a non-routine nature, requiring a distillation of Medical Board opinion or a synopsis of the Medical's Board position on a certain matter.

The Division of Occupational Licensing within the Department of Commerce and Economic Development is by Statute (ASOB.01.050) required to provide administrative support to the Medical Board. This function is generally well performed. However, the Division of Occupational Licensing does not have the manpower nor the type of individual necessary to do the job which the Medical Board needs to have done. Moreover, even if this type of support could be provided, periodic changes within the Division of Occupational Licensing would result in a re-interpretation of the support with each change in leadership. Although the current Division of Occupational Licensing (under Mr. Treager) has been most supportive, one of his forerunners as Director once had a meeting in which she felt compelled to remind all of the Division's license examiners that they worked for the Division of Occupational Licensing, not "those Boards". It is difficult to imagine much of the Medical Board's more sensitive work getting handled in such an atmosphere. Who knows what the next Director will be like?

The position of executive officer has already been well-established in non-medical areas (Real Estate Commission) and the Board of Nursing has been much more effective, active, and directed since obtaining a competent executive officer.

The Medical Board strongly believes that the time has come to create a position of executive officer. In addition to the problems

outlined above, the new responsibilities of monitoring continuing medical education, the responsibility entailed in new regulations dealing with non-MD health care providers, and (hopefully) a larger investigative effort will insure that such a position will be a full one. I believe that the absence of such support will ultimately result in a Medical Board which is unable or unwilling to tackle big or complex problems. Worse, the time may soon come when even routine tasks become overwhelming.

The Legislature requires the Alaska State Medical Board to oversee and regulate the practice of medicine in AS08.64. I believe that the Medical Board cannot do what the Legislature has empowered it to do for much longer without more high-level staff support. If the Public is to have meaningful medical licensure, the executive position is crucial. Can you imagine a Legislative Committee attempting to transact its business with only clerical staff? Medical licensing in Alaska has become too large and complicated to rely solely on the part-time efforts of dedicated Board Members and over-worked (and under-qualified) clerks.

IV. Other considerations

A. Cost. The Medical Board generates certain revenues that devolve to the General Fund. These are produced through license fees for permanent, temporary, and locum tenens permits. While the Medical Board budget is not contingent upon these fees, it is comforting to note in these relatively restrained financial times that the revenues produced exceed those required to fund the executive officer and investigator positions. Mr Treager, Director of the Division of Occupational Licensing, can provide reasonable approximations of both revenues and proposed expenses.

B. Fees. The fees proposed in SB164 were originally suggested by the House Labor And Commerce Committee 3 or 4 years ago. While the Medical Board has no particular vested interest in the numbers proposed, we feel that it is reasonable for the regulated professions to bear the cost of their own regulation through license fees.

It should be noted that the fee increase which is proposed is less drastic than it would first appear, since the Bill changes the license renewal interval from that in the current law: instead of renewal every two years, the Bill proposes renewal every four years. Thus, the cost of a valid medical license rises from \$100 per year to \$150 annually. Considering that the fees have not risen since 1969, the current proposed increase probably doesn't even keep pace with the general increase in the cost of living over the past 14 years. Furthermore, the change to renewal every four years should result in significant savings to the Division of Occupational Licensing.

C. Philosophy. The Medical Board has sponsored legislation similar to SB164 for the past several years. We feel that the provisions of this Bill, with the addition of the executive officer position, will enable us to pursue more realistically our Legislative mandate to

regulate Medical Licensure in Alaska. The bill provides the Medical Board with a more workable statute than currently exists. It should save the State a good deal of money in investigation and hearing fees, as well as decreasing the cost to the State of license renewals. It provides for adequate staffing (if amended to include the executive position) for the Medical Board to carry out its business fairly, comprehensively, and cohesively. In years past, the contents of the Bill have met with no particular criticism; rather, it has simply languished and died for lack of interest. In the words of one of last year's Senate Aides, "It was a good Bill, it just wasn't sexy enough to pass."

I agree that there is nothing particularly exciting about the subject of adequate support of Medical Licensure-- until we, our families, or our constituents need medical services. Then, suddenly, the level of competence which a medical license is supposed to assure becomes a matter of crucial, perhaps vital, importance. The Medical Board believes in the necessity of an adequate licensing function for the protection of the Public safety and well-being. We urge that you favorably report out SB164, that you amend it to include the executive officer position, and that you lend it your active support in the full Senate.

1919 Lathrop st.
Drawer 2
Fairbanks, Alaska 99701
March 10, 1983

Rep. Mike Davis
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Mike:

I am writing you regarding HB230, "An Act relating to licensing and regulation of the practice of medicine." I suspect that you remember much of the Bill from your time working with former Rep. Brian Rogers.

The Bill was essentially written by the Alaska State Medical Board 4 years ago as a remedy for statutory inadequacies in AS 08.64, the Medical Practice Act. As I have related to you in the past, the Bill provides for an improved definition of the practice of medicine, allows for emergency "summary suspension" powers (while maintaining due process), gives statutory authority for denial of licensure on the basis of disciplinary proceedings held in other states, and performs several "house cleaning" functions.

The Board feels that the passage of this Bill is essential for continued meaningful Board operation, and, hence, for consumer protection. We solicit your support for the Bill as a member of the House HESS Committee, and hope that you could be able to support it before the full House as well.

The Bill has, I believe, suffered in the past from what Sandra Stringer referred to as a "lack of sexiness"--rather than passing because it was good and non-controversial, it has languished for precisely those reasons. Hopefully, the current Session will prove more responsive (glad I didn't say "responsible") than the last two.

I would like to correct a mis-representation in the Governor's letter of support accompanying the Bill. It is true that the highly controversial language dealing with midwives has been removed from the current version of the Bill. This modification was made last Session by the Senate HESS Committee on the Bill's fore-runner (it was called SB 237 then). The Board felt that the remainder of the proposed legislation was so important that the controversy surrounding midwifery was best left for some other time and, therefore, agreed with the deletion. However, it is not true that the bill is otherwise "substantially unchanged" from the old SB237. A check of SB 237 will reveal that provisions were made for an Executive Officer for the Board as well as an Investigator responsible to the Board. All reference to these positions was omitted in the current HB 230. Inasmuch as the Board feels that such administrative support is crucial to a meaningful effort at medical licensing and discipline, we would contend that the omission of such support from HB 230 represents a significant departure from the language and intent of the old SB 237.

The Board strongly urges that these positions be re-instated in HB 230. We have been severely handicapped in terms of investigative abilities, in at least one instance being unable to pursue a case with near-fatal consequences, by lack of investigative manpower, commitment and talent. Further, lack of executive support has resulted in our inability to follow through on various projects in the regulatory, administrative, and fact-finding arenas. As Board Chairman for 3 1/2 years, I have been constantly amazed by the dedication and perseverance of the public and professional members of the Board, and I feel proud of what has been accomplished. But I feel that the area of medical licensing is too important to be a part-time avocation which depends solely on the dedication of a group of people who, after all, still have to work 12 hours or more daily, and who are not necessarily selected on the basis of administrative, political or clerical expertise. The Board of Real Estate Examiners (to name one) already has such support, and even the Board of Nursing has an executive officer. The image of Alaska as a state which cares more for the policing of Realtors than for the medical care its citizens might receive is incredulous, if not downright laughable. If the State wishes to maintain high quality medical care for its people, give us the resources with which to accomplish the goal.

I certainly appreciate any consideration which you are able to give to these matters. I am, as always, more than willing to provide any information that you might desire, and I'd be pleased to testify, answer questions, give opinions, or do anything else that would further the cause.

Sincerely yours,

Jeffrey A. Partnow, MD
Alaska State Medical Board

1919 Lathrop St.
Drawer 2
Fairbanks, Alaska 99701
March 28, 1983

Sen. Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Sen. Josephson:

I would like to thank you and the members of the Senate HESS Committee personally and on behalf of the State Medical Board for the chance to testify before the Committee today concerning SB164.

To restate our position, the Board is very much in favor of the Bill. We feel that the proposed changes in the definition of the practice of medicine, as well as the streamlining of investigative and disciplinary activities are essential to the Board's ability to function in the Public Interest. We feel that we need more control over our investigative functions in order to handle cases in a more timely fashion and to insure that important cases are not neglected; SB164 guarantees this through its provision of an investigator who is responsible to the Board.

As I indicated in my testimony, the Board is also strongly in favor of the establishment of an Executive Officer for the Board, and would very much like to see provision for this added to the current Bill. We feel that the absence of such a position has hampered Board function up till now. We feel that the Board will have increased administrative activities resulting from legislatively-mandated Regulation of Continuing Medical Education (CME), Physician Assistants, Mobile Intensive Care Paramedics, Advanced Nurse Practitioners, and (hopefully) a heavier investigative load. The end result of these increases will, I believe, tax the limited administrative abilities of the Board Members beyond the coping point. The work of "keeping the ball rolling" between meetings is already substantial and is made even more difficult by periodic changes in Board membership and Board officers as well as by periodic changes in Licensing Examiners and others within the Division of Occupational Licensing and the Department of Commerce. The efforts required to track proposed legislation and to testify concerning the Board's position on numerous bills related to the medical field are already beyond those which can be reasonably expected of volunteer Board Members in their spare time. Yet, I believe, the Public has a right to expect such services from the Board, and the Board would dearly like to have the ability to provide them. We feel that the presence of an Executive Officer would go far toward relieving these frustrations. In some of its administrative and quasi-judicial functions, the Board is like a legislative committee, and it is difficult to envision such a committee functioning smoothly without dedicated staff support.

I am encouraged by Sen. Halford's calculations indicating that Board Revenues would cover the expenses of establishing the two positions. If that were not the case, I would favor increasing License fees further: I believe that it is in the Public Interest to insure that a Medical

License indicates that adequate and on-going quality assurance is performed and I feel that it is consistent with both Public Interest and the interests of the Profession that license fees pay the costs of providing such assurance. By the way, Board revenues are actually substantially greater than was indicated at the Hearing. In addition to funds obtained from MD licensing, there are also significant revenues gathered from issuance of various temporary and locum tenens permits to MDs. Further income is provided by fees collected in connection with issuing permits for Physician Assistants and Paramedics. Mr. Treager, the Director of the Division of Occupational Licensing, can, I am sure, provide you with exact figures.

Finally, I would like to let you know that a bill similar to SB164 is currently wending its way through the House. It is called HB230, and it has been discussed extensively by Board representatives (myself and Richard Monkman, the Assistant A.G. from the Anchorage Office who deals with Occupational Licensing cases) before the House Labor and Commerce Committee chaired by Rep. Furnace. Hopefully, the awareness of the Bill in each Chamber by members of the other Chamber will facilitate the ultimate passage of relevant Medical Board legislation.

Again, sincere thanks for the chance to testify on SB164, and special thanks to Nancy in your office for making the teleconference arrangements. I am most appreciative.

Please feel free to contact me or any member of the Board for any further information that you feel would be helpful to you.

Yours truly,

Jeffrey A. Partnow, MD
Alaska State Medical Board

Ketchikan Medical Clinic, Inc.

3612 TONGASS
KETCHIKAN, ALASKA 99901

H.J. Henrickson, M.D.

D.E. Johnson, M.D.

T.L. Conley, M.D.

M.E. Bloom, M.D.

Phone 225-5144
Phone 225-5145

April 8, 1983

Senator Richard Eliason, Chairman
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I am writing in regard to Senate Bill Number 164, relating to professional licensing and the regulation of the practice of medicine. I am presently a member of the Alaska State Medical Board.

First of all, I would like to thank the committee for introducing the legislation in question. It is a vast improvement over present statutes and gives us some of the tools that we need to get on with the job of regulating the practice of medicine and insuring that the medical care offered to residents of the state is at a level of acceptable competence. The decision to give the Medical Board authority to impose summary suspensions in certain severe cases is something that we have needed for some period of time. We certainly intend to use this very sparingly, but in certain egregious situations it certainly is reassuring to know that we have the wherewithal to protect the public in emergency situations. As things now stand, we have to go through an enormously long and complicated process. In a case with which we are dealing at the present time, we have been involved in the process for some two years, while the individual involved has managed to continue practicing very questionable and dangerous medicine.

I do have specific comments on two areas in the proposed legislation that I would like to see changed. It has been the feeling of the Medical Board that, in addition to an investigator, we very much need an executive director for the Medical Board, as the amount of business that is being carried out by the Medical Board has increased substantially over the last couple of years. We are dealing with many more applications than we did in the past. Unfortunately an increasing proportion of the applications that we are getting are very questionable and seem to be coming from people who have had licensing troubles in the past in other states. I am afraid that a lot of people down south have gotten the idea that this is the wide open frontier as far as competence is concerned, and we are starting to get the feeling that people may regard this as the final resting place for the worst people in the world as far as medical care is

concerned. We certainly do not wish to see anything like this occur, and we wish to scrutinize license applications most closely. To do this, we need some help, and it was felt strongly that an executive director would give us the ability to do these things. In considering whether we would more prefer an executive director or a licensing investigator answerable to the Medical Board, it was the general feeling of the Board that the executive director was the more important position, particularly as the executive director would be able to carry out a lot of the investigatory functions simply on the administrative level of communicating with other state boards, etcetera. Generally speaking it is much easier to deal with licensing problems at the point of application than it is to try to deal with them after the individual has been licensed.

My other comment on the legislation as it is now envisioned concerns Section 08.64.360 in lines 25 through 28. It appears that the requirement to file a license with the superior court arose out of a 1949 Territorial Statute that has been carried over in subsequent legislation. It is the feeling of the Medical Board that this legislation was enacted at a time when administrative services in Juneau were less than adequate to keep track of licenses, and the only way to make sure that a physician had been licensed was to have a Superior court in the specific judicial district keep a file of licenses of actively practicing physicians. With administrative improvements, this is no longer really necessary. The history of this statute is rather funny in the sense that we just noticed its existence about a year and a half ago and discovered that essentially no one was complying with it because no one knew of its existence. In point of fact, not a single member of the Alaska State Medical Board had his license filed with the Superior Court, and in a flurry of activity, we all went out and had the licenses filed in our own judicial districts. Interestingly, when I brought my license down to the First Judicial District Clerk of Courts, she had absolutely no idea what I was talking about. Basically, I think this may be a law that could possibly be sunsetted as basically no longer particularly useful. It is not a big issue; it is more a nuisance than it is serious, except for the fact that the fine for failing to comply with it is quite awe inspiring. As I understand it, the fine is \$1,000 a day with each day being considered a separate offense.

I am also impressed by the decision of the legislature to consider requiring physicians in hospitals to report adverse actions under Section 08.64.336. This certainly should help the Medical Board in fulfilling its statutory function.

Thank you for giving consideration to these concerns.

Sincerely,


Thomas L. Conley, M.D.

TLC:dg

Support of
amendment

S

B

171

I. REQUEST

Bill/Resolution No.: SB171
 Title: Compensation of State Officers
 Sponsor: Sackett
 Requestor: Sen. Labor & Commerce

II. FISCAL DETAIL -

Agency Affected: Administration
 Program Category Affected: Cent. Admin. Svcs.
 BRU, Program of Subprogram(s) Affected: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING		117.1	123.0	129.1	135.6	142.3
100 PERSONAL SERVICES		18.0	18.9	19.8	20.8	21.9
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		135.1	141.9	148.9	156.4	164.2
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		135.1	141.9	148.9	156.4	164.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME		8(38) mo	8(38) mo	8(38) mo	8(38) mo	8(38) mo
TEMPORARY						

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

None identified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Kaur
 Division: Personnel

Phone: 465-4430
 Date: 3/24/83

Approved by Commissioner: Lisa Rudd
 Department: ADMINISTRATION

Date: 3/24/83

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

Section IV of SB171 Requires an annual cost of living survey and recommendations pay ranges for all classes of positions in the exempt and partially exempt service. This includes: all elected officials; all judges, magistrates and employees in the Judicial Branch; all employees of the Legislature; commissioner; all employees of the University of Alaska: ALL EMPLOYEES, INCLUDING TEACHERS IN THE REAAs; Correspondence Studies; the Alaska Skill Center; inmates at the jails (prison industries); members of boards, commissions and authority and many of their staffs; shipboard personnel on the State ferry system; and others listed in AS 39.25.110 and 39.25.120.

It will take three Personnel Analysts III four months to prepare for the survey; six Personnel Analysts III one month to conduct the survey; and three Personnel Analysts III two months to analyze the results and prepare recommendations. Two clerical support positions will be required throughout. Substantial travel and per diem is needed for the field work.

Inflation at 5%.

POSITION PAPER

SENATE BILL 171

This bill would add a new section to the Chapter of Title 39 concerning "Compensation and Allowances" of public officers and employees. The new section would prohibit a State Officer or employee's "base" monthly salary, including longevity, from exceeding the governor's monthly salary. All branches of government would be subjected to this limitation; as would boards, commissioner, public corporations and the University of Alaska.

Our concern with this bill SB171 is primarily based on its potentially limited effectiveness in meeting its apparent goal. This legislation also appears to represent a reversal of pay policies enacted by previous Legislatures.

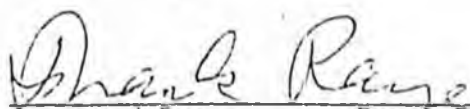
There are eight employees in the Executive Branch (excluding the University of Alaska) whose base salary, including longevity and geographic differentials exceed the Governor's. The salary of three employees, all in the classified service, are established by collective bargaining contracts. Lines 27 and 28, page 1, of the bill appears to imply that salaries established by collective bargaining are not subject to the limitation.

The salary of three additional employees, in the partially exempt service, is set according to statute: AS 39.27.011, 39.27.020, 39.27.022. This bill would partially negate the intent of these statutes.

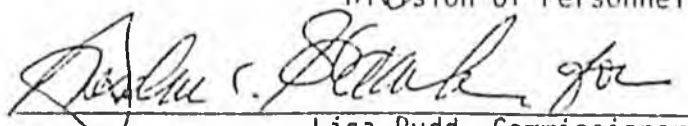
The salary of the remaining two employees, both in the exempt service, is set based on such factors as education qualification; the "going rate" in the marketplace for the particular work; and recruitment difficulty. Several positions have been placed in the exempt service for the specific purpose of allowing consideration of these and similar factors in setting salaries. Placing a cap on the salary prevents the Governor from evaluating these factors when approving salaries which could exceed his own.

Section 2. The cost of living survey section contains an internal inconsistency. Cost of living is to be surveyed, but recommendations are to be made on pay ranges which are a separate "survey" issue. As a minimum, the intent should be clarified. Combining proposed Section 2 with current AS 39.27.030 and 39.29.040 would place all survey requirements in a common section. A fiscal note has been prepared. There may be a question of the separation of power doctrine if the Executive Branch recommends salaries for the Judicial and Legislative Branches.

Prepared By:


Approved By: Frank Raye, Director
Division of Personnel

3/24/83
Date


Lisa Rudd, Commissioner
Department of Administration

3/24/83
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: November 28, 1983

I. REQUEST

Bill/Resolution No.: SB171
Title: Compensation of State Officers
Sponsor: Sackett
Requestor: Sen. Labor & Commerce
Date of Request: March 1983

II. FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Cent. Admin. Svcs.
BRU, Program of Subprogram(s) Affected: Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		124.8	131.0	137.6	144.5	151.7
200 TRAVEL		18.0	18.9	19.8	20.8	21.9
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		142.8	149.9	157.4	165.3	173.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		142.8	149.9	157.4	165.3	173.6
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME		8 (38) mo	8 (38) mo	8 (38) mo	8 (38) mo	8 (38) mo
TEMPORARY						
TOTAL						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Frank Raye *Frank Raye* Phone: 465-4430
Division: Personnel Date: December 6, 1983

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 12/30/83
Department: ADMINISTRATION

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)

9/14/83

ANALYSIS:

House Bill: SB171
November 28, 1983

Section 2 of SB171 requires an annual cost of living survey and recommendations of pay ranges for all classes of positions in the exempt and partially exempt service. This includes: all elected officials; all judges, magistrates and employees in the Judicial Branch; all employees of the Legislature; commissioner; all employees of the University of Alaska: ALL EMPLOYEES, INCLUDING TEACHERS IN THE REAAs; Correspondence Studies; the Alaska Skill Center; inmates at the jails (Prison Industries); members of boards, commissions and authority and many of their staffs; shipboard personnel on the State Ferry System; and others listed in AS 39.25.110 and 39.25.120.

It will take three Personnel Analysts III four months to prepare for the survey; six Personnel Analysts III one month to conduct the survey; and three Personnel Analysts III two months to analyze the results and prepare recommendations. Two clerical support positions will be required throughout. Substantial travel and per diem is needed for the field work.

Inflation at 5%.

Based on 1983 salaries, at most five employees' salaries would be reduced if salaries did not increase as a result of the surveys. Savings of a few thousand dollars may be possible in those BRUs.

SB 171 TITLE & SPONSOR SUMMARY

16:14 6/04/84 PAGE 1 OF 2

AMENDED TITLE:

AN ACT RELATING TO COMPENSATION OF STATE OFFICIALS AND EMPLOYEES

PRIME SPONSOR: SACKETT.

CO-SPONSORS: FAIKS, BENNETT, KERTTULA, ELIASON, FISCHER, P. , GILMAN, HALFORD, KELLY, PETTYJOHN, ZIEGLER, MOSS, FERGUSON.

CURRENT STATUS: 3/25/83 IN (S) FINANCE

SB 171 SENATE ACTION

16:15 6/04/84 PAGE 2 OF 2

DATE	SEQ	PAGE	LEGISLATIVE ACTION
3/10/83	01	0365	FIRST READING -- COMMITTEE REPORTS
3/25/83	02	0495	L&C -- DP03, NR01
3/25/83	03	0495	L&C F/NOTE SEN SUPPL #11 FINANCE RULES
****	XX	XX	*** **

COMMITTEE REPORT

SENATE

3/10/83

FURTHER: Finance

Date: 3/24/83

Mr. President:

The Committee on Labor & Commerce has had SB 171
Relating to compensation of state officials and employees.

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

 CHAIRMAN

